

DRONE FAQ

PACE members,

It is important to read through our FAQ's below and share this document with departments, student classes and staff who use an Unmanned Aircraft System (UAS) also known as drones. PACE partnered with Oregon Department of Aviation in developing these common questions and answers below. These FAQ's will also help answer most common questions from Oregon School Boards Association next policy update for Policy ECACB. Thank you in advance for taking the time to review this document, we are here to help you navigate this topic, please contact us if you have any additional questions.

Dave Harvey, PACE Administrator

Drone FAQ

It is important for you to remember that in order to have liability coverage for your drone operations, you must be able to prove you were in compliance with all federal, state and local laws at the time of the claim. As a PACE member, you should be staying current on any and all changes to rules related to drone operations. We will do our best to update this FAQ as timely as possible when we learn of changes to rules and laws.

- **Do we need to register our drone with the Federal Aviation Administration (FAA) and State of Oregon?**
 - Yes. Any drone over 0.55 pounds is considered an aircraft and you must register it with the FAA and as a user of drones with the Oregon Department of Aviation (ODA).
 - FAA
 - There is a fee of \$5 to register your drone and the registration must be renewed every 3 years.
https://www.faa.gov/uas/getting_started/
 - ODA
 - All educational entities are required to register as a user of drones and there is no fee to register as a user.
 - To register your educational institution as a drone user email the following information to UAS@aviation.state.or.us
 - The number and type of drones you use
 - Who will be flying the drones and
 - The purpose of the flights
 - ODA UAS Links:
<http://www.oregon.gov/aviation/pages/index.aspx>

- Is there a requirement from FAA or ODA to report on your drone operations?
 - FAA
 - No, there is no reporting requirements.
 - ODA
 - No, but you must maintain records in accordance with OAR 738-80-0050 which states:

(2) An educational institution which has registered as a user of UAS as described in OAR 738-080-0045(2) shall maintain written records of the educational institution's use of UAS. Such records shall be retained consistent with the educational institution's public records retention schedule and made available for inspection consistent with Oregon Public Records Law. The records must be prepared annually and include the following information:

- (a) The designation of the department(s), division(s), program(s) or unit(s) within the education institution which use(s) UAS;
- (b) A summary of the purposes of UAS use in each department, division, program or unit within the education institution which uses UAS;
- (c) A summary of the frequency of use of the UAS by each department, division, program or unit within the education institution which uses UAS; and
- (d) A brief statement of whether the educational institution uses UAS in coordination with or on behalf of a law enforcement agency.

- What if we have a member of the community who wants to help our educational entity by using their own drone?
 - If that community member is doing work on behalf of the educational entity, they may be an agent of yours and you could be responsible for their actions. At that point, the pilot needs to be following all federal, state and local rules for commercial drone operations (an example would be flying under Part 107 or Certificate of Authorization). In other words, if a person that normally flies drones as a hobbyist, they are no longer a hobbyist once they are flying on your behalf and must follow rules for commercial flight.
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- Can an educational entity fly under Section 336?
 - No, Section 349 of H. 304: EXCEPTION FOR LIMITED RECREATIONAL OPERATIONS OF UNMANNED AIRCRAFT repealed Section 336 in its entirety by stating "*REPEAL.—Section 336 of the FAA Modernization and Reform Act of 2012 (49 U.S.C. 40101 note) and the item relating to that section in the table of contents under section 1(b) of that Act are repealed.*"

- I am an instructor and will be instructing a class that uses drones. Do I have to be a certified pilot?
 - Yes, If operating under Part 107, according to 107.12 you must (paraphrased): Have a remote pilot certificate or be under the direct supervision of someone who does, such as the instructor or instructional aide. Therefore, if the student is operating the drone as part of a class under Part 107, he/she would need to either have a Remote Pilot Certificate or be directly supervised by someone who does.

For a scenario-based example to further understanding, if an FAA inspector were standing right there the questions may be:

FAA: "Under what regulation are you operating your drone (UAS)?"

Student: "Part 107"

FAA: "Can you please show me your Remote Pilot Certificate?"

Student: "I don't have one."

FAA: "Do you have someone that is supervising you?"

Student: "Yes, my teacher right here."

FAA: Hello Mr./Ms. Teacher, can you show me your Remote Pilot Certificate?"

Professor: "I don't have one."

An FAA inspector would have a few options at this point but would most likely advise that the operations should cease as first and foremost their job is to implore the person violating the regulation to stop the violation. Secondly, they could process an action ranging from a Compliance Action to Legal Enforcement action depending on all the circumstances and the operators willingness and ability to stop the violation and comply with the regulation.—

- My football coach wants to use a drone to film football practice. OSAA says it's okay for practice. Assuming all other applicable rules are being followed, can we do this?
 - Yes, you may film from a stand-off position that would not put the UAS over any person.

