



Guide to FAA Exemptions

NATIONAL HEADQUARTERS CIVIL AIR PATROL
Maxwell Air Force Base, Alabama

OPR: CAP/DO

CAP AIRCRAFT OPERATIONS UNDER FAR EXEMPTIONS

The FAA has ruled that CAP aircraft operations are considered those of “civil aircraft” and **not** “public aircraft” and are therefore subject to the Federal Aviation Regulations (FARs).

FAA Exemptions for CAP Operations: All CAP operations are conducted under the FARs unless specifically exempted by the FAA. CAP has exemptions in two areas.

1. FAR Part 61 – Reimbursement of Private Pilots (AFAMs)

- The FAA exemption from FAR 61.113(a) and (e), [Exemption 18672](#), allows CAP members who are exercising private pilot privileges while flying Air Force assigned missions (A and B missions, or “AFAMs”) to be reimbursed for (or not pay for) certain expenses incurred while serving on AFAMs.
- Pilots exercising pilot in command (PIC) privileges under this exemption may operate under BasicMed or an FAA medical certificate.
- Reimbursement for member-furnished aircraft is included.
- Only reimbursement and per diem as provided for in CAP Regulation 173-3, *Payment for Civil Air Patrol Support*, are allowed, and only at the rates and in accordance with the procedures set forth in that regulation.

2. FAR Part 91, Subpart F – (CAP Corporate Missions)

- This exemption, [Exemption 18673](#), applies to CAP flights within the scope of, and incidental to, CAP’s corporate purposes and United States Air Force Auxiliary status.
- Essentially, the exemption allows CAP to operate its aircraft under Subpart F of FAR Part 91, which ordinarily applies to corporate-jet operators who move their employees and guests around using those aircraft.
- CAP can receive limited payment while operating small aircraft under the General Operating and Flight Rules of FAR Part 91 instead of Part 135. All the additional rules of FAR 91.501 to 91.535 apply.
- The exemption allows CAP:
 - To receive payment (not more than the cost of owning, operating, and maintaining the airplane) from sources other than CAP, e.g., FEMA, Red Cross, NWS, FAA, when non-member persons (other than crewmembers) are carried; *and*
 - To receive payment (not more than twice the cost of fuel, oil, lubricants, and other additives plus the out-of-pocket costs of the flight) from sources other than CAP, e.g., FEMA, Red Cross, NWS, FAA, when property belonging to persons other than CAP is to be transported.
- The CAP pilot in command (PIC) conducting operations under this exemption must hold a commercial pilot certificate with appropriate category and class ratings for the aircraft to be used in the operation. The PIC also must hold an instrument rating except when conducting day VFR flights within 50 nautical miles of the departure airport.

- The PIC conducting operations under this exemption must hold at least a current second-class medical certificate.
- The aircraft used for operations conducted under this exemption must be maintained and have 100-hour and annual inspections performed in accordance with FAR Parts 43 and 91.

The full text of these exemptions is available at <http://aes.faa.gov/>.

The following table summarizes the applicable FAA rules for various types of CAP missions.

The table covers all air operations, whether within the scope of the exemptions or otherwise. *CAP anticipates conducting operations under the FAA exemptions whenever possible.* The rows reflecting operations under the exemptions are unshaded and cover most CAP missions. The rows reflecting operations not dependent on the exemptions are shaded in gray.

Every effort has been made to assure that the information in the table is accurate and duly reflects the regulatory environment (both FAA and CAP). Even considering that the table is as detailed as it is, it is a summary and not the actual exemptions and regulations. Members having questions regarding the table or other matters addressed in this Pamphlet should address those questions through their chains of command.

CAP MISSIONS AND LIMITATIONS

Unshaded rows address operations under CAP's FAA exemptions, which cover most CAP flight operations.

Shaded rows address operations other than under CAP's FAA exemptions.

