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6868 Nicholson Drive
Baton Rouge, LA 70820

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FIRE MARSHALL, State
FIRE PROTECTION DISTRICTS

While fire departments across the state do retain their autonomy to hire the training service of their choice for their own personnel, FETI has the regulation power to ensure other such training services meet or exceed FETI's own standards of training. FETI also has the power to guarantee the training services provided by FETI and other agencies do not duplicate among the same fire service personnel. Proper training by FETI, or any other agency that meets or exceeds FETI standards for certification, does provide fire fighters immunity according to LA. R.S. 37:1732

Dear Mr. Herring:

You have requested an opinion from our office on the powers, responsibility and duties of Louisiana State University Fire and Emergency Training Institute (FETI) and potential liability. Specifically you have inquired about the liability of FETI and the liability of an outside agency, when training has not been coordinated through FETI.

Whether FETI has the right to refuse to approve an outside training agency depends on the interpretation of LA. R.S. 40:1541 and LA. R.S. 40:1544. LA. R.S. 40:1544 states that Louisiana State University, presumably FETI, is "officially designated as the agency of this state to conduct at its Baton Rouge campus training for in-service firemen on a statewide basis whereby firemen from any and all duly constituted fire departments may participate, and to coordinate other firemen training programs..." By use of the words "departments may participate," the statute is allowing other agencies to have their personnel trained at FETI, but does not make it mandatory. This is evident by additional language in the statute which provides that LA. R.S. 40:1541 "shall not be construed as affecting the authority of any fire department to conduct training for their own personnel." Therefore, according to LA. R.S. 40:1541, other departments may receive training at FETI, but it is not required by law. Other fire departments around the state do retain some autonomy with regards to who trains their personnel.

The powers, responsibilities and duties of FETI are better defined in LA. R.S. 40:1546. By using the word "shall," this statute does mandate how other fire department personnel are trained. Specifically the statute states that, "[e]ach state institution, state agency, or private agency, providing training for the fire service shall coordinate such efforts with the firemen training program through the Office of Academic Affairs at Louisiana State University to prevent duplication of efforts, duplication of cost, and to ensure standardization." While other fire departments around the state may determine

who trains their personnel, LA. R.S. 40:1546 mandates how they are to be trained. This statutory language clearly implies a duty on any state institution, state agency or private agency who may provide training within this state, to coordinate with FETI.

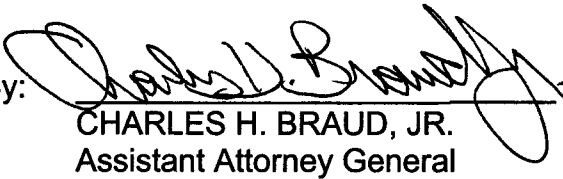
The next inquiry would be to determine how much of a burden could FETI put on the stream of commerce while coordinating these services. Your opinion request specifically questioned whether FETI has the right to refuse a request for conducting a training session from an outside organization whose merit is questionable. LA. R.S. 40:152 mandates that "National Firefighting Standards shall be used as the basis for classroom instruction and testing for certification of firemen." Therefore the only way FETI could refuse to incorporate an outside training agency into the protocol of how in-state firemen are trained, would be to prove that the outside agency does not meet these national standards. Otherwise it would be imperative that FETI develop a fair system to incorporate the coordination of all outside agencies who wish to train firemen within this state. LA. R.S. 40:1546 grants this power to FETI for the purpose of standardization, and to prevent duplicate efforts and cost. Therefore, as long as an outside agency offers the same nationally certified training services that FETI offers, any fire department within the state retains their autonomy and right to select whomever they want to train their own personnel. FETI, under the powers granted to it by LA. R.S. 40:1546, would ensure these training agencies meet national standards, and are not duplicated among the same personnel.

Your questions regarding liability of FETI are much more complex. As I am sure you are aware, LA. R.S. 37:1732 provides specific immunity for the L.S.U. Fireman Training Rescue Program. This statute states that "[a]ny fireman, ... who holds a valid current certification by the ... L.S.U. Fireman Training Rescue Program, ...who renders emergency care, first aid, or rescue while in the performance of his duties at the scene of an emergency or moves a person receiving such care, first aid, or rescue to a hospital or other place of medical care shall not be individually liable to such person for civil damages as a result of acts or omissions in rendering the emergency care, first aid, rescue, or movement of such person..." Section (C) of the statute contains a stipulation that "[i]n order for any fireman, ... to receive the benefit of the exemption from civil liability provided for herein, he must first have taken, successfully completed, and hold a valid certificate of completion of the standard first aid course recognized or approved by the ... L.S.U. Fireman Training Rescue Program, ...and further he shall have a valid certification from the ... the L.S.U. Fireman Training Rescue Program, ...that he has successfully completed any necessary training or refresher courses. Any such certification or refresher courses shall have standards at least equal to the standard first aid course recognized or approved by the ...L.S.U. Fireman Training Rescue Program." In order to qualify for this immunity from civil liability, a heavy burden is placed on FETI to ensure that the state's firemen have been trained according to the national standards mentioned above.

Since LA. R.S. 40:1544 allows FETI to standardize all training programs within the state, FETI has the power to mandate that any other agency meet FETI's own certification standards. This should be considered by all fire departments across the state. In order to qualify for the liability immunity of its own fire fighters, they must employ training services from FETI, or services that are approved by FETI. We hope this answers your inquiry. Should you need any further assistance, please contact our office.

Very truly yours,

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By: 
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