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

Office of the Chief Counsel

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

JUL 17 2009

Stephen V. Campbell
Farmingdale State College
Lupton 168B
2350 Broadhollow Rd.
Farmingdale, NY 11735

Dear Professor Campbell:

This is in response to your request for a legal interpretation that was emailed on March 19, 2009. In your email you requested clarification on whether it is permissible under 14 C.F.R. 141.55 for a designated pilot examiner (DPE), who also is an employee of a Part 141 pilot school, to administer a practical test to a student of that school if the school has received final approval for the training course. In your example, the FAA approved the courses (private pilot, instrument rating, and commercial pilot) for the pilot school, Farmingdale State College, in 1999.

Section 141.55 permits a pilot school to develop a training course that trains "students to a performance standard without necessarily meeting the minimum hours of training" prescribed by the FAA. 60 FR 41160, 41184. Section 141.55(d)(4) states, in relevant part, that a pilot school may receive initial approval for a training course provided the practical test or knowledge test for the course is to be given by an FAA inspector or an examiner who is not an employee of the school. Section 141.55(e) states, in relevant part, that a pilot school may receive final approval for a training course provided that the school has held initial approval for that course for at least 24 calendar months; the school has trained at least 10 students in that course within the preceding 24 months; and at least 80 percent of those students have passed the practical or knowledge test on the first attempt when that test was given by an FAA inspector or an examiner who is not an employee of the school.

Sections 141.55(d) and (e) prescribe the requirements for the initial approval and then final approval of a training course. The purpose of the restriction on the use of DPEs employed by the pilot school before the FAA grants final approval for the training course is "to maintain a system of checks and balances to ensure that the schools providing training do not have a conflict of interest with respect to the administering of the practical test." 62 FR 16220, 16282. This system of checks and balances is maintained after final approval by prohibiting the pilot school from having examining authority for the training course. See §§ 141.55(e)(4), 141.63(a)(4). However, the post-approval system of checks and balances does not restrict DPEs from giving practical or knowledge tests, and section 141.55 contains no such restriction. Accordingly, section 141.55 does not prohibit a DPE, who is also an

employee of the pilot school, from administering a practical or knowledge test after the pilot school's training course has received final approval from the FAA.

This response was prepared by Robert Hawks, an Attorney in the Regulations Division of the Office of Chief Counsel and coordinated with the Certification and General Aviation Operations Branch of Flight Standards Service. We hope this response has been helpful to you. If you have additional questions regarding this matter, please contact us at your convenience at (202) 267-3073.

Sincerely,



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