Row	Dependent on FAA Exemption? ⁽¹⁾	Nature of Flight	Persons on Board	Aircraft	Privileges Exercised by PIC ⁽²⁾	Permitted Reimbursement to PIC	Who May Log Time	Reference
1	Yes	Any AFAM (A or B Mission) ⁽⁵⁾	(a) CAP pilot crewmembers; (b) other CAP members; ⁽¹⁰⁾ (c) members of U.S. armed services; and (d) on orientation flights, CAP, AFROTC, and AFJROTC cadets	CAP corporate	Private or Commercial	Commercial: Any. Private: (a) Aircraft operating expenses per CAPR 173-3; (b) preheating, deicing, and airport expenses; and (c) per diem up to amounts stated in CAPR 173-3. See Chart 5.	Any pilot may log time or events as and if permitted by FAR 61.51. ⁽³⁾⁽⁴⁾ See Charts 2-4.	FAR 1.1 and 61.51, FAA Exemption 18672, CAPR 173-3
2	Yes	Any AFAM (A or B Mission) ⁽⁵⁾	(a) CAP pilot crewmembers; (b) other CAP members; ⁽¹⁰⁾ (c) members of U.S. armed services; and (d) on orientation flights, CAP, AFROTC, and AFJROTC cadets	Member-furnished ⁽⁸⁾	Private or Commercial	Commercial: Any Private: Aircraft operating expenses per CAPR 173-3 and preheating, deicing, and airport expenses. See Chart 5.	Any pilot may log time or events as and if permitted by FAR 61.51 ⁽³⁾⁽⁴⁾ See Charts 2-4.	FAR 1.1 and 61.51, Exemption 18672, CAPR 173-3

Row	Dependent on FAA Exemption? ⁽¹⁾	Nature of Flight	Persons on Board	Aircraft	Privileges Exercised by PIC ⁽²⁾	Permitted Reimbursement to PIC	Who May Log Time	Reference
3	Yes	CAP corporate (C mission) airplane flights described in FAR 91.501(b), such as ferry, training, aerial work (e.g., photography, survey), and carriage of CAP officials, employees, guests, and/or property	Persons permitted by FAR 91.501(b) (e.g., officials, employees, guests, and property of CAP) and other property.	CAP corporate	Commercial. Requires instrument rating if other than day VFR within 50 nm of departure airport. See Chart 1.	Any ⁽⁶⁾ See Chart 5.	Any pilot may log time or events as and if permitted by FAR 61.51 ⁽³⁾⁽⁴⁾ See Charts 2-4.	FAA Exemption 18673; FAR Part 91, Subpart F (FAR 91.501 to 91.535)
4	No	AFAM (other than glider tow): A and B missions from the following: A1, A4, A5, A7, A12, A23, B5, B7, B10, B12, B13, B14, B21, B23 <u>to the extent</u> “directly related to search and location operations” as contemplated by FAR 61.113(e)	Any person permitted by CAP regulations. ⁽¹⁰⁾	CAP corporate or member-furnished ⁽⁸⁾	Private or Commercial	Commercial: Any. Private: Aircraft operating expenses that are directly related to search and location operations, provided the expenses involve only fuel, oil, airport expenditures, or rental fees. See Chart 5.	Private or Commercial may log time as and if permitted by FAR 61.51. See Charts 2-4.	FAR 61.113(e), FAR 61.51, FAR 61.57

Row	Dependent on FAA Exemption? ⁽¹⁾	Nature of Flight	Persons on Board	Aircraft	Privileges Exercised by PIC ⁽²⁾	Permitted Reimbursement to PIC	Who May Log Time	Reference
5	No	AFAM (other than glider tow): A and B missions not listed in Row 4 (i.e. flights <u>not</u> “directly related to search and location operations” as contemplated by FAR 61.113(e))	Any person permitted by CAP regulations. ⁽¹⁰⁾	CAP corporate or member-furnished ⁽⁸⁾	Private or Commercial	Commercial: Any Private: None in excess of pro rata expenses. ⁽⁷⁾ See Chart 5.	Commercial may log time as and if permitted by FAR 61.51. If Private <u>acts as PIC</u> and <u>does</u> pay at least pro rata expenses, ⁽⁷⁾ Private may log time. If Private <u>acts as PIC</u> and <u>does not</u> pay at least pro rata expenses, ⁽⁷⁾ Private may not log time. If Private <u>does not act as PIC</u> (e.g., a CAP instructor acts as PIC), Private may log takeoffs/landings, approaches, etc. required by FAR 61.57 and PIC time to the extent that the pilot is the sole manipulator of the flight controls, as and if permitted by FAR 61.51(e). ⁽⁹⁾ Instructor may log time while serving as an authorized instructor (per FAR 61.51(e)(3)) even if exercising only private privileges. ⁽⁴⁾ See Charts 2-4.	FAR 61.113, FAR 61.51, FAR 61.57, FAA Interpretation 1997-23 (Harrington)

