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

Office of the Chief Counsel

800 Independence Ave., S.W.
Washington, D.C. 20591

SEP 22 2008

Mr. Kevin F. Schehr
[redacted]

Dear Mr. Schehr:

This letter is in response to your November 6, 2006, request for interpretation of the regulations pertaining to flight attendants in part 135 operations. We apologize for the delay in responding to you.

You specifically ask four questions regarding these operations: (1) Whether a server is considered a flight attendant and is subject to flight attendant training and testing provisions; (2) Whether flight attendants trained and tested to part 135 standards by a placement agency may perform flight attendant duties for an air carrier that does not possess its own training and testing program; (3) Whether servers may be placed on passenger carrying flights conducted under part 135 for compensation or hire; and (4) Whether the server may utilize a cockpit jumpseat placarded "crew use only."

According to your letter, operations are being conducted in aircraft with nine passenger seats, two cockpit seats, and a cockpit jumpseat placarded "crew use only."

Flight attendants are not required for part 135 operations unless the aircraft has a passenger seating configuration of more than 19 people. Pilot seats are not counted towards this total. 14 C.F.R. § 135.107 (2008). Therefore, because the passenger seating configuration of the aircraft you describe in your letter is not more than 19 people, a flight attendant would not be required to be on board the aircraft during part 135 operations. This does not preclude an operator from using flight attendants if desired, nor does it relieve an operator of the flight attendant training and testing requirements if flight attendants are employed on its flights.

The FAA recognizes that a "server" is different than a flight attendant. Servers only perform duties such as serving food and beverages and are not trained as flight attendants or other crewmembers responsible for cabin safety. Therefore, provided that the server's duties are limited to non-safety duties that person would not be required to undergo flight attendant training. *See* Dec. 22, 1989, Letter to Gerald L. Naekel, from Donald P. Byrne, Acting Assistant Chief Counsel, Regulations and Enforcement Division [Interpretation 1989-30].

The FAA has recently issued FAA Safety Alert for Operators (SAFO) 08010, and a supporting document "Use of Non-Safety Personnel Onboard an Aircraft During Operations," that provide information pertaining to the appropriate functions and duties of non-safety personnel, which includes servers, during part 135 operations. They also emphasize that operators should ensure that passengers are aware of the limited role of non-safety personnel. Copies of those documents are enclosed with this letter.

You asked if flight attendants trained and tested to part 135 standards by a placement agency may perform flight attendant duties for an air carrier that does not possesses its own training and testing program. If a certificate holder uses flight attendant crewmembers in its operations, section 135.341 requires that the certificate holder establish and maintain an approved flight attendant training program. The FAA Administrator may authorize a deviation from this requirement because of the limited size and scope of the operation. Additionally, section 135.341(d) recognizes that a certificate holder may use "training facilities of other persons" indicating that not every aspect of the training program must be provided by the certificate holder itself. However, if the certificate holder does not use flight attendants, but instead uses servers who do not perform safety-related duties, then the certificate holder would not be required to maintain a training and testing program.

You also asked whether servers may utilize a cockpit jumpseat placarded for "crew use only." This response assumes the jumpseat meets the safety requirements for crewmember stations, including section 135.171, which mandates shoulder harness installation. A "crewmember" is defined as a person assigned to duty during flight time. 14 C.F.R. § 1.1. A crewmember or other employee of the certificate holder may be carried on board without complying with the passenger-carrying requirements of part 135. 14 C.F.R. § 135.85. If a server is assigned duties during flight time, such as serving food or beverages, the operator could consider the server a crewmember which would allow that person to ride in the jumpseat. *See* Mar. 19, 1986, Letter to James W. Johnson, from John H. Cassady, Assistant Chief Counsel, Regulations and Enforcement Division [Interpretation 1986-12] (mechanic employee is a crewmember and may ride in the jumpseat if assigned duty during flight time).

Additional requirements attach if the operator elects to consider the server a crewmember. The information accompanying SAFO 08010 notes that a server not designated as a crewmember is subject to the same regulatory requirements as passengers. However, it further states that if the operator determines that the server is a crewmember, the server/crewmember's duties and responsibilities must be included in the air carrier's general operations manual. Other regulatory requirements governing crewmembers would also apply.

We also note that we received your August 8, 2007, letter regarding alleged non-compliance with part 135 regulations by your former employer and have forwarded it to our Enforcement Division for consideration.

This response was prepared by Dean Griffith, Attorney in the Regulations Division of the Office of the Chief Counsel, and was coordinated with the 135 Air Carrier Operations Branch of the Flight Standards Service. Please contact us at (202) 267-3073 if we can be of further assistance.

Sincerely,

Rebecca B. MacPherson
Assistant Chief Counsel for Regulations, AGC-200