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

Office of the Chief Counsel

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

Memorandum

Date: November 27, 2024

To: Lawrence Fields, Executive Director, Flight Standards Service, AFX-1

From: Laura Megan-Posch, Assistant Chief Counsel for Regulations, AGC-200

Cc: Lynsey Scott, Manager, AGC-240

Subject: Rescinding the Sinclair Legal Interpretation (Jul. 22, 2015)

LAURA JANE MEGAN-POSCH

Digitally signed by LAURA JANE MEGAN-POSCH
Date: 2024.12.04 07:25:21 -05'00'

This memorandum memorializes that the Sinclair Legal Interpretation (Jul. 22, 2015) is rescinded as of December 2, 2024.[1] The purpose of the Sinclair Legal Interpretation was to explain whether providing flight training services in experimental aircraft to foreign military pilots would constitute an operation for compensation or hire under § 91.319. The Office of the Chief Counsel is rescinding this Legal Interpretation because it is no longer necessary due to subsequent updates to FAA regulations.[2] Therefore, the Sinclair Legal Interpretation is no longer valid and may not be relied upon for any purpose. If you require further assistance, please contact my staff.

[1] See Public Aircraft Logging of Flight Time, Training in Certain Aircraft Holding Special Airworthiness Certificates, and Flight Instructor Privileges Notice of Proposed Rulemaking (NPRM), 88 FR 41194 (June 23, 2023). This NPRM stated that the Sinclair Legal Interpretation (Jul. 22, 2015) would be rescinded should the NPRM's proposed modifications to part 91 become final. The final rule was published on October 2, 2024, with an effective date of December 2, 2024, 89 FR 80310 (Oct. 2, 2024).

[2] See Public Aircraft Logging of Flight Time, Training in Certain Aircraft Holding Special Airworthiness Certificates, and Flight Instructor Privileges Final Rule, 89 FR 80310 (Oct. 2, 2024).

U.S. Department
of Transportation
Federal Aviation Administration

JUL 22 2015

E.J. Sinclair, Chief Executive Officer
Science and Engineering Services, LLC
248 Dunlap Boulevard
Huntsville, AL 35824

Re: Flight Training in an Aircraft with an Experimental Airworthiness Certificate

Dear Mr. Sinclair:

This letter responds to your March 16, 2015, request for a legal interpretation. In your letter, you describe a solicitation from a potential customer that would place your company, Science and Engineering Services, LLC (SES), under contract to provide flight training services to foreign military pilots. You state that "this training . . . would have no sponsorship from any U.S. Government entity" and would therefore be conducted as a civil operation. You also imply that the aircraft used in the training would operate under experimental airworthiness certificates. Based on these proposed operations, you ask for our interpretation of "what is permissible in providing [f]ighter [j]et [t]actical [t]raining in U.S. airspace to pilots who are foreign nationals," focusing in particular on three types of training: executing a scored bombing range for dummy and live ordnance, conducting supersonic flight, and conducting "[a]dvance [f]ighter [t]raining to include [f]ighter [l]ead-in [t]raining . . . ." The answer is that all of the flight training described in your letter would violate the prohibition on using an experimental aircraft to carry persons for compensation or hire, codified at § 91.319 of Title 14 of the Code of Federal Regulations (14 CFR).

Section 91.319 sets out standard operating limitations for aircraft with experimental certificates. Section 91.319(a)(2) prohibits "[c]arrying persons or property for compensation or hire." As you state in your letter, the proposed operations involve a "direct commercial sales contract" for tactical flight training in military-type aircraft. Assuming that the aircraft at issue here are sufficiently demilitarized to obtain civil experimental airworthiness certificates,[1] those aircraft would nevertheless be ineligible under § 91.319 for use in training under a commercial contract.

Rescinded

[1] Advisory Circular (AC) 21-169, *Guidance for Certification of Military and Special Mission Modifications and Equipment for Commercial Derivative Aircraft (CDA)*, ch. 2, para. 2 ("Any combat system, component, or store that may be hazardous to the aircraft, its occupants, other aircraft, other personnel, or property on the ground is ineligible for FAA certification.").

This response was prepared by Benjamin Jacobs, an attorney in the Regulations Division of the Office of the Chief Counsel, and was coordinated with the Aircraft Engineering Division (AIR-100) of the Aircraft Certification Service and the General Aviation and Commercial Division (AFS-800) of the Flight Standards Service. If you need further assistance, please contact our office at (202) 267-3073.

Sincerely,

Lorelei Peter
Acting Assistant Chief Counsel for Regulations

Rescinded