Row	Dependent on FAA Exemption? ⁽¹⁾	Nature of Flight	Persons on Board	Aircraft	Privileges Exercised by PIC ⁽²⁾	Permitted Reimbursement to PIC	Who May Log Time	Reference
6	No	CAP corporate (other than glider tow): C missions not “directly related to search and location operations” as contemplated by FAR 61.113(e)	Any person permitted by CAP regulations. ⁽¹⁰⁾	CAP corporate or member-furnished ⁽⁸⁾	Private or Commercial	Commercial: Any Private: None in excess of pro rata expenses. ⁽⁷⁾ See Chart 5.	Commercial may log time as and if permitted by FAR 61.51. If Private <u>acts as PIC</u> and <u>does</u> pay at least pro rata expenses, ⁽⁷⁾ Private may log time. If Private <u>acts as PIC</u> and <u>does not</u> pay at least pro rata expenses, ⁽⁷⁾ Private may not log time. If Private <u>does not</u> act as PIC (e.g., a CAP instructor acts as PIC), Private may log takeoffs/landings, approaches, etc. required by FAR 61.57 and PIC time to the extent that the pilot is the sole manipulator of the flight controls, as and if permitted by FAR 61.51(e). ⁽⁹⁾ Instructor may log time while serving as an authorized instructor (per FAR 61.51(e)(3)) even if exercising only private privileges. ⁽⁴⁾ See Charts 2-4.	FAR 61.113, FAR 61.51, FAR 61.57, FAA Interpretation 1997-23 (Harrington)
7	No	Glider tows (tow plane): A, B, or C	Tow pilot. May also include trainee if permitted by CAPR 70-1.	CAP corporate or member-furnished ⁽⁸⁾	Private or Commercial. Qualified to tow per FAR 61.69.	Private or Commercial: Any See Chart 5.	Any pilot may log time or events as and if permitted by FAR 61.51 ⁽³⁾⁽⁴⁾ See Charts 2-4.	CAPR 70-1, FAR 61.113(g), FAR 61.57, FAR 61.69.

Row	Dependent on FAA Exemption? ⁽¹⁾	Nature of Flight	Persons on Board	Aircraft	Privileges Exercised by PIC ⁽²⁾	Permitted Reimbursement to PIC	Who May Log Time	Reference
8	No	Glider flights (glider): C missions	Any person permitted by CAP regulations. ⁽¹⁰⁾	CAP corporate or member-furnished ⁽⁸⁾	Private or Commercial	Commercial: Any Private: None. See Chart 5.	Commercial may log time as and if permitted by FAR 61.51. If Private <u>acts as PIC</u> and <u>does</u> pay at least pro rata expenses, ⁽⁷⁾ Private may log time. If Private <u>acts as PIC</u> and <u>does not</u> pay at least pro rata expenses, ⁽⁷⁾ Private may not log time. If Private <u>does not</u> act as PIC (e.g., a CAP instructor acts as PIC), Private may log takeoffs/landings, approaches, etc. required by FAR 61.57 and PIC time to the extent that the pilot is the sole manipulator of the flight controls, as and if permitted by FAR 61.51(e). ⁽⁹⁾ Instructor may log time while serving as an authorized instructor (per FAR 61.51(e)(3)) even if exercising only private privileges. ⁽⁴⁾ See Charts 2-4.	FAR 61.113, FAR 61.51, FAR 61.57, FAA Interpretation 1997-23 (Harrington)

NOTES to TABLE

(1) **Exemptions.** FAA Exemptions 18672 and 18673, dated 4 December 2020, and any renewals thereof.

(2) **Privileges Exercised**

No CAP operations contemplate or require ATP privileges, so only Commercial and Private are addressed in the table.

