ASSOCIATION OF FLIGHT ATTENDANTS-CWA, AFL-CIO
501 Third Street, NW, Washington, DC 20001-2797
PHONE 202•434•1300 MAIN FAX 202•434•1319 LEGAL FAX 202•434•0690

Memo: Seniority Adjustments during the Integration Process at United Airlines

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This memo addresses questions about adjusting seniority for those affected by an involuntary furlough at pre-merger United Airlines. AFA recognized over two decades ago that the union must have clear seniority integration rules that provide the fairest possible seniority integration standards. While union leadership understands and empathizes with the desire to adjust seniority retrospectively to align with current policy, it is not legally possible to do so.

The AFA-CWA Seniority integration process is detailed in Section X of the AFA-CWA Constitution and Bylaws Policy Manual. The policy is also enforced by U.S. law and the union is required to adhere to the provisions of the policy. Seniority integration is protected as a fundamental right for AFA members, based on the principle of "date-of-hire" Flight Attendant bidding seniority integration. The policy provides for one potential adjustment related to credit for time in initial Flight Attendant training, but does not allow for any other adjustments to bidding seniority dates as of the time of the merger.

As a result of the UAL/CAL/CMI merger, AFA is bound by Policy Manual Section X of the AFA Constitution & Bylaws, which sets forth the process for seniority integration following the merger of two or more AFA carriers. As Section X.C.2 (a) makes clear, a Flight Attendant's seniority date as of the date of the merger agreement between the affected airlines will be the seniority date for purposes of merging the respective seniority lists. In pertinent part that Section states:

> **Note:** It is the intent of this policy that the "seniority date" of a flight attendant shall be the date from which each flight attendant accrues competitive (bidding) seniority as a flight attendant as of the date of the merger agreement between the affected airlines. ***It is recognized that this seniority date may be different than the flight attendant's initial training date or may have been adjusted for various reasons since the original date on which the flight attendant began to accrue seniority on or after initial training date; in such cases, the "seniority date" is not to be changed back to the original date on which that flight attendant began to accrue seniority.***(Emphasis added).

Section X.C.2(a) Note.

In other words, while the AFA C&B recognizes that a Flight Attendant's original seniority date may have been changed due to furloughs, leaves or other reasons, for purposes of seniority integration following the merger of two or more AFA carriers, the seniority date as of the date of the merger will be the date used to combine the Flight Attendant groups. The seniority integration process cannot be used to change that seniority date back to the original date.

Though there have been adjustments to a Flight Attendant's seniority date at s-UA, those adjustments were the result of either an arbitration following the purchase of Pan Am routes, or a lawsuit filed over s-UA's discriminatory conduct toward married female Flight Attendants. After United purchased routes from a bankrupt Pan Am and hired some former Pan Am Flight Attendants, a seniority integration arbitration was conducted because AFA had not yet established the merger policy set forth in Section X. An arbitrator awarded the former Pan Am Flight Attendants adjusted seniority dates that only partially recognized their accrued service at Pan Am. In the *McDonald* lawsuit over s-UA's treatment of female married Flight Attendants, the federal court eventually restored the seniority of those Flight Attendants who lost their jobs due to s-UA's discriminatory conduct that violated federal law.

Specific requests for adjustments related to furlough are also precipitated by the recent involuntary furlough of 111 s-UA Flight Attendants in April, 2014. Prior to that involuntary furlough, which AFA strongly objected to, AFA negotiated a Letter of Agreement with the Company that provided certain protections to those who were involuntarily furloughed – including the right to retain and accrue seniority for all purposes while on involuntary furlough. As you know, it is AFA's position that because those 111 Flight Attendants were involuntarily furloughed in violation of the Letter of Agreement in the current AFA-UAL CBA, p. 305, titled "Protection Against Involuntary Furlough," those 111 Flight Attendants must retain their original Inflight Seniority dates. In fact, AFA has a pending grievance challenging their involuntary furlough.

The involuntary furloughs that took place prior to the recent merger, on the other hand, did not violate the CBA in effect at that time, and therefore they could not be challenged by AFA. Though AFA had no contractual or legal basis to challenge those furloughs, it should be noted that in 2001, now AFA International President Sara Nelson submitted a resolution to the UAL MEC to restore the original Inflight Seniority dates for all Flight Attendants affected by involuntary furlough. That resolution was seriously considered by the leadership of AFA and effort was undertaken to explore the potential for negotiating with the company for an adjustment. After thorough review it was not adopted as the MEC found that it would violate arbitration and court awards related to the United system seniority list

AFA's seniority integration policy was put in place to avoid seniority disputes. However, it can only apply to seniority integration moving forward and once a merger is initiated the policy must legally adhere to the provisions of the policy.

If you have any additional comments or questions, please contact me.

Sincerely,

Edward J. Gilmartin
AFA-CWA General Counsel