



Members of the Board,

My name is Stacy Howard, and I am the Western Regional Representative of the Aircraft Owners and Pilots Association, (AOPA), a not-for-profit membership organization, representing the general aviation interests of over 415,000 members nationwide – including over 11,000 in Arizona. Our members are both the consumers and providers of the flight training services you are discussing today.

As an association of pilots who promote an interest in flying, we are naturally troubled by the actions of an unscrupulous few who have played a shell game with student tuition payments at a number of flight schools over the past few years. But we are far more concerned over the effect of hasty enactment and implementation of rules to regulate flight training by the thousands of honest, reputable flight instructors, over 3,600 of who are here in Arizona.

Your neighbors in California recently launched an effort to regulate flight training, which for many years had been exempt under state law, as part of its reauthorization of the state's post-secondary private education regulatory program. The new law, and the regulations that were promulgated afterwards, were essentially developed in a vacuum, without any input from the aviation community. As a result, legislators have since realized that their limited knowledge of how flight training is usually conducted led them to put in place a new regulatory scheme with potentially disastrous consequences for the aviation industry in California. After recent consultation with the aviation community, including AOPA, legislators have begun to re-examine the issue. Just this week, the State Senate passed a bill that would delay implementation of flight school regulations until July 1 of next year to allow time for the legislature and aviation industry, to work out a more reasonable solution. The bill has gone to the Assembly for concurrence, which is expected soon.

Here in Arizona, as you discuss your authority and responsibility to regulate flight training, we would suggest to you that there is no clear applicability of state law to Part 61 Flight Training, and in fact, and that a much stronger argument can be made that the legislature did not intend for that type of flight instruction to be regulated by the State Board for Private Postsecondary Education.

A look at the recent legislative history suggested that state legislators did not make a differentiation between Flight Training conducted under Part 141 or Part 61 of the Code of Federal Regulations as they mentioned it in the law. In 2005 the legislature adopted a significant revision to the law, which had contained a broad exemption for "Schools, trade associations or courses which are otherwise regulated pursuant to any other law of this state or federal law." Instead, with Senate Bill 1348 they substituted only one mention of federal regulation in section (F)(7) by creating an exemption for "Training conducted pursuant to 14 Code of Federal Regulations Part 141." This of course, relates to flight training.

Subsequently, the legislature's apparent view that all flight training is of one piece was reinforced in 2008. That year, the legislative history does not address the (F)(7) language added in 2005 directly, but looking at Senate Bill 1431, which added an exemption for certified nursing assistants and professional drivers schools, we can see staff summaries and fact sheets prepared by both House and Senate staff state that the law being amended already provided exemption from licensure by the Board for "Barber,

cosmetology and flight schools." It would seem that in changing the exemption language from excluding all schools regulated by federal law to, among others, Part 141 schools, the legislature thought it was excluding "flight schools" in general.

As we understand the responsibility of the Board, it is primarily focused on people operating a "private vocational program" which is defined as a course or group of courses that is designed to provide or advertised to provide sufficient skills for entry into a paid occupation. We would suggest that a small flight school or individual flight instructor that operates under CFR Part 61, does not fall in this definition in two respects:

- First, there is usually no formalized "course or group of courses" used by them, which we take to mean an organized system of study with a beginning and an end, or a curriculum.
- Second, and perhaps more important, the type of primary or proficiency flight instruction usually sought under Part 61 training is not necessarily designed to provide a skill to go into a paid occupation. Instead, it is more for use as an avocation, to maintain currency, or to increase one's skill. It is only tangential that the student may gain training that allows them to enter the commercial aviation industry and earn an income.

The item of business before this Board is to discuss the "Regulation of certain classes of Airplane Pilot and Instructors under Part 61 of the CFR." We would suggest that, whatever responsibility the Board has to exercise its authority to protect post secondary students in Arizona, it is unlikely that it extends to regulating the thousands of individual Certified Flight Instructors offering Part 61 Training.

Most Part 61 training is offered as a series of individual flight lessons on a "pay-as-you-go" basis, in which a student pays an instructor for each lesson, covering the cost of the aircraft, the fuel, and the instructor's time. At the end of the lesson, the instructor signs the student log book. If no further lessons are given the student by that particular instructor, there is no loss, as the student has "logged" the time towards becoming eligible for their pilot's certificate, and is free to pick up with another instructor. Much of this would seem to be in agreement with the exemption for instruction that is "*related to hobbies, avocations, academic improvement or recreation and may only incidentally lead to gainful employment and if the instruction is for a period of under forty hours and costs less than one thousand dollars*"

We note that many schools will offer students an opportunity to pre-pay for blocks of time to use an aircraft and fuel, but those pre-payments are relatively modest and do not reach the level of the thousands in tuition costs that might have been lost by students at Jet University or Silver State helicopter, some of the worst examples of mentioned by those who want to see additional regulation.

Given the ambiguity of the legislature's intent to regulate flight training, the difficulty in applying the current law to much of Part 61 instruction as it is usually offered, and the relative infrequency of fraud associated with flight training, we would encourage the Board to conclude that it is not appropriate for it to begin a regulatory program.

Alternatively, if the Board does see some grounds for continuing this discussion, we encourage you not to act precipitously as was done in California, and to take the time to understand flight training, and the impact of regulating Part 61 training on the aviation industry in Arizona, and to consult with the aviation community on the best way to move forward.

Thank you for your time and interest. I am happy to answer any questions you may have.

Stacy Howard
AOPA Western Regional Representative

41695 N. Coyote Road
Queen Creek, AZ 85240
480-987-9165