“**Commercial**” means that the pilot is qualified to exercise commercial pilot privileges, i.e. (a) holds an ATP or commercial pilot certificate with at least commercial privileges in the applicable category and class and (b) if other than glider, a medical certificate carrying Class 1 or Class 2 privileges.

“**Private**” means that the pilot is qualified to exercise only private pilot privileges, i.e. (a) holds an ATP, commercial, or private certificate with at least private privileges in the applicable category and class and (b) if other than glider, a medical certificate carrying Class 3 privileges, or BasicMed.

Note: (i) BasicMed restrictions apply to airmen operating under BasicMed (e.g., aircraft limited to MTOW of not more than 6,000 pounds and six seats, etc.) and (ii) glider flying requires no medical certificate or BasicMed and is instead subject to FAR 61.23(b) and 61.53(b).

Note: BasicMed applies solely when the holder acts as PIC. BasicMed does not cover operations by a BasicMed holder other than as PIC. E.g., if a BasicMed holder acts as safety pilot while another crewmember operates the flight controls under the hood, the BasicMed-holding safety pilot must be the FAR 1.1 PIC and be otherwise fully FAA (and CAP) qualified to operate the aircraft.

(3) **Instructors.** CFI in category and, if other than glider, has current Class 1, 2, or 3 medical certificate or BasicMed.

(4) **Compensation and Instructors.** Any compensation given to a CFI (whether loggable flight time, reimbursement, or otherwise) is presumptively under the CFI’s instructor certificate, not the CFI’s pilot certificate. A CFI need not exercise commercial privileges while instructing and need only exercise private privileges as it relates to serving as PIC. See [62 Federal Register 16220, 16242; FAA AC 68-1A](#).¹

(5) **Missions Covered by Exemption 18672.** “[O]fficial United States Air Force (USAF)-assigned CAP missions . . . includ[ing] CAP/Air Force Reserve Officer Training Corps (AFROTC) and Air Force Junior Reserve Officer Training Corps (AFJROTC) cadet orientations.”

¹CAP is aware of the D.C. Circuit Court decision in [Warbird Adventures, Inc., et al. v. FAA \(Apr. 2, 2021\)](#) and the subsequent [responsive interpretation letter to AOPA, GAMA, and EAA \(June 4, 2021\)](#). As of the publication date of this pamphlet, CAP understands that the *Warbird Adventures* case and subsequent guidance applies solely to aircraft with Limited, Experimental, and Primary airworthiness certificates and not to flight training in aircraft with Standard airworthiness certificates. CAP operates only aircraft with Standard airworthiness certificates.

- (6) **Limitation on Exemption 18673 Expenses.** Note that CAP is itself limited to the expenses listed in FAR 91.501(d).
- (7) **Pro Rata Expenses.** Per FAR 61.113(c), “[a] private pilot may not pay less than the pro rata share of the operating expenses of a flight with passengers, provided the expenses involve only fuel, oil, airport expenditures, or rental fees.” Note that an instructor giving instruction is not a “passenger” for purposes of pro rata calculations (see FAA Interpretations *in re Kortokrax* (22 August 2006) and *in re Olshok* ((4 May 2007)). The FARs do not expressly define “passenger” or expressly make the distinction between “passenger” and “crewmember.”
- (8) **Member-Furnished Aircraft.** Where a member furnishes the aircraft and also acts as aircrew, Wing DO consultation is advisable prior to operation to assure that the operation can be conducted under FAR Part 91 and that a “wet lease” (providing both aircraft and aircrew, which risks requiring Part 135 certification) is not inadvertently created.
- (9) **Acting as PIC vs. Logging PIC Time.** Acting as PIC (see, e.g., FAR 1.1 and 61.113) is entirely different from logging PIC time (see FAR 61.51). An airman need not act as PIC to log PIC time.

FAR 61.51 provides, in the parts most relevant to CAP, that a pilot may log PIC time:

[W]hen the pilot is the sole manipulator of the controls of an aircraft for which the pilot is rated . . . [FAR 61.51(e)(1)(i)]

When the pilot . . . acts as pilot in command of an aircraft for which more than one pilot is required under . . . the regulations under which the flight is conducted [FAR 61.51] [Note that FAR 91.109(c)(1) requires a safety pilot when the other pilot is operating with a view-limiting device, so the safety pilot may log PIC time under such circumstances.]

