



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

June 17, 2022

**VIA EMAIL**

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

Dear Ms. Boyce,

This is in response to United Airlines, Inc.'s (United) petition to the Federal Aviation Administration (FAA) for a limited waiver of the FAA standard process regarding schedule review at Newark Liberty International Airport (EWR). Specifically, United asks the FAA to temporarily consider United's cancelled movements as having been flown for purposes of establishing United's operational baseline for the next corresponding season, to allow United to proactively reduce its schedules.

In support of its petition, United cites the following circumstances as impacting previously planned operations for the Summer 2022 scheduling season.

1. The air traffic control (ATC) staffing shortage poses on-going challenges for arrivals and departures
2. The Terminal A construction project has reduced not only United's allocated gates but has also constrained the available concrete at the airport to manage aircraft:
  - The Terminal A construction project has left United with six fewer gates, decreasing United's ability to operate its schedule compared to normal operations (e.g., compared with the summer of 2019).
  - Numerous holding spaces and taxiways have also been reduced or eliminated.
  - This construction project is scheduled to continue into the 4<sup>th</sup> quarter of 2022.
3. The recently announced need for construction to Runway 4L/22R will result in the loss of one of the two parallel runways for a number of days, which will reduce the airport's throughput.

United indicates the circumstances impacting EWR operations are beyond its control and "proposes to preemptively cancel flights before the day of operation to provide EWR customers advance notice of flight cancellations and to improve the operating environment of the remaining flights."

As 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 continuing discussions and voluntary agreement between airlines and the FAA to reduce congestion. At Level 2 airports, the FAA generally provides priority consideration for flights

approved by FAA and operated by the carrier in those approved times in the prior scheduling season when the FAA reviews proposed flights for facilitation in the next corresponding scheduling season. Only those flights that were actually operated as approved by the FAA in the prior scheduling season would generally receive priority for the next corresponding scheduling season. However, the FAA notes that the usual Level 2 processes include flexibility for the facilitator to prioritize planned flights, which are cancelled 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 FAA recognizes that the reduced number of available gates in Terminal A and the anticipated runway construction project at EWR present a continuous, unusual set of circumstances beyond the control of any carrier. Construction at Terminal A limits access to gates for United and expected runway construction will constrain runway arrival and departure rates. Moreover, the FAA understands that the limited, conditional relief made available by the FAA due to COVID-19 impacts on demand for international air travel does not account for other conditions that may impact a carrier's ability to operate consistent with its approved schedule, such as reduced access to gates at Terminal A, and runway reconstruction cited by United. The FAA acknowledges that ATC staffing can pose challenges during certain time periods; however, this relief is granted based on the unusual circumstances due to airport construction.

In administering Level 2 schedule facilitation, the FAA will not penalize United for the cancellation of confirmed scheduled operations due to runway construction, or Terminal A construction, provided United meets the conditions below. For purposes of priority consideration in the next corresponding scheduling season, the FAA will treat as operated the specific flights impacted by these issues for the balance of the Summer 2022 scheduling season ending on October 29, 2022. The FAA believes this provides sufficient time to complete the runway and terminal construction phases that are most impactful to airport throughput, and to consider other mitigation strategies. The FAA expects this temporary relief will also help the FAA and carriers manage delays during the terminal and runway construction projects, enabling voluntary schedule reductions.

This relief is conditioned upon the following:

1. United must provide advance notice to the Slot Administration Office at least two weeks in advance of cancellations. The notice should identify the specific approved flight times that United proactively determines it will not operate due to terminal or runway construction-related impacts, by submission to [7-awa-slotadmin@faa.gov](mailto:7-awa-slotadmin@faa.gov). While the FAA will not require advance notice for the first two-week period following the date of this letter given some of the conditions compelling relief are already present, thereafter, only those operations cancelled at least 2 weeks in advance will be treated as operated and eligible for the requested relief. Additionally, if United foresees cancellations for operations occurring shortly after this initial two-week period ends, it should make every effort to provide as much advance notice as possible. The Department expects that, soon after United notifies the FAA of cancellations, it will notify customers and offer alternative flights consistent with the carrier's customer service policies but if the customer does not accept the alternative offered, United would refund the customer.

2. The relief granted by this letter shall not extend beyond the completion of Terminal A construction and the Runway 4L/22R construction or October 29, 2022, the end of the Summer 2022 scheduling season, whichever date 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. Additionally, the FAA notes the effectiveness of the Level 2 process requires the voluntary cooperation by all carriers at the airport. The FAA has not adopted regulatory, enforceable limits on scheduled flights at EWR. It remains the FAA's goal to use the schedule facilitation process to help manage delay and congestion at EWR and looks forward to working with United and other carriers to work toward schedules that manage delays and meet other policy goals.

Yours very truly,

Virginia T. Boyle  
Vice President,  
System Operations Services