

December 17, 2014

To: CSU Presidents

From: G. Andrew Jones 
Associate Vice Chancellor and Deputy General Counsel

Re: Unmanned Aerial Vehicles (aka Drones)

Recently, a growing number of faculty, staff and students have expressed keen interest in using Unmanned Aerial Vehicles ("UAV") in connection with or as part of their official university activities. You may have also heard UAVs referred to as Unmanned Aircraft Systems ("UAS"). They are most commonly called drones. As the cost of UAVs drops substantially, and the versatility and experience in their multiple possible uses increases, interest by CSU personnel and students in UAV use is both exciting and understandable. We in the OGC share in the excitement and potential that UAVs offer. That said, we also are working hard to assure that CSU's UAV use is legally compliant so as to best position us to leverage UAV use in the near future as legal restrictions begin to ease - a process that we are not just monitoring, but in which we are working hard to be an active participant. In the meantime, this short memo provides a current lay of the land in UAV use.

The operation of UAVs by public universities such as CSU is regulated and controlled by the Federal Aviation Administration ("FAA"). Violations of FAA rules and regulations can result in stiff federal penalties. For that reason, we want to dispel misconceptions that may exist about what is or is not allowable or required under current FAA rules and regulations. Under current FAA rules and regulations:

- All UAVs are subject to FAA rules and regulations. This includes UAVs used or operated by a public university such as CSU.
- Any UAV operated by CSU within United States civilian airspace is subject to FAA rules and regulations. There is no 400 feet or other distance limit to the FAA's jurisdiction.
- In order for a public university such as CSU to operate a UAV, it must apply for and be granted a Certificate of Authorization ("COA") from the FAA. When granted, the COA allows the UAV to be used only for the limited purpose or activity specified in the application. There appears to be no likelihood of a systemwide application for a COA. Rather, this will be a use-by-use and campus-by-campus process.

- There is absolutely *no* public university exemption or exception to the COA requirement. Any faculty, staff or student operating or using a UAV in connection with or as part of his/her official CSU activities *must* obtain a COA, even if it is intended to be used solely for research purposes.
- The FAA will grant a COA to a public entity only if the UAV is being used for a non-commercial purpose. The FAA is the ultimate decider of whether a particular activity is commercial or non-commercial in nature.
- Only public entities are eligible to receive a COA. For example, auxiliary organizations are not public entities within the meaning of the FAA's rules and regulations and, therefore, are not eligible for a COA. Auxiliary organizations are regarded as civil operators subject to a different and more stringent set of rules and regulations. With a few narrow exceptions, the FAA has not authorized the use of UAVs by civil operators.
- Hobbyists and recreational users are not required to obtain a COA before operating a UAV. They are subject to a different set of guidelines and rules. CSU and individuals operating a UAV in connection with their employment capacity do *not* qualify as hobbyists or recreational users.

We hope this information proves useful for you. Your campus should not be operating a UAV in any capacity unless you have obtained a COA from the FAA. If you are operating a UAV without a COA and believe you are exempt from that requirement, please contact the Office of General Counsel so we can discuss your situation in detail.

Again, we are aware and understand that several campuses are highly interested in UAV use, and applying for a COA. We also are aware and understand that this is a significant and important subject for campuses. Please be assured that we in the process of determining how best to help campuses successfully apply for a COA in this complicated and developing regulatory area, and also how CSU can provide input to and influence the development of FAA policy in this area. In that spirit, I am leading a UAV working group at the OGC to pursue these purposes. If you have either questions or information that you would like to share regarding CSU and UAVs, please don't hesitate to contact us.

c: Timothy P. White, Chancellor
Steven Relyea, Executive Vice Chancellor and Chief Financial Officer
Ephraim Smith, Executive Vice Chancellor and Chief Academic Officer
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Garrett Ashley, Vice Chancellor, University Relations and Advancement
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