- **Can we fly over a group to take a picture?**
 - Yes, as long as you comply with 14CFR Part 89.110 or 89.115 and the regulations below and you have taken the FAA recurrent course after April 6, 2021. Category 1 aircraft can fly over people who are not part of the flight operation, but they may not fly in “*sustained flight over open-air assemblies of people*” unless they comply with 14CFR part 89.110 or 89.115.
 - *Category 1 eligible:* Small unmanned aircraft must weigh less than 0.55, including everything on board or otherwise attached, and contain no exposed rotating parts that would lacerate human skin. No FAA-accepted Means of Compliance (MOC) or Declaration of Compliance (DOC) required.
 - The FAA has provided guidance that Sustained Flight means: “hovering above or circling overhead, of persons gathered in an open-air assembly in such a way that the sUAS remains above some part of the assembly. Brief, one-time transiting over a portion of the assembled gathering, where the transit is merely incidental to a point-to-point operation unrelated to the assembly would not constitute sustained flight”
- **Our educational entity is considering allowing students to fly drones for the public in exchange for a fee. Does the student need to be in compliance with Part 107?**
 - Yes, if there is a fee or other mode of exchange.
- **How Long do I need to retain data collected from drone operations?**

We have not found any specific retention rules directly related to data (imagery, flight logs, etc.) collected from drone operations for educational entities. We have contacted several agencies asking for clarification on retention of data and received various takes on where to find the information. The Secretary of States Archives Division gave direction that educational entities can follow OAR 166-150-135(76) for data captured from drone operations. We realize this section is for Counties and Special Districts related to video surveillance for law enforcement, but it was the most relevant standard that the Archives Division suggested education entities follow for data retention.

OAR Chapter 166 Division 400 has education specific retention requirements for records that educational entities can also look to for clarification of drone data retention, though there is not a specific reference to drone data. Educational entities should also look at their internal records retention policies to determine where drone data that is collected from operations fits into them.

- One of our volunteers flies his personal drone for District operations. They tried to register the drone with the Oregon Department of Aviation (ODA), and it was kicked back saying they don't need to register it. What should we do?
 - If they tried to register their drone in their own name it will get kicked back as only public entities are required to register with ODA, but because the drone is being flown for District operations, it needs to be registered with ODA in the District's name not the volunteers.
- **Do I have to do anything to keep my Part 107 Remote Pilot Certificate current?**
 - It's important for all pilots, including Certified Remote Pilots, to stay current and keep their knowledge up to date. The FAA requires you to renew your Remote Pilot Certificate every 2 years.
 - This can be done for free online. The test is available at www.faasafety.gov and titled Part 107 UAS Recurrent.

Can I fly my drone at night?

- You can now fly your drone at night if you have completed the FAA recurrent course after April 6, 2021 and you can comply with 107.29(a)(2).

What is Remote ID and what does that mean to me?

- It was decided that the FAA and law enforcement would need a way to track and identify Unmanned aircraft while they are in the air. Remote ID provides information on location, altitude, and location of the control station. Authorized individuals from public safety organizations will be able to request the identity of the aircraft's owner from the FAA.
- Most of this capability should work with your existing drones through software updates from the manufacturer. This portion of the rule is being phased in, and final compliance for manufacturers is Sept 2022 and for pilots Sept. 2023.

What ID do I need to have when I am flying?

- You are now required to show your Remote Pilot Certificate to Law Enforcement if requested and you are now required to carry photo ID in addition to your certificate while operating under Part 107. Proof of currency must be made available upon request to the FAA.

If you have questions for ODA who should be contacted? What about FAA questions?

- For ODA questions contact, aviation.mail@aviation.state.or.us or 503-378-4880
- For FAA questions, contact uashelp@faa.gov or 844-FLY-MY-UA

Highlights of FAA Part 107 and the Oregon Revised Statutes on UAS Use

- Pilots must be certified by the FAA to pilot a drone
- Drones must give right-of-way to manned aircraft at all times
- The drone must remain within sight of the pilot without the aid of anything but corrective lenses
- When flying during daylight hours you must have more than 3 miles of visibility
- The drone may fly no higher than 400 feet above the ground (AGL) or no farther than 400 feet from a structure
- The drone may fly no closer than 500 feet below and 2000 feet horizontally from clouds/fog
- Operations in Class B, C, D and some E airspace are allowed with the required ATC permission
- Operations in Class G airspace are allowed without ATC permission
- Temporary flight restrictions must be followed
- No person may act as a remote pilot in command or visual observer for more than one unmanned aircraft operation at one time
- No careless or reckless operations
- No carriage of hazardous materials
- A preflight inspection by the pilot in command is required to ensure the drone is airworthy
- A person may not operate a small unmanned aircraft if he or she knows or has reason to know of any physical or mental condition that would interfere with its safe operation, including the use of alcohol or drugs
- The drone must be registered with the FAA and ODA
- A public body must report to the ODA annually about their drone use

For additional information and copies of the complete rules: <https://www.faa.gov/uas/>
www.oregon.gov/aviation/pages/index.aspx

If you have more questions, please contact:

PACE Risk Management Department: Riskmanagement@sdao.com or by calling 800-285-5461