



**UNITED STATES OF AMERICA
DEPARTMENT OF TRANSPORTATION
OFFICE OF THE SECRETARY
WASHINGTON, D.C.**

Issued by the Department of Transportation
On the First day of November, 2011

**United Air Lines, Inc.
Compliance with 49 U.S.C. §§ 40127, 41702,
41310, and 41712**

**Docket OST-2011-0003
Served: November 1, 2011**

CONSENT ORDER

This order concerns violations by United Air Lines, Inc. (“United”) of the Federal statutes prohibiting U.S. and foreign air carriers from subjecting any air traveler to discrimination on the basis of race, color, national origin, religion, sex or ancestry. The order directs United to cease and desist from future violations and assesses the carrier \$60,000 in civil penalties.

Federal law is clear that an airline cannot refuse passage to or otherwise discriminate against an individual because of that person’s race, color, national origin, religion, sex, or ancestry. Specifically, 49 U.S.C. § 40127(a) provides that an “air carrier or foreign air carrier may not subject a person in air transportation to discrimination on the basis of race, color, national origin, religion, sex, or ancestry,” 49 U.S.C. § 41702 requires that U.S. carriers provide safe and adequate transportation, and 49 U.S.C. § 41310 prohibits air carriers and foreign air carriers from unreasonably discriminating against any person in foreign air transportation. Finally, 49 U.S.C. § 41712 prohibits unfair and deceptive practices by air carriers. Each of these provisions has been interpreted to prohibit air carriers from discriminating on the basis of race, color, national origin, religion, sex, or ancestry. See American Airlines Inc., OST-2003-15046-18 (Aug. 21, 2003) and United Air Lines, Inc., Order 2003-11-13 (Nov. 19, 2003).

The Office of Aviation Enforcement and Proceedings (“Enforcement Office”) investigated United’s compliance with the above-cited statutory prohibitions following a complaint that six members of a United Arab Emirates (UAE) armed forces delegation were removed from and denied re-boarding on United flight 227 at the Denver International Airport on December 9, 2009, because they were perceived to be of Arab or Middle Eastern descent. While the Enforcement Office believes that there was insufficient evidence to conclude that the initial decision to remove the six member delegation from United flight 227 to conduct secondary screening was discriminatory, the evidence disclosed that United violated the law when it failed to re-board the passengers on the same flight after law enforcement officials determined that they

were not a security threat. Once an individual who has been removed from an aircraft because of security concerns has been found to not be a security threat, the carrier must allow that individual to re-board the same aircraft and take his/her flight so long as the aircraft has not yet departed as was the case here. It is the view of the Enforcement Office that United's failure to expeditiously re-board the passengers on flight 227 was a violation of 49 U.S.C. §§ 40127, 41702, 41310, and 41712.

In mitigation, United states that it cooperated fully in the Department's investigation, and while its commitment to safety and security is always paramount, it is equally committed to the non-discriminatory and equal treatment of each of its passengers at all times. United further states that immediately after appropriately resolving its initial concerns, it made an operational decision to re-accommodate the passengers on a flight leaving from a nearby gate, a decision which was in no way motivated by discrimination. United strongly feels that it upheld its responsibilities as an air carrier by ensuring the passengers were transported to their ultimate destination. United stresses that its choice to re-accommodate the passengers on a nearby flight to the same destination, arriving at a nearly identical time, was made for purely operational reasons. Finally, United disagrees that the failure to re-board the passengers on the original flight warrants a determination of discrimination where no such intent was present and its Contract of Carriage necessarily permits such operational flexibility.

The Enforcement Office has carefully considered all the information provided by United, but continues to believe that enforcement action is warranted. To avoid litigation, the Enforcement Office and United have reached a settlement of this matter. Without admitting any violations of the law occurred, United consents to the issuance of an order to cease and desist from future violations of 49 U.S.C. §§ 40127, 41702, 41310 and 41712, and to the assessment of a civil penalty of \$60,000. The Enforcement Office believes that this settlement is appropriate and serves the public interest and creates an incentive for all carriers to comply fully with the civil rights laws enforced by the Department of Transportation.

This order is issued under the authority contained in 49 CFR 1.57a and 14 CFR 385.15.

ACCORDINGLY,

1. Based on the above discussion, we approve this settlement and the provisions of this order as being in the public interest;
2. We find that United Air Lines, Inc., engaged in discriminatory conduct in violating 49 U.S.C. §§ 40127, 41702, 41310, and 41712 when it denied boarding on UA flight 227 to the members of the UAE delegation as discussed above;
3. We order United Air Lines, Inc., and all other entities owned and controlled by it or under common ownership and control with it, and their successors and assigns, to cease and desist from future violations of 49 U.S.C. §§ 40127, 41702, 41310, and 41712;
4. We assess United Air Lines, Inc., a civil penalty of \$60,000, which shall be due and payable within 30 days from the date of issuance of this order. Failure to pay the penalty as ordered

shall subject United Air Lines, Inc., to the assessment of interest, penalty, and collection charges under the Debt Collection Act, and to possible additional enforcement action for failure to comply with this order; and

5. Payments shall be made by wire transfer through the Federal Reserve Communications System, commonly known as "Fed Wire," to the account of the U.S. Treasury. The wire transfer shall be executed in accordance with the instructions contained in the Attachment to this order. Failure to pay the compromise penalty assessment as ordered will subject United Air Lines, Inc., to an assessment of interest, penalty, and collection charges under the Debt Collection Act, and to possible enforcement action for failure to comply with this order.

This order will become a final order of the Department 10 days after its service unless a timely petition for review is filed or the Department takes review on its own initiative.

BY:

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(SEAL)

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