

## TRAINING

### USAF School of Aerospace Medicine

You asked whether you could grant the USAF School of Aerospace Medicine (USAFSAM) an exception to Education and Training Course Announcement (ETCA) policy so the school may provide training to certain non-Federal civilians. We agree you may grant the exception for students covered by specific agreements between the Air Force and civilian institutions.

USAFSAM proposes to allow non-Government students from three civilian institutions to attend training at USAFSAM. The school explains there is no equivalent training opportunity available in aerospace medicine, civilian attendees do not displace DoD personnel, and attendance is at no additional cost to the Government. Two of the schools already have reciprocal agreements with USAFSAM, whereby DoD personnel attend programs at those institutions without charge. However, ETCA policy, issued pursuant to authority of various volumes of AFI 36-2201, generally prohibits training for non-Federal civilians absent AF/A1DL approval (ETCA Procedures, Table 5.1).

Our office has previously considered a similar request on behalf of an individual aerospace medicine student. In OpJAGAF 1995/79, we concluded that, absent express statutory or regulatory restrictions concerning specific training requested or persons requesting training, there was no legal objection to allowing selected students to attend Air Force courses. Such attendance must be (1) limited to courses unavailable in the civilian sector, (2) in the best interest of the Air Force, and (3) at no additional expense to the Air Force. We also pointed out the risk of tort claims arising from the training and of establishing a precedent which could lead to similarly situated individuals requesting similar treatment.

While these criteria and risks are still relevant, the current request to provide the training opportunity through specific civilian institutions raises some additional issues. First, it appears the proposed training falls within the scope of AFI 41-108, *Training Affiliation Agreement Program* (2005). Although most of the AFI's emphasis is on clinical training at treatment facilities, it also specifically covers didactic training. Therefore, unless AF/SG1 determine the AFI does not apply, USAFSAM must follow the AFI approval process. That process addresses all of the factors mentioned above – unavailability in the civilian sector, Air Force interest, cost, risk, and preferential treatment.

If AFI 41-108 does not apply, the reciprocal arrangements may still be permissible pursuant to the broad Air Force authority to make agreements for training of servicemembers and civilian employees at non-Government facilities pursuant to 10 U.S.C. § 2013 and 5 U.S.C. § 4105. Under these authorities, the reciprocal training at USAFSAM could be part of the Government consideration for the training Air Force students receive at civilian institutions. For training that is not reciprocal, the specific arrangements must include consideration of the Air Force interest in providing training, the risk of liability, and the Air Force ability to offer like privileges to similarly situated institutions or individuals.

Because we conclude that at least some of the proposed USAFSAM training could be approved (through the training affiliation agreement process), we agree you may grant the requested ETCA policy exception. For the reasons discussed above, we recommend the exception require all non-Federal civilian attendance be covered by specific agreements reviewed by USAFSAM's servicing legal office.

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