

Mr. Ali Bahrami, Associate Administrator for Aviation Safety Federal Aviation Administration
800 Independence Avenue SW
Washington, DC 20591

Dear Mr. Bahrami:

The Society of Aviators and Flight Educators (S.A.F.E.), directly represents over 3600 professional aviation educators. We value and support our mutual commitment to aviation safety through the professional development and continued education of our pilots and educators.

Unfortunately, the recent judgment issued by the D.C. Circuit Court of Appeals on April 2, 2021 in Warbird Adventures, Inc. et al. v. FAA has the potential to diminish aviation safety by undermining the long-standing legal precedent recognizing "Certificated Flight Instructors" as "educators" and not "charter pilots flying for hire." The current court decision to deny the petition for review of the FAA's Emergency Cease and Desist Order, has created confusion and already reduced flight activity in the certificated flight instructors whom we represent.

Upholding this recent reinterpretation will create a strong, adverse effect (and other potential downstream impacts) on flight instruction with both increased regulatory burdens and legitimate concerns for legal liability associated with "compensation for hire." Characterizing certificated flight instructors as "commercial operators," (potentially operating under CFR 135 - "common carriage"), could inadvertently cause gross and significant harm to aviation safety by reducing the numbers of instructors available to educate and train pilots, from student to ATP. Future growth and safety in aviation demand prompt FAA action in this matter.

This current ruling is clearly at odds with historic FAA legal policy as stated on September 18, 1995 by David P Byrne, then Assistant Chief Counsel Regulations Division: "The FAA has determined that the compensation a certificated flight instructor receives for flight instruction is not compensation for piloting the aircraft but is rather compensation for the instruction." And emphasized further, "A certificated flight instructor who is acting as pilot in command or as a required flight crewmember and receiving compensation for his or her flight instructor is not carrying passengers or property for compensation or hire, nor is he or she, for compensation or hire, acting as pilot in command of an aircraft."

For all these reasons, we at SAFE urge the Agency to expedite a final ruling preserving the instructor's historic role as "educator" and not "charter pilot." Adopting the broader interpretation implied in this court's recent decision would create irrevocable harm to our industry and diminish aviation safety. Thank you for your consideration and prompt action on this urgent request.

Sincerely,



David St. George, Executive Director
SAFE