Further:

A certificated flight instructor may log pilot in command flight time for all flight time while serving as the authorized instructor in an operation if the instructor is rated to act as pilot in command of that aircraft. [FAR 61.51(e)(3)]

- (10) **CAP Members; Persons Permitted by CAP Regulations.** Note that different categories of membership carry different flight privileges.

Generally speaking, senior members, cadet members, and federal and state legislative members are permitted to fly with CAP (subject to CAPR 70-1 and any other applicable regulations).

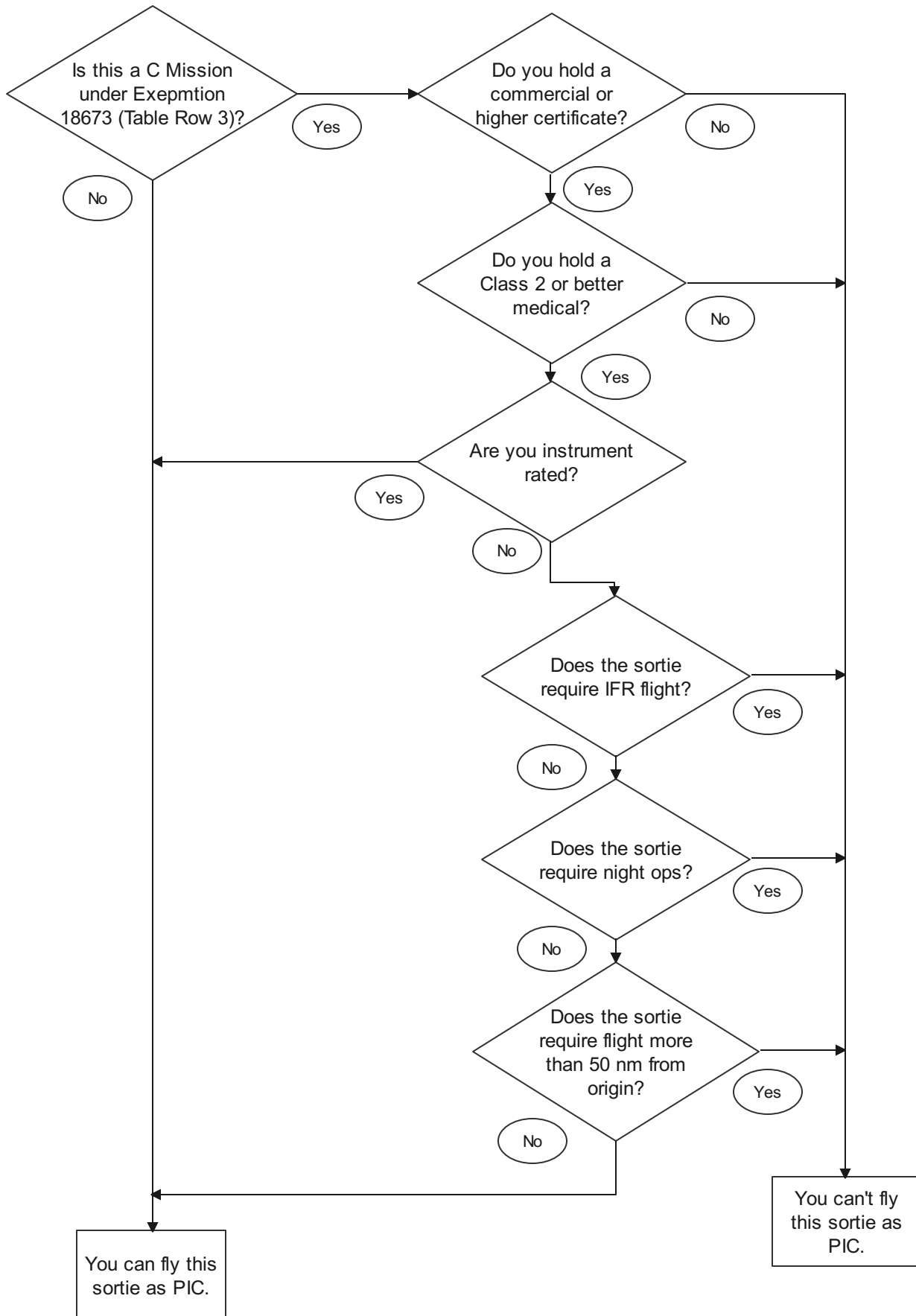
Other CAP members are limited, in particular by CAPR 39-2. Examples follow.

