



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.

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,

A handwritten signature in cursive script, appearing to read "Lorelei Peter".

Lorelei Peter
Acting Assistant Chief Counsel for Regulations