

Airline Passenger Denied Boarding: Rules and Regulations

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The removal of a seated passenger from a full United Airlines flight on April 9, 2017, has spurred discussions about federal regulation of airline overbooking. Overbooking is a carrier's intentional acceptance of more reservations for a specific flight than the number of seats available on the aircraft. It is not illegal for airlines to overbook, and the practice occurs frequently. In many cases passengers are unaware that a flight is overbooked, because "no shows" or last-minute cancellations leave sufficient room for all ticketed passengers.

The U.S. Department of Transportation (DOT) does not regulate overbooking, aside from requiring airlines to tell passengers that a flight may be overbooked. Rather, federal regulations address oversale—an airline's failure to accommodate passengers holding confirmed reserved tickets on a flight because seats are not available. The aforementioned United flight may not have been overbooked; [media reports](#) indicated that all ticketed passengers had been seated, suggesting that there was no problem arising from overbooking. However, once the carrier decided that certain passengers with confirmed reservations needed to give up their seats to make room for airline employees, the flight became oversold. This obligated the carrier to comply with the DOT oversales rule ([14 C.F.R. Part 250](#), known as Part 250).

Part 250 establishes minimum standards for the treatment of airline passengers holding confirmed reservations who are involuntarily denied boarding (bumped) due to an oversold flight. The rule does not address removal of seated passengers from an oversold flight, because this situation rarely occurs; in most cases, problems due to oversales are resolved in the gate area before passenger boarding.

Part 250 was first issued in 1967 by the Civil Aeronautics Board (CAB), which oversaw economic regulation of aviation in the prederegulation era. The 1967 regulation required that air carriers (1) establish priority rules and criteria for determining which passengers holding confirmed reserved space shall be denied boarding on an oversold flight; (2) with certain exceptions, provide denied boarding compensation equal to the value of the first remaining flight coupon, with a \$25 minimum and a \$200 maximum (approximately \$185 and \$1,476, respectively, in 2017 dollars, after inflation adjustment); (3) provide a written statement to the affected passengers explaining the terms, conditions, and limitations of the denied boarding compensation; and (4) file reports of unaccommodated passengers.

The 1967 regulation stipulated that a passenger would be ineligible for denied boarding compensation if the alternate means of transportation arranged by the carrier was scheduled to arrive at the passenger's next point of stopover no later than two hours after the arrival time of the original domestic flight, or four hours in the case of an international flight. Since 1967, Part 250 has been modified multiple times. Major revisions occurred in 1978, 1982, 2008, and 2011.

In the 1978 comprehensive amendment to Part 250 (published at 43 *Federal Register* 24277):

- CAB required that carriers request volunteers for denied boarding before using any other boarding priority. This allowed airlines to bargain with passengers to relinquish their confirmed reservations. Carriers could choose to offer cash of any amount or noncash inducements, such as free tickets or service upgrades.
- CAB required that carriers compensate passengers denied boarding not just for the first remaining flight, but for all further connecting flights scheduled the same day. Maximum total compensation for involuntary denied boarding was set at 200% of the ticket price, with a \$75 minimum and a \$400 maximum.
- If the carrier arranged for alternate transportation scheduled to arrive no later than two hours after the original scheduled arrival, or four hours in the case of an international flight, the compensation was reduced to one-half of the compensation described above, with a \$37.50 minimum and a \$200 maximum.

In 1982, in its last review before closing down on January 1, 1985 (47 *Federal Register* 52985), CAB retained Part 250 with the following modifications:

- The minimum payment for denied boarding was eliminated.
- Part 250 no longer applied to inbound international flights.
- No compensation was required if a passenger denied boarding was rerouted so as to arrive at the final destination or stopover within one hour of the original arrival time.

The regulations underwent a comprehensive review by DOT in 2008 (76 *Federal Register* 21026):

- The compensation limits were doubled to \$400 (for passengers expected to arrive from one to two hours later than the original arrival time) and \$800 (for longer delays).
- Denied boarding requirements were applied to flights using aircraft with 30 or more seats, expanded from the previous minimum of 60 seats.
- DOT specified that airlines' boarding priority rules and criteria may include factors such as a passenger's time of check-in; whether a passenger has a seat assignment before reaching the departure gate; the airfare paid by a passenger; a passenger's frequent-flyer status; and a passenger's disability or status as an unaccompanied minor.

In 2011 DOT issued its [Consumer Rule II](#), in which carriers were required to disclose restrictions on travel vouchers used to compensate bumped passengers. Compensation rates were doubled to 200% of the one-way fare for delays of one to two hours, with a maximum of \$650, and 400% for longer delays, with a maximum of \$1,300. Further, DOT adopted a biannual inflation adjustment to the compensation limits.

The latest DOT update to Part 250 became effective August 25, 2015, when the limits were [adjusted for inflation](#):

- If the substitute domestic transportation arranged by the airline is scheduled to arrive between one and two hours later than the original arrival time, the airline must pay the passenger an amount equal to 200% of the one-way fare (including all taxes and mandatory fees), with a \$675 maximum. On international nonstop flights departing the United States, this limit applies when a bumped passenger is delayed up to four hours.
- If the substitute transportation arranged by the airlines is scheduled to arrive more than two hours later than the original arrival time (four hours on international flights), the airline must pay the passenger an amount equal to 400% of the one-way fare, with a \$1,350 maximum.