Patron members may not ride in, or fly, CAP aircraft. This prohibition extends to member-owned aircraft on CAP flights.

Prospective cadets (youth who are not yet CAP cadet members) are not permitted to fly with CAP.

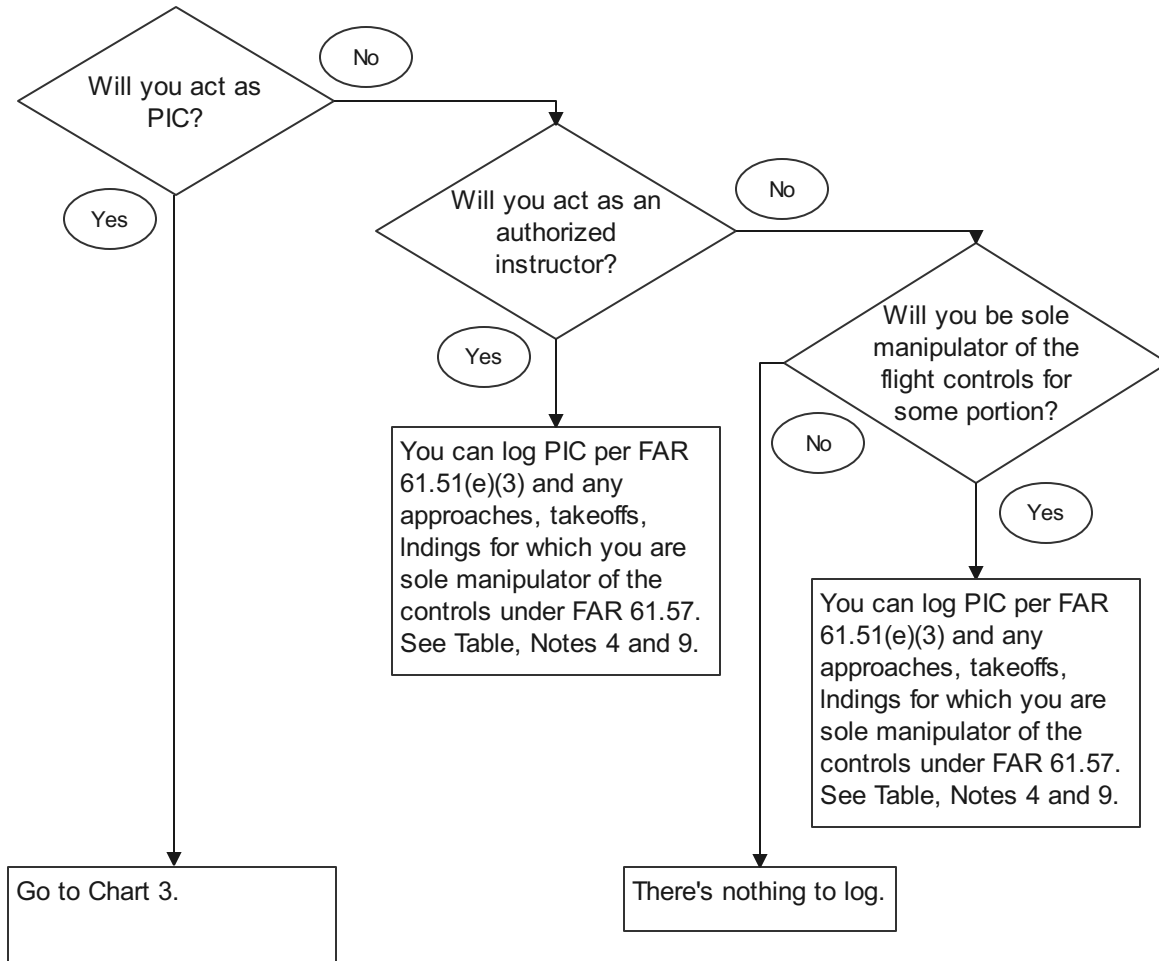
Aerospace education members are not authorized to fly in CAP corporate aircraft unless participating in the CAP Teacher Orientation Program (“TOP”).

