



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

Office of the Chief Counsel

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

FEB 24 2016

Scott Rohlfig
3410 Royal Meadow Lane
San Jose, CA 95135

Re: Clarification of Instrument Rating Requirements of 14 C.F.R. § 61.65(d)(2)

Dear Mr. Rohlfig:

This is in response to your letter dated October 18, 2015, in which you requested a legal interpretation of 14 C.F.R. § 61.65(d)(2). You specifically sought clarification on whether aeronautical experience used to satisfy requirements of § 61.109(a)(3), the control and maneuvering of an airplane solely by reference to instruments, can also be used to satisfy the requirements of § 61.65(d)(2), which specifies the aeronautical experience requirements for an instrument rating.

Section 61.65(d)(2) states, in relevant part, that a person applying for an instrument-airplane rating must have logged forty hours of actual or simulated instrument time, of which fifteen hours must have been received from an authorized instructor who holds an instrument-airplane rating. Section 61.109(a)(3) requires that an applicant for a private pilot certificate have 3 hours of flight training in a single-engine airplane on “the control and maneuvering of an airplane solely by reference to instruments.”

The requirements of §§ 61.65(d)(2) and 61.109(a)(3) are not mutually exclusive. “Section 61.65(d)(2) does not require 40 hours of instrument training; it requires 40 hours of actual or simulated instrument time. As part of those 40 hours of instrument time, 15 must be completed with a CFI who has an instrument rating (in other words instrument training).” Legal Interpretation to Taylor Grayson (July 6, 2010). Under § 61.65(d)(2), “the required instrument time other than instrument training does not require the presence of a CFI but only the presence of an individual qualified to act as a safety pilot or as a pilot in command of an operation in actual instrument conditions.” *Id.*

Flight instructors who provide flight training on the “control and maneuvering of an airplane solely by reference to the instruments” in § 61.109 are not required to have an instrument rating on their flight instructor certificate. *See* Legal Interpretation to Taylor Grayson (Jan. 4, 2010). Therefore, the 3 hours of flight training on “the control and maneuvering of an airplane solely by reference to instruments” in § 61.109(a)(3) may be applied toward the 40 hours of actual or simulated instrument time under § 61.65(d)(2), but may not be applied toward the 15 hours of instrument training unless the flight instructor who provided the flight training under § 61.109(a)(3) held an instrument rating on his or her flight instructor certificate and otherwise meets the requirements of § 61.65.

We appreciate your patience and trust that the above responds to your concerns. If you need further assistance, please contact my staff at (202) 267-3073. This response was prepared by Neal O'Hara and Katie Patrick, Attorneys 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.

Sincerely,

A handwritten signature in black ink, appearing to read "Lorelei Peter". The signature is fluid and cursive, with a prominent initial "L" and a long, sweeping tail.

Lorelei Peter
Acting Assistant Chief Counsel for Regulations

3410 Royal Meadow Lane
San Jose, CA 95135

October 18, 2015

Office of the Chief Counsel
800 Independence Avenue SW
Washington, DC 20591

RE: Request for 61.65 legal interpretation

Office of the Chief Counsel,

As a Gold Seal CFI, I have found the regional FSDO's as well as their appointed Designee's have been interpreting the eligibility requirements for the instrument airplane rating inconsistently. Therefore I am requesting a legal interpretation or opinion from your office.

The question is whether the 3 hours that are required for Private Pilot eligibility per 61.109 (a) (3) which states, "3 hours of flight training in a single-engine airplane on the control and maneuvering of an airplane solely by reference to instruments" can be applied towards the Instrument Rating experience requirement per 61.65 (d) (2) which states, "Forty hours of actual or simulated instrument time in the areas of operation listed in paragraph (c) of this section, of which 15 hours must have been received from an authorized instructor who holds an instrument-airplane rating."

And further, if the student pilot training experience per 61.109 (a) (3) can be applied towards the requirements of 61.65 (d) (2), is the time applied towards the "Forty hours of actual or simulated instrument time" or, can it be applied towards the "15 hours must have been received from an authorized instructor who holds an instrument-airplane rating." If the student pilot training time can in fact be applied at all, the latter would imply that the training time would only be applicable if the CFI giving the student pilot instruction also held an Instrument Instructor certificate.

I look forward to your reply.

Respectfully,



Scott Rohlifing