



**THE ATTORNEY GENERAL
OF TEXAS**

**JIM MATTOX
ATTORNEY GENERAL**

October 29, 1990

Mr. Ray L. Goad
Executive Director
Commission on Fire Protection
Personnel Standards & Education
9800 N. Lamar Blvd.
Austin, Texas 78753

LO-90-82

Dear Mr. Goad:

You have requested our opinion regarding certification requirements for aircraft crash and rescue fire protection personnel employed by the adjutant general.

The Commission on Fire Protection Personnel Standards and Education is required to certify, under section 416.033 of the Government Code, any individual who is seeking appointment "to an aircraft crash and rescue fire protection personnel position." You indicate that the Texas Adjutant General "employs approximately forty-nine personnel as aircraft crash and rescue personnel at Ellington Field near Houston." You ask whether these persons must be certified by the commission prior to their employment by the adjutant general.

"Aircraft crash and rescue fire protection personnel" is defined in section 416.001 of the Government Code as:

permanent, fully paid, full-time local governmental employees who, as a permanent duty assignment, fight aircraft fires at airports, stand by for potential crash landings, and perform aircraft crash rescue.

The relevant employees of the adjutant general may meet most of the necessary criteria, but they fail conspicuously to qualify as "local governmental employees." "Local government" is defined in section 416.001 of the Government Code as "a municipality, a county, a special-purpose district or authority, or any other political subdivision of the state." By contrast, the adjutant general is the head of a state agency.

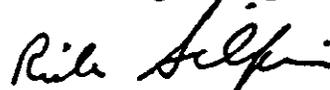
Section 431.022 of the Government Code provides:

The adjutant general is the head of the adjutant general's department and controls the military department of the state. The adjutant general is subordinate only to the governor in matters pertaining to the military department of the state and the state military forces. The adjutant general has the rank of major general.

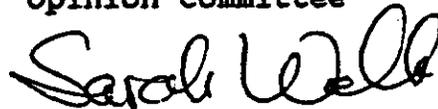
See also Attorney General Opinions H-1160 (1978); H-1092 (1977); H-784 (1976).

We conclude that since aircraft crash and rescue personnel employed by the adjutant general are not "local governmental employees," they are not subject to certification by the Commission on Fire Protection Personnel Standards and Education.

Yours very truly,



Rick Gilpin, Chairman
Opinion Committee



Sarah Woelk, Chief
Letter Opinion Section
Opinion Committee

RG/SW/lcd

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