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

Office of the Chief Counsel
800 Independence Ave., S.W.
Washington, D.C. 20591

FEB 15 2018

John Fitzpatrick
Director of Flight Operations
Spartan College of Aeronautics and Technology
123 Cessna Drive
Tulsa, OK 74132

Re: Parachute Requirements under 14 CFR § 91.307

Dear Mr. Fitzpatrick:

This is in response to William McNease's, former Director of Flight Operations at Spartan College of Aeronautics and Technology (Spartan College), letter dated October 20, 2017 in which he requested a legal interpretation of the parachute requirements for spin training conducted as part of Spartan College's part 141 operations. Specifically, Mr. McNease requested confirmation that spin training conducted as part of part 141 flight school operations is exempt from § 91.307(c) of Title 14 of the Code of Federal Regulations (14 CFR).

Section 91.307 provides the operating flight rules for parachutes and parachuting. Subsection (c) provides that unless each occupant of the aircraft is wearing an approved parachute, no pilot of a civil aircraft carrying any person (other than a crewmember) may execute any intentional maneuver that exceeds (1) a bank of 60 degrees relative to the horizon; or (2) a nose-up or nose-down attitude of 30 degrees relative to the horizon. Subsection (c) applies unless the requirements of § 91.307(d) are met.

Section 91.307(d) in pertinent part provides that paragraph (c) does not apply to spins and other flight maneuvers required by the regulations for any certificate or rating when given by a certificated flight instructor. The language "required by the regulations for any certificate or rating" appears to have some ambiguity. Some parties have interpreted this subsection to mean that unless the certificate or rating being sought requires spin training, a parachute is required. Others, such as Spartan College, assert that spins do not need to be a requirement of the certificate or rating being sought for § 91.307(d) to apply. Instead, they assert that as long as *any* certificate or rating in the regulations requires spin training and a certificated flight instructor provides that training, § 91.307(d) applies and no parachute is required.

The FAA's intent in drafting this regulation is clearly and explicitly stated in the preamble to the 1964 Final Rule "Use of Parachutes During Acrobatics." (29 FR 9823) This final rule states that the amendatory language was written to make it clear that, *regardless of what certificate or rating the applicant is seeking*, an acrobatic maneuver required for any certificate or rating (even one not presently sought by the applicant) may be performed without parachutes when done by or at the direction of a certificated flight instructor. To provide an abundance of clarity, the 1964 final rule also provided the following example: "a student pilot is not required to have flight instruction for spins; however, his flight instructor, if he considers that such training is necessary, may give the student this training without parachutes since spins instruction is required for certain other certificates or ratings." Furthermore, the drafting of the regulatory language supports this intent. Previously, where the FAA has made a requirement specific to the certificate or rating being sought it has explicitly included language similar to "of the certificate or rating sought," see e.g. §§ 61.5, 61.35, 61.39, 61.43. This language, or language similar to it, is not included in 91.307(d).

Finally, Spartan College asserts that the term "crewmember" includes a certificated flight instructor and student at any level because 14 CFR 1.1 defines the term "crewmember" as a person assigned to perform duty in an aircraft during flight time; and, therefore, no parachute is required under § 91.307(c). However, the 1964 final rule preamble states that for the purposes of § 91.71(b) (currently § 91.307(c)) a student pilot has been interpreted as being a passenger, not a crewmember. The purpose of the amendment allowing for "flight maneuvers required by the regulations for any certificate or rating when given by a certificated flight instructor" was to permit flight instruction required by the regulations without the wearing of parachutes when that instruction is given by a certificated flight instructor. The 1964 amendment did not change the prior interpretation of "crewmember" as it pertains to this section in order to provide this relief. Moreover, the relief provided by the amendment would have been unnecessary if the CFI and student pilot fell under the definition of crewmember.

This response was prepared by Melissa Crain, an attorney in the Regulations Division of the Office of the Chief Counsel and coordinated with the General Aviation and Commercial Division of the Flight Standards Service. If you have any additional questions regarding this matter, please contact my office at (202) 267-3073.

Sincerely,

Lorelei Peter
Assistant Chief Counsel for Regulations

October 20, 2017

Office of the Chief Counsel
800 Independence Avenue SW
Washington, DC

RE: Parachute requirements under 14 CFR § 91.307

To Whom It May Concern:

Spartan College of Aeronautics and Technology (Spartan) respectfully requests a legal interpretation of § 91.307(c), which states, in part—

§ 91.307 Parachutes and parachuting.
* * *
(c) Unless each occupant of the aircraft is wearing an approved parachute, no pilot of a civil aircraft carrying any person (other than a crewmember) may execute any intentional maneuver that exceeds—
(1) A bank of 60 degrees relative to the horizon; or
(2) A nose-up or nose-down attitude of 30 degrees relative to the horizon.
(d) Paragraph (c) of this section does not apply to—
(1) Flight tests for pilot certification or rating; or
(2) Spins and other flight maneuvers required by the regulations for any certificate or rating when given by—
(i) A certificated flight instructor...
* * *

Spartan submits that all spin training conducted as part of its part 141 operations is exempt from § 91.307(c) parachute requirements.

