



**U.S. Department
of Transportation**

Office of the Secretary
of Transportation

GENERAL COUNSEL

May 12, 2017

1200 New Jersey Avenue, SE
Washington, DC 20590

Steve Morrissey
Vice President
Regulatory and Policy
United Airlines, Inc.
233 South Wacker Drive
11th Floor - HDQLD
Chicago, IL 60606

Dear Mr. Morrissey:

We have concluded our investigation of the involuntary denied boarding of passengers on United Express Flight 3411 on April 9, 2017. Our investigation of the April 9th incident focused on whether United Airlines (United) complied with the U.S. Department of Transportation's (Department or DOT) oversales rule and Federal anti-discrimination statutes enforced by the Department. We did not review the actions of the security officers of the Chicago Department of Aviation because it is not DOT's role to investigate police conduct. At this time, I want to inform you of the outcome of our investigation.

As part of this investigation, we looked into how United solicited volunteers, selected passengers to be involuntarily denied boarding, and determined the amount of denied boarding compensation (DBC) owed to each passenger. We also examined whether passengers who were bumped involuntarily were provided the required written notice of their rights. We reviewed a number of documents including United's boarding priority rules for involuntary denied boardings; United's internal policies, bulletins, manuals, and memoranda; passenger name records (PNRs) for all passengers ticketed on Flight 3411; crew member and gate agent statements; proof of payment of DBC to all five passengers who were bumped involuntarily; and the written involuntary denied boarding statements that were furnished to these passengers. Additionally, we requested and received information from Drs. David and Teresa Dao regarding their removal from United Express Flight 3411.

Based on the information we gathered during our investigation, we find that that United complied with some, but not all, of the requirements of the Department's oversales rule. Our review of United's boarding priority policies applicable to Flight 3411, United's internal manuals and reference guides, PNRs for passengers ticketed on Flight 3411, and statements from United employees handling Flight 3411 indicated that United properly established and used non-discriminatory criteria to select passengers who were involuntarily denied boarding. Copies of the PNRs of the passengers denied boarding, the flight information for the substitute transportation provided, the fare bases for the DBC calculations, and the documents displaying the DBC amount paid to passengers showed that United provided the correct DBC amount to four of the five of the passengers who were bumped involuntarily on United Express Flight 3411. The records show that the passenger who received the incorrect DBC amount initially was provided the additional DBC he was owed ten days later by United. Signed copies of the DBC notices also make clear that United provided the required written oversales notice at the airport to three of the five passengers involuntarily denied boarding. United submitted no evidence that it provided the written notice to Dr. Dao and his wife at the airport. We consider United's failure

to initially calculate the proper DBC amount for one passenger and its failure to provide the required written notice to Dr. Dao and his wife to be violations of the Department's oversales rule.

We are, however, unable to determine whether United followed the requirement in the Department's oversales rule to involuntarily bump passengers only if an insufficient number of volunteers come forward. It is undisputed that United sought volunteers willing to give up their seats for compensation several times and that one passenger offered to give up her seat for compensation following the initial request from a United agent for Drs. David and Teresa Dao to deplane the aircraft. There is conflicting information regarding whether United then offered Drs. David and Teresa Dao the opportunity for one of them to continue separately on Flight 3411. The written statements from different individuals who are material to our investigation are in substantial conflict and in our view the conflict is unresolvable.

With regard to whether United violated the civil rights laws that we enforce, we find that United did not subject any of the passengers on United Express Flight 3411 to unlawful discrimination. There was no evidence that United discriminated against any of the passengers who were involuntarily denied boarding on Flight 3411 based on their race, color, national origin, religion, sex, or ancestry.

We generally pursue enforcement action when a carrier exhibits a pattern or practice of noncompliance with the Department's consumer protection regulations and Federal anti-discrimination statutes that we enforce. We may also pursue enforcement action where we find one or a few instances of egregious conduct that violates our regulations or the laws we enforce. Here, United's failure to initially provide the correct DBC amount to one of the five passengers involuntarily bumped was remedied by the carrier shortly thereafter, and United's failure to provide the required written notice to Dr. Dao and his wife at the airport was related to Dr. Dao and his wife needing to leave the airport to seek medical care for Dr. Dao. Further, there is insufficient evidence in the record to find that United involuntarily bumped Dr. Dao and his wife without offering them the opportunity to continue separately on Flight 3411. Therefore, we conclude that enforcement action is not warranted in this matter.

Sincerely,



Blane A. Workie
Assistant General Counsel
Aviation Enforcement and Proceedings

Cc: Brett Hart
Executive Vice President and General Counsel
United Airlines

James Conneely
Regulatory Counsel
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