

## ALERT

# FAA Allows Drones for Educational Use

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## HIGHLIGHTS:

- » A new Federal Aviation Administration (FAA) memorandum substantially expands the permitted use of unmanned aircraft systems (UAS, or drones) at educational institutions, principally by students in connection with coursework.
  - » Faculty may also conduct "de minimis" operations of UAS during students' coursework.
  - » The interpretation is a departure from previous FAA warnings issued to universities.
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In a significant policy shift, the Federal Aviation Administration (FAA) will now permit students and to use unmanned aircraft systems (UAS, or drones) – with restrictions – for educational purposes. The FAA issued a memorandum on May 4, 2016, explaining that it will now consider certain educational operations as "hobby or recreational" use that will not require FAA authorization.

Until now, the FAA has severely limited educational use of UAS, and in the past had issued cease-and-desist notices to universities that had been teaching students to operate drones.

## Student Use

In Section 336 of the FAA Modernization and Reform Act of 2012, Congress had prohibited the FAA from promulgating any rule that would apply to UAS flown "strictly for hobby or recreational use" if the operator also complies with certain other requirements.

The FAA's new memorandum applies the hobbyist provision to UAS operations at educational institutions and community-sponsored events. A student may also now operate a UAS under that provision to further his or her aviation-related education at an accredited educational institution, provided that the student is (1) not compensated, or (2) any compensation received is neither directly nor incidentally related to that person's operation of the aircraft at such events.

## Faculty Use

The FAA's memorandum also provides for "de minimis" UAS use by faculty during student coursework, but only when the faculty member's hands-on use of the drone would be "secondary" to the lessons taught.

The FAA provided examples of when a faculty member could operate a UAS in class:

This limited circumstance would apply to courses at accredited institutions where the operation of the unmanned aircraft is secondary to the design and construction of the aircraft, such that

the primary purpose of the course is not operating an unmanned aircraft. For example, an instructor teaching an engineering course in which construction and operation of UAS are one part of the curriculum would be able to conduct limited UAS operations. In that case students would fly UAS to test the validity of design or construction methods to show mastery of the principles of the course. The faculty member's UAS operation would be secondary to the purpose of instructing engineering courses.

The FAA also provided an example of when a faculty member could not operate a UAS:

In contrast, this limited circumstance would not apply to a course related to UAS flight instruction. In that case, the student's primary purpose for taking the course is to learn to fly a UAS and flight would be expected to be demonstrated on a regular basis. In that case, the faculty member's UAS operation is closely tied to his or her purpose of instructing how to fly a UAS.

### **Departure from Previous Interpretation**

The FAA previously issued guidance on the meaning of "recreational or hobby purposes" under Section 336. See Interpretation of the Special Rule for Model Aircraft, 79 Fed. Reg. 43240 (July 25, 2014). In that 2014 guidance, the FAA noted that "recreational or hobby purposes" means "a pursuit outside one's regular occupation engaged in especially for relaxation" or "refreshment of strength and spirits after work; a means of refreshment or diversion." The FAA's new interpretation appears to relax the previous interpretation of "recreational or hobby purposes."

Past attempts to qualify educational use of UAS as "aeronautical research" have been mostly unsuccessful because the FAA has defined aeronautical research narrowly as "research about [an] aircraft," performed for the purpose of facilitating the development of future aircraft and aircraft systems. See FAA Memorandum, UAS Operations by Public Universities for Aeronautical Research (June 13, 2014). The FAA's new and broader interpretation of "recreational or hobby purposes" should make this argument moot for educational purposes.

### **Greater Opportunities for Teaching with UAS**

In the past few years, the FAA had issued cease-and-desist warnings to educational institutions that incorporated UAS into classrooms without securing FAA permission. For example, the University of Nebraska and the University of Missouri were warned to stop after each had been teaching journalism students to gather news using UAS.

Under the FAA's new guidance, educational institutions will now have greater opportunities to incorporate UAS into their curricula for coursework in engineering, agriculture, journalism, aviation and many other disciplines.

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