Can I fly this sortie as PIC?



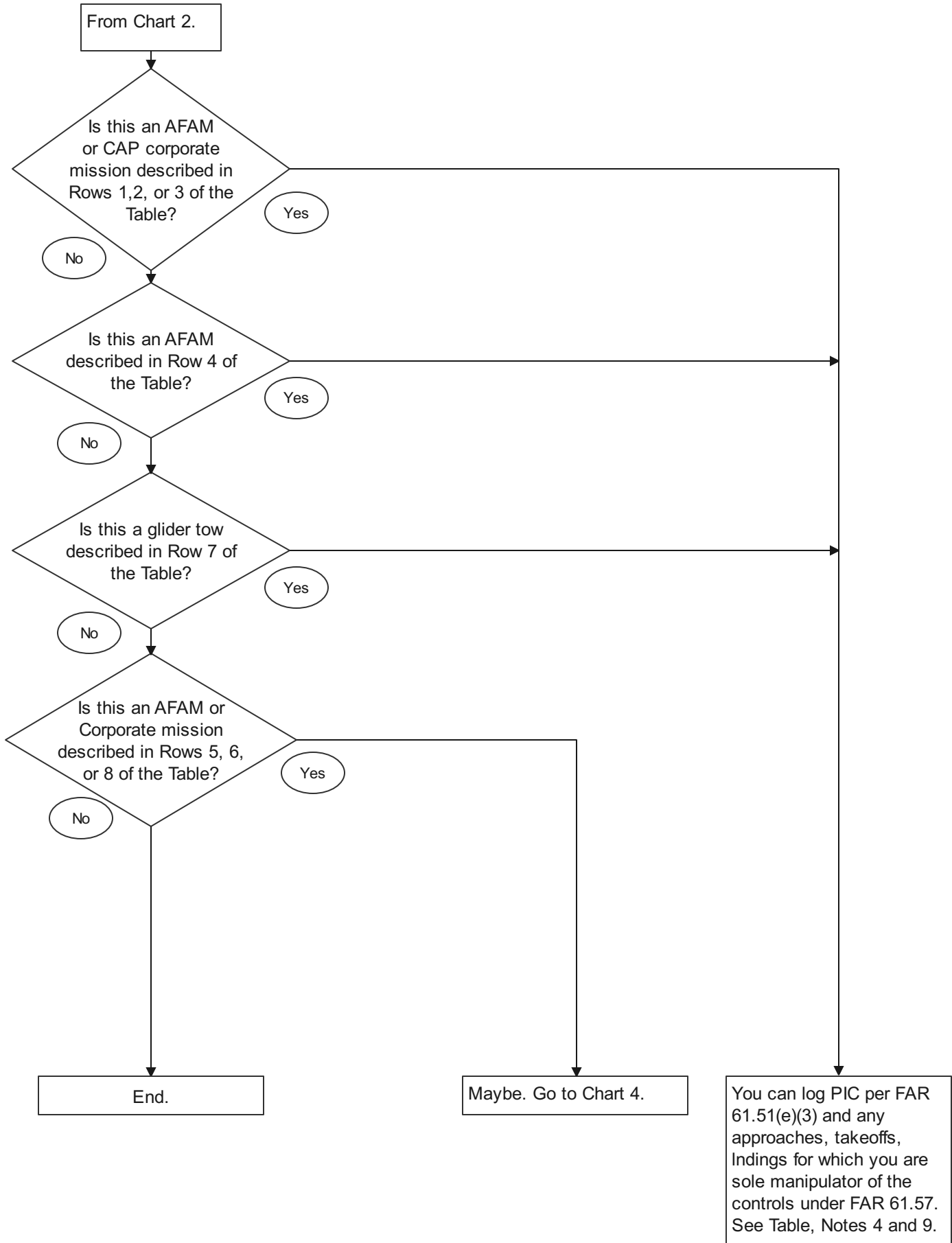
This flowchart describes a discreet issue. You must comply with all applicable FARs and CAP regulations. Consult the table in CAPP 70-4 for more information.

Can I log time/operations under this sortie?



