



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

Issued by the Department of Transportation  
On the Sixth day of December, 2013

**American Airlines, Inc.**

**Violations of 49 U.S.C. §§ 41705 and 41712  
and 14 CFR Part 382**

**Docket OST 2013-0004**

**Served December 6, 2013**

**CONSENT ORDER**

This order concerns violations by American Airlines, Inc., (American) of the requirements of 14 CFR Part 382 (Part 382), the Department of Transportation's (Department) regulation implementing the Air Carrier Access Act (ACAA), 49 U.S.C. § 41705, with respect to its transportation of an individual with a disability (Mr. D<sup>1</sup>). Violations of Part 382 also violate the ACAA, and violations of the ACAA and Part 382 also constitute an unfair and deceptive practice in violation of 49 U.S.C. § 41712. This order directs American to cease and desist from future violations of Part 382 and the ACAA, and assesses the carrier \$20,000 in civil penalties.

**BACKGROUND**

The Department's Office of Aviation Enforcement and Proceedings (Enforcement Office) conducted an investigation into American's compliance with Part 382 and the ACAA with respect to its improper handling of Mr. D's electric wheelchair on February 15, 2012, on a flight from Chicago, Illinois to Washington, D.C.

Mr. D is a qualified individual with a disability, as defined by 14 CFR Part 382, who uses an electric wheelchair. On February 15, 2012, Mr. D flew on American between Los Angeles International Airport (LAX) and Ronald Reagan National Airport (DCA) with a connection at Chicago O'Hare International Airport (ORD). At ORD, Mr. D informed American personnel on the correct way to properly load his wheelchair onto the aircraft

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<sup>1</sup> Identification of the individual involved in this incident is unnecessary for purpose of this consent order and is withheld for privacy reasons.

for the flight to DCA. Despite these instructions, American personnel failed to correctly load the wheelchair. As a result, when Mr. D arrived at DCA, the wheelchair batteries had shifted and the wheelchair would not function. According to Mr. D, American personnel at DCA had difficulty understanding how the battery sensors should be properly lined up and how the bumper (cover) should be safely reattached to the wheelchair, but eventually they reattached the bumper and the wheelchair began to function. On Mr. D's way home, the wheelchair abruptly ceased to operate and, as a result, he was thrown face first out of the wheelchair and onto a public sidewalk, which resulted in Mr. D sustaining physical injuries.

American admits that Mr. D's electric wheelchair was loaded incorrectly onto the connecting flight to DCA, which caused its batteries to shift. According to American, its DCA staff thought they had properly secured the wheelchair's batteries and bumper.

### **APPLICABLE LAW**

The ACAA and Part 382 prohibit discrimination in the provision of air transportation against qualified individuals with disabilities and address how an air carrier should handle such a passenger's assistive device. More specifically, 14 CFR 382.129(b) provides that when a wheelchair, other mobility aid, or other assistive device is disassembled by an airline for stowage, it must be reassembled and promptly returned to the passenger in the condition in which it was received.

### **ANALYSIS**

Mr. D has severe mobility impairments that substantially limit major life activities. At ORD, Mr. D advised American personnel as to how his wheelchair should be correctly stowed while onboard the aircraft. Upon his arrival at DCA, the wheelchair would not operate. American personnel were able to eventually reassemble the wheelchair. However, the wheelchair malfunctioned shortly thereafter, causing Mr. D to be thrown face first from the wheelchair. Accordingly, American violated section 382.129(b) by failing to correctly reassemble Mr. D's wheelchair and to return it to him in the condition in which the carrier received it.

### **MITIGATION**

In mitigation, American states that it values its customers with disabilities, takes the requirements of the ACAA seriously, and is committed to continually evaluating ways to enhance its compliance with the ACAA rules. In response to this incident, American states that it appointed 110 personnel at stations throughout its system to receive enhanced training at either DFW or LAX on wheelchair transportation, disassembly, and reassembly. According to American, the training curriculum was developed in coordination with the Open Doors organization, and was presented by the president of that organization. American states that the 110 employees who received the training in turn went back to their respective stations and conducted training for their local colleagues. American believes that this additional training demonstrates its commitment

to comply with the requirements of the ACAA generally, and in particular to ensuring that wheelchairs are properly transported while under the care of American's personnel.

### **DECISION**

After carefully considering all the known facts in this case, including those set forth above by American, we believe that enforcement action is warranted.

In order to avoid litigation, American has agreed to settle this matter with the Enforcement Office and enter into this consent order to cease and desist from future similar violations of 14 CFR Part 382 and 49 U.S.C. §§ 41705 and 41712. This order directs American to cease and desist from similar violations in the future and assesses a civil penalty of \$20,000. This assessment is appropriate considering the nature of the violation described herein and serves the public interest. It establishes a strong deterrence to future similar unlawful practices by American and other carriers.

This order is issued under the authority contained in 49 CFR Part 1.

### **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 American Airlines, Inc., violated 14 CFR 382.129(b) by failing to return a wheelchair to a passenger with a disability in the condition in which it was received;
3. We find that in the instance described in paragraph 2, American Airlines, Inc., violated the Air Carrier Access Act, 49 U.S.C. § 41705, and 49 U.S.C. § 41712;
4. We order American Airlines, Inc., and its successors and assignees to cease and desist from further violations of 14 CFR Part 382 and 49 U.S.C. §§ 41705 and 41712, as described above;
5. We assess American Airlines, Inc., \$20,000 in lieu of civil penalties that might otherwise be assessed for the violations described in ordering paragraphs 2 and 3, above. Of this total penalty amount, \$10,000 shall be due and payable within thirty (30) days of the date of the issuance of this order. The remaining portion of the civil penalty amount, \$10,000, shall become due and payable immediately if, within one year of the date of issuance of this order, American Airlines, Inc., violates this order's cease and desist provisions or fails to comply with the order's payment provisions, in which case American Airlines, Inc., may be subject to additional enforcement action for violation of this order; and
6. We order American Airlines, Inc., to pay the penalty through Pay.gov to the account of the U.S. Treasury in accordance with the instructions contained in the

Attachment to this order. Failure to pay the penalty as ordered shall subject American Airlines, Inc., to the assessment of interest, penalty, and collection charges under the Debt Collection Act and to further enforcement action for failing to comply with this order.

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

**BY:**

**SAMUEL PODBERESKY**  
**Assistant General Counsel for**  
**Aviation Enforcement and Proceedings**