Spartan holds a certification through the Civil Aviation Administration of China (CAAC). China Civil Aviation Regulations (CCAR) which require spin training for commercial pilots (see CCAR § 141. Appendix A. (Attached). Spin training is therefore incorporated into Spartan's approved training curriculum, which satisfies both FAA and CAAC requirements Therefore, Spartan's pilot training program goes beyond the FAA regulatory requirements and incorporates spin training into its approved curriculum. Our FAA inspector (POI) has interpreted the regulation to mean that since spin training is not a requirement for commercial pilot training, parachutes are required for all spin training other than at the CFI level.

The parachute exception provided for in § 91.307(d) was promulgated in 1964 (see Amdt. 91-6, 29 F.R. 9823). The purpose of the rulemaking was to specifically relieve students of the requirement to wear parachutes when "acrobatic instruction" is given by a certificated flight instructor. According to the preamble—

> A certificated flight instructor is properly presumed to have the skill necessary to safely give acrobatic instruction required by the pilot regulations within the operating limitations of the aircraft without the necessity of his or his student's wearing a parachute. Moreover, complaints from the field indicate that wearing parachutes in some aircraft may be a hazard to training since the bulk of the parachute may, due to the configuration and size of the pilot seat, reduce the pilot's visibility and hamper his handling of the controls.

The agency went on to clarify its intent that any pilot spin training be exempt from the parachute requirement—

> Notice 63-40 referred to "training required by the regulations." Comments to the proposal indicated that there is doubt as to what maneuvers would be permitted without wearing parachutes. Therefore, the amendatory language has been rewritten to make it clear that, ***regardless of what certificate or rating the applicant is seeking, an acrobatic maneuver required for any pilot certificate or rating (even one not presently sought by the applicant) may be performed without parachutes when done by, or at the direction of, a certificated flight instructor.*** For example, a student pilot is not required to have flight instruction in spins; however, his flight instructor, if he considers this training necessary, may give the student this training without parachutes since spin instruction is required for certain other certificates or ratings. (emphasis added).

Sections 61.183(i)(1) and 61.405(b)(1)(ii) require spin training for certificated flight instructor (CFI) applicants. Therefore, under the guidance of the preamble language, it follows that all spin training "for any pilot certificate or rating" may be performed free from the § 91.307(c) requirement. In addition, it is our belief that the definition of crewmember as defined in 14 CFR 1.1 "**Definitions and abbreviations**", **Crewmember means a person assigned to perform duty in an aircraft during flight time,** would include a CFI and student at any level since both are "**assigned to perform duty in an aircraft during flight time**.

For the foregoing reasons, the undersigned request the FAA verify that spin training conducted as part of part 141 flight school operations is exempt from § 91.307(c) parachute requirements.

We appreciate your assistance with this issue and look forward to your timely response.

Sincerely,

WL McNease

William L. McNease
Director of Flight Operations
Spartan College of Aeronautics and Technology

Appendix A to CCAR Part 141 Private Pilot Certification Course

Appendix C Commercial Pilot Licensing Course

1. Applicability

This appendix prescribes the minimum curriculum for a commercial pilot licensing course required for the following rating:

(A) Aeroplane single-engine

(B) Each course includes at least the following flight training:

(1) **For an aeroplane single engine course:** 55 hours of flight training from a licensed flight instructor on the areas of operation listed in paragraph (d) (1) that includes at least: -

(I) 5 hours of instrument training in a single engine aeroplane

(Ii) 10 hours of training in a single engine aeroplane that has retractable landing gear, flaps and a controllable pitch propeller (or is turbine powered)

(Iii) One cross country flight in a single-engine aeroplane of at least 2 hours duration, a total straight line distance of more than 180 kilometer (100 nautical miles) from the original point of departure and occurring in day VFR conditions;

(Iv) One cross country flight in a single-engine aeroplane of at least 2 hours duration, a total straight line distance of more than 180 kilometer (100 nautical miles) from the original point of departure and occurring in night VFR conditions and;

(V) 3 hours in a single engine aeroplane in preparation for the practical test within 60 days preceding the date of the test

(Vi) 5 hours of flight training on special skill, inclusive of at least spin awareness, spin entry and spin recovery.