



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

Office of the Chief Counsel

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

August 29, 2022

Michael J. Pratt  
MD-11 Captain  
President, Louisville Aviation  
9223 Springbrooke Circle  
Louisville, KY 40241

Dear Mr. Pratt:

This letter is written in response to your January 26, 2020, request for a legal interpretation of § 61.129(c)(3)(i) of Title 14 of the Code of Federal Regulations (14 CFR). Specifically, you asked whether the five hours of instrument training required for a commercial pilot certificate with a rotorcraft category and helicopter class rating may be accomplished *outside* of a helicopter, specifically in an aircraft, flight simulator, flight training device, or an aviation training device that does not replicate a helicopter.

Section 61.129(c)(3)(i) requires a person applying for a commercial pilot certificate with a rotorcraft category and helicopter class rating to, in part, obtain at least five hours of training “on the control and maneuvering of a *helicopter*” solely by reference to instruments using a view-limiting device including attitude instrument flying, partial panel skills, recovery from unusual flight attitudes, and intercepting and tracking navigational systems. Section 61.129(c)(3)(i) further states that this training “may be performed in an *aircraft*, full flight simulator, flight training device, or an aviation training device.”

Section 61.129(c)(3)(i) does not expressly require a person to complete his or her five hours of training in a helicopter. However, § 61.129(c)(3)(i) does expressly require the five hours of training to be performed “on the control and maneuvering of a helicopter.” The FAA recognizes that the second sentence under § 61.129(c)(3)(i) states that this training may be performed “in an aircraft,” among other options. Notwithstanding the foregoing, canons of construction direct that all language be given effect when considering a statute. Similarly, the FAA should construe regulatory text so no word or clause is superfluous, void, or insignificant. Therefore, the phrase “on the control and maneuvering of a helicopter” as well as the term “aircraft” must both be kept in mind when reading § 61.129(c)(3)(i).

Under 14 C.F.R. § 1.1—the general definitions section that pertains to § 61.129(c)(3)(i)—the term “aircraft” is defined as a device used or intended to be used for flight in the air. By applying canons of construction, when § 61.129(c)(3)(i) prescribes an aircraft as an option to perform the five hours of training on the control and maneuvering of a helicopter, its context is with respect to a helicopter, a device used for flight in the air. Moreover, a pilot cannot control and maneuver a helicopter outside of a helicopter itself, or without a full flight simulator, flight training device, or aviation training device that replicates a helicopter. Therefore, when § 61.129(c)(3)(i) is read in the context of paragraph (c) in its entirety, the FAA interprets the last sentence of § 61.129(c)(3)(i) to mean that the five required hours of aeronautical experience may be performed either in a helicopter, or through the use of a full flight simulator, flight training

device, or aviation training device that replicates a helicopter.

The FAA recognizes that the Legal Interpretation sent to Mr. Richard Theriault, dated July 6, 2011, has caused confusion with regard to the required five hours of instrument training on the control and maneuver of a helicopter under § 61.129(c)(3)(i). In the Theriault interpretation, the FAA stated that “[y]es, the[] five hours of aeronautical experience for meeting instrument requirements for a commercial pilot certificate may be accomplished outside of a helicopter, in an aircraft, flight simulator, flight training device[,] or an aviation training device.” However, for the reasons explained above, this particular statement in the Theriault interpretation is incorrect. Thus, in light of this finding, the FAA hereby rescinds the Theriault interpretation.

To summarize, if training performed pursuant to § 61.129(c)(3)(i) occurs in a helicopter, or with a device or simulator that replicates a helicopter, that training may count towards the five hours of instrument aeronautical experience required under § 61.129(c)(3)(i). However, instrument training performed outside of a helicopter and without a flight simulator, flight training device, or aviation training device that replicates a helicopter cannot count towards the five hours of instrument aeronautical experience that is required under § 61.129(c)(3)(i).

We appreciate your patience and trust that the above addresses your concerns. If you need further assistance, please contact my staff at (202) 267-3073.

Sincerely,

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Sara Mikolop  
Acting Assistant Chief Counsel for Regulations