

TEXAS BOARD OF LEGAL SPECIALIZATION

STANDARDS FOR ATTORNEY CERTIFICATION

PART II

SPECIFIC AREA REQUIREMENTS

These are specific requirements that apply to the specialty area listed below. The specific requirements include the definitions, substantial involvement, reference, and other certification and recertification requirements for the specialty area. You will also need to refer to the Standards for Attorney Certification, Part I – General Requirements for requirements that apply to all specialty areas.

SECTION XXII

AVIATION LAW

(Area ID: AV/Year Started:)

- A. **DEFINITION.** Aviation law is the practice of law dealing with issues affecting aircraft and airport operations, aircraft ownership, aircraft navigation and maintenance, air traffic control safety, pilot licensing and certification requirements, spacecraft and outer-space. It includes, by way of definition, not limitation:
- Knowledge of aviation law and space law (collectively “aviation law”), including applicable state, federal and relevant international statutes, regulations, common law and case law principles and doctrines, International Aviation Law, International Treaties, and comparative law principles;
 - Drafting, negotiation, interpretation, and application of aviation related contract documents and provisions, including but not limited to the sale or lease of aircraft or aviation related facilities, operation and provisions of aviation related services, and oversight of aviation transactional matters;
 - Financing for aircraft or other related aviation assets, obtaining insurance, and knowledge of lien claims, the sale and leasing of land and airport properties, licensing and certification of air carrier operations;
 - Knowledge of the types of insurance required and available to clients in the aviation industry such as Aircraft Liability Coverage, Aircraft Physical/Hull Damage Coverage, Non-Owned Aircraft Coverage, War Risk and Hull Liability, Commercial General liability policies tailored to aviation related businesses, and other policies;
 - Knowledge of insurance coverage issues such as application of exclusions and enforceability in Texas, timely reporting of a claim; disputes concerning liability assumed through a contract, insurance related to pollution, etc.;
 - Interaction with federal and state entities such as the FAA, NTSB, EPA and other state regulators responsible for promulgation, compliance and enforcement of aviation ordinances and regulations; and advising clients on regulations affecting airspace, development and maintenance of aviation infrastructure, airports, business and individual operators, aircraft, airmen, cargo, and air commerce;
 - Investigation and handling of aircraft accidents, cargo damage claims, personal injuries and property damages arising from the use of an aircraft or aviation facility, claims related to product defects, breach of contract claims and other claims giving rise to aviation related litigation;

- Knowledge and handling of Unmanned Aircraft Systems (UAS), registration of UAS, process for obtaining permits and waivers, and operational requirements and limitations on the use of UAS;
- Handling arbitrations; mediations, or litigation arising from aviation related activities;
- Assisting clients that are certificated as common carriers, and other business entities or private individuals with issues related to the implementation of regulations such as the ADA or other safety requirements;
- All facets of the laws dealing with commercial space travel, including space launch vehicle licensing and permitting, and spaceflight participants, as well as the use of outer space;
- All facets of the law dealing with employment law specific to aviation and airline employment;
- Representing airmen having regulatory compliance issues with the FAA: and
- Representing manufacturers and fixed base operators, as well as maintenance, repair and overhaul facilities, regarding compliance issues associated with the manufacture and maintenance of aviation assets, including but not limited to aircraft, engines, avionics and accessories.

B. SUBSTANTIAL INVOLVEMENT. Applicant must show substantial involvement and special competence in aviation law practice by providing such information as may be required by TBLS.

1. **Certification**

- a. **Percentage of Practice Requirement.** Applicant must have devoted a minimum of 30% of his or her time practicing aviation law during each year of the 3 years immediately preceding application as defined in Section XXII, A of the Specific Area Requirements for Aviation Law.
- b. **Task Requirements.** Applicant must provide information as required by TBLS concerning specific tasks he or she has performed in aviation law. In evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by applicant.
 - (1) Applicant must show that he or she has engaged directly and substantially in a broad practice of aviation law within the 3 years immediately preceding application, and must show specific involvement in at least two (2) of the areas below for each of the 3 years immediately preceding application.
 - (a) Serving as legal counsel in litigation matters such as pre-trial, trial, appeal, mediation or administrative proceedings that involve disputes or other legal actions concerning aviation law.
 - (b) Representing parties with regard to transactions that are governed by, or otherwise directly affected by, aviation law such as aircraft purchase or sale agreements, aircraft lease agreements, air charter agreements, aircraft financing agreements, and other similar agreements.
 - (c) Providing legal counsel with respect to various tax or regulatory matters that are governed by, or otherwise directly affected by, aviation law, such as structuring ownership and use of airports and/or aircraft in compliance with applicable federal aviation regulations, international, federal, state, or local taxes that might be assessed due to such transactions, ownership and

use, international treaties that might be involved in such matters, and best practices for all aspects of aircraft transactions and ownership .

- (d) Providing legal services with respect to Unmanned Aircraft Systems (UAS) or the commercial space industry related to those distinct regulations and services.
- (e) Providing legal counsel with respect to aviation related insurance.

(2) Applicant must show by detailed response that he or she has engaged at a primary level of responsibility for a client or employer in, or has had active management and oversight of one or more attorneys directly involved in, at least one of the areas applicant submitted to satisfy Section B, 1, b, (1) above.

(3) Applicant must submit a resume or job summary reflecting activities for at least three (3) years or longer immediately preceding application.

2. **Recertification**

Applicant must have devoted a minimum of 30% of his or her time practicing aviation law during each year of the 5 year period of certification as defined in Section XXII, A of the Specific Area Requirements for Aviation Law except as provided for in Part I—General Requirements, Section VI, C,1(b).

C. **REFERENCE REQUIREMENTS.** Applicant shall submit a minimum of 5 names and addresses of persons to be contacted as references to attest to his or her competence in aviation law. These persons shall be Texas attorneys who are substantially involved in aviation law, and be familiar with applicant’s aviation law practice.

1. **Certification.** Applicant shall submit names of persons with whom he or she has had dealings involving aviation law matters within the 3 years immediately preceding application.

2. **Recertification.** Applicant shall submit names of persons with whom he or she has had dealings involving aviation law matters since certification or the most recent recertification.