



U.S. Department
of Transportation
**Federal Aviation
Administration**

September 21, 2022

VIA EMAIL

Ms. Michele Boyce
Director, Airport Access
United Airlines, Inc.
233 S. Wacker Drive
Chicago, IL 60606

Dear Ms. Boyce:

This letter is in response to United Airlines, Inc.'s (United) August 22, 2022, petition to the Federal Aviation Administration (FAA) for a limited waiver of the FAA's standard process regarding schedule review at Newark Liberty International Airport (EWR). United requests the FAA extend the conditional relief granted by the FAA on June 17, 2022, which currently is in effect until the completion of Terminal A construction and the construction on Runway 4L/22R or October 29, 2022, the end of the Summer 2022 scheduling season, whichever date occurs sooner. The current relief provided by the FAA allows United to cancel operations and proactively remove flights from sale, subject to conditions, and manage delays during Terminal A and Runway 4L/22R construction. United seeks to extend the current relief until EWR Terminal A reaches the point of full operational availability for United's service or March 25, 2023, the end of the Winter 2022/2023 scheduling season, whichever occurs sooner.

In support of its petition for an extension of relief, United cites the ongoing construction of Terminal A as an active construction site just over 60 days from the latest expected opening day; numerous system trials that must be completed successfully by the terminal operator to ensure that Terminal A is fully operational; and continuing reductions in the available taxiways, holding areas, and gates, which will not be resolved until the project is complete.

United indicates that a grant of a limited waiver is in the public interest and because the circumstances are highly unusual and unpredictable and beyond United's control. Continuing the current FAA relief would allow United to more nimbly manage its EWR operations without penalty and minimize unplanned cancellations and disruptions, especially during the busy Thanksgiving and holiday travel periods.

The FAA has designated EWR a Level 2 airport under the Worldwide Slot Guidelines (WSG), now known as the Worldwide Airport Slot Guidelines (WASG). The FAA does not allocate slots, apply historic precedence, or impose minimum usage requirements at EWR. Level 2 schedule facilitation depends upon close and continuous discussions and voluntary agreement between airlines and the FAA to reduce congestion. When the FAA reviews proposed flights for facilitation in the next corresponding scheduling season at Level 2 airports, the FAA generally provides priority consideration for flights that have been approved by the FAA and operated by the carrier in those approved times in the prior

scheduling season. However, the FAA notes that the usual Level 2 processes include flexibility for the facilitator to prioritize planned flights that are canceled in advance or on the day of the scheduled operation due to operational impacts, including temporary capacity reductions due to airport construction or other factors that are beyond the control of the carrier.

The ongoing construction at Terminal A, which is not under United's control, will continue to limit access to gates and terminal infrastructure at EWR in the Winter 2022/2023 scheduling season. Additionally, the Terminal A construction project will continue to have operational impacts on taxiways and non-movement areas that could severely limit United's ability to normalize in the event of irregular operations. The FAA finds that the effects of the Terminal A construction are sufficient to provide relief until the end of the Winter 2022/2023 scheduling season on March 25, 2023, or sooner, if the FAA determines that the relief is no longer appropriate. In the event the FAA determines relief is no longer appropriate based on the status of the Terminal A construction project, the FAA will work with United to provide a reasonable amount of time for United to resume full operations.

Therefore, in administering Level 2 schedule facilitation, the FAA will not penalize United for the cancellation of approved scheduled operations due to the Terminal A construction, provided that United meets the conditions below. The FAA expects that this temporary relief will help mitigate operational delays during the terminal construction project while simultaneously enabling voluntary future-schedule reductions that will provide the traveling public with more reliable operations. Cancellations made by United under this FAA action will be treated as operated¹ for the purposes of the Winter 2023/2024 scheduling season facilitation process. The FAA, and the Department of Transportation, is concerned that this extension of United's request could lead to close-in cancellation of travel plans for many consumers at a time where limited availability exists on alternative flights. As a condition of this ongoing relief, the FAA expects United to make efforts to avoid disruptions for consumers by offering them the choice of a refund or re-accommodation on comparable transportation, including service on another carrier as needed, for canceled flights at EWR covered by this grant.

This relief is conditioned upon the following:

- 1) United must provide at least two weeks advance information to the Slot Administration Office, identifying the specific approved flight times that United proactively determines it will not operate due to construction-related impacts, by submission to 7-awa-slotadmin@faa.gov. The FAA expects that, either before or soon after United notifies FAA of cancellations, it will notify customers of the flight disruptions and make efforts to meet consumer needs by offering comparable alternative flights, including service on another carrier as needed, or refunds if the customer so chooses.
- 2) Only those operations canceled at least two weeks in advance will be treated as operated and eligible for the requested relief.

¹ These flights are not considered operated for reporting purposes under 14 CFR part 234. United continues to be required to report on time performance data under 14 CFR § 234.4, including for canceled flights that are defined in the regulation to mean a flight operation that was not operated, but was listed in a carrier's computer reservation system within seven calendar days of the scheduled departure.

- 3) The relief granted by this letter will terminate at the end of the Winter 2022/2023 scheduling season on March 25, 2023, or when the FAA determines that the relief is no longer appropriate based on the status of the Terminal A construction project, whichever occurs sooner.

This relief is intended to be limited and based on temporary, current circumstances. The FAA will continue to apply standard Level 2 processes for determining priority for future scheduling seasons based on other flight changes, cancellations, or routine adjustments not covered by this relief.

Sincerely,

Alyce Hood-Fleming
Acting Vice President, System Operations Services