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NEW DRONE RULES AND THEIR IMPACT ON THE USE OF DRONES IN EDUCATION

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As of August 29, 2016, a new Federal Aviation Administration (FAA) rule is in effect for the use of Small Unmanned Aircraft Systems (UAS) otherwise known as drones. Press coverage of the UAS Rule (Part 107) has focused on the FAA's increased authorization for the use of drones, and anticipation around their widespread use. But whether a UAS is permitted to be flown in a particular school district setting is not as straightforward as the press coverage suggests. The key inquiry in whether UAS use is permitted turns on why the drone is being flown in the first place.

Hobby/Recreational Use (For Fun/Component of Educational Course)

This category applies to student, faculty, and community use. It allows for the use of UAS to conduct demonstrations, use at community events, or simply for recreation (such as through a club setting). No compensation* may be received by the person for operating the drone. Hobby and recreational use includes the use of UAS as a component of science, technology, and aviation-related educational curricula. It also includes use in courses for television and film production, or other arts.

In these cases, the following rules apply:

- 1) The aircraft is flown strictly for hobby or recreational use;
- 2) The aircraft is operated in accordance with a community-based set of safety guidelines and within the programming of a nationwide community-based organization;
- 3) The aircraft is limited to not more than 55 pounds unless otherwise certified through a design, construction, inspection, flight test, and operational safety program administered by a community-based organization;
- 4) The aircraft is operated in a manner that does not interfere with and gives way to any manned aircraft; and
- 5) When flown within 5 miles of an airport, the operator of the aircraft provides the airport operator and the airport air traffic control tower (when an air traffic facility is located at the airport) with prior notice of the operation (model aircraft operators flying from a permanent location within 5 miles of an airport should establish a mutually-agreed upon operating procedure with the airport operator and the airport air traffic control tower).

Research, Security, Courses on Drones, Other Governmental Purpose (For Work, Entire Course)

This category applies to the use by students, faculty, administrators, and security personnel where not for a hobby or recreational purposes. This could be as part of an entire course on drones, aircraft design, or aerial videography. It may be for use by faculty as part of an agriculture program, where the faculty member takes on more than a de minimis role

* Note, because faculty are compensated for instructional time – their operation of the UAS under this section must only be “de minimis.” The primary operator of the UAS would therefore either be a student or community member.

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in the operation of the UAS. It may also include the use by school district administrators, PR staff, or security personnel near school district special events.

In these cases, the following rules apply:

- 1) Pilot must be at least 16 years old
- 2) Pilot must pass an initial aeronautical knowledge test at an FAA-approved knowledge testing center
- 3) Pilot must be vetted by the Transportation Safety Administration (TSA)
- 4) Aircraft must be less than 55 lbs.
- 5) Aircraft must be registered
- 6) Class G airspace*
- 7) Must keep the aircraft in sight (visual line-of-sight)*
- 8) Must fly under 400 feet*
- 9) Must fly during the day*
- 10) Must fly at or below 100 mph*
- 11) Must yield right of way to manned aircraft*
- 12) Must NOT fly over people*
- 13) Must NOT fly from a moving vehicle*

We recommend that all school districts consider the above rules prior to authorizing the use of drones for instructional and other school district purposes. We also recommend that school districts consider whether insurance policies fully cover District liability related to drone use. Finally, school districts must consider whether or not to allow community members to utilize school district property for Hobby/Recreational Use of UAS.

Clients who have questions regarding issues discussed in this article, or any education law matter, should feel free to call us at 215-345-9111.

*All of the rules with an asterisk may be waived upon application to the FAA, depending on the nature of the use.

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