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

Office of the Chief Counsel

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

NOV 10 2011

T.L. Colvin, Jr., Flight School Manager
JPS Aviation, LLC
5410 Operations Road
Monroe, LA 71203

Dear Mr. Colvin:

This letter responds to your request for a legal interpretation dated June 30, 2011. In your letter, you requested clarification of 14 C.F.R. 91.409, specifically whether a 100-hour inspection is required for an aircraft provided by a student for the purposes of flight instruction under part 61 to that student.

Section 91.409(a), in relevant part, states no person may operate an aircraft unless it has had an annual inspection under part 43 within the preceding 12 calendar months. Section 91.409(b), in relevant part, states "no person may give flight instruction for hire in an aircraft which that person provides" unless it has had an annual or 100-hour inspection under part 43 within the preceding 100 hours of time in service. Section 91.409(c) list four exceptions to the maintenance requirements under paragraphs (a) and (b), but none of these exceptions appears to apply to your question.

The 100-hour inspection requirement applies when the instructor provides both flight instruction for hire and the aircraft used for instruction. This requirement does not apply if the person receiving instruction provides the aircraft. When the person receiving instruction provides the aircraft, the annual inspection requirement under § 91.409(a) applies. The person receiving instruction could provide an aircraft he or she owns or an aircraft he or she leases. *See* Legal Interpretation to Berry Rackers (May 3, 1984) (interpreting § 91.169(b), the predecessor to § 91.409(b)). However, if the person receiving instruction does not own the aircraft, the FAA may review the manner by which that person provided the aircraft to ensure the instructor, or an entity represented by the instructor, did not effectively provide the aircraft.

This response was prepared by Robert Hawks, an Attorney in the Regulations Division of the Office of Chief Counsel, and coordinated with the General Aviation and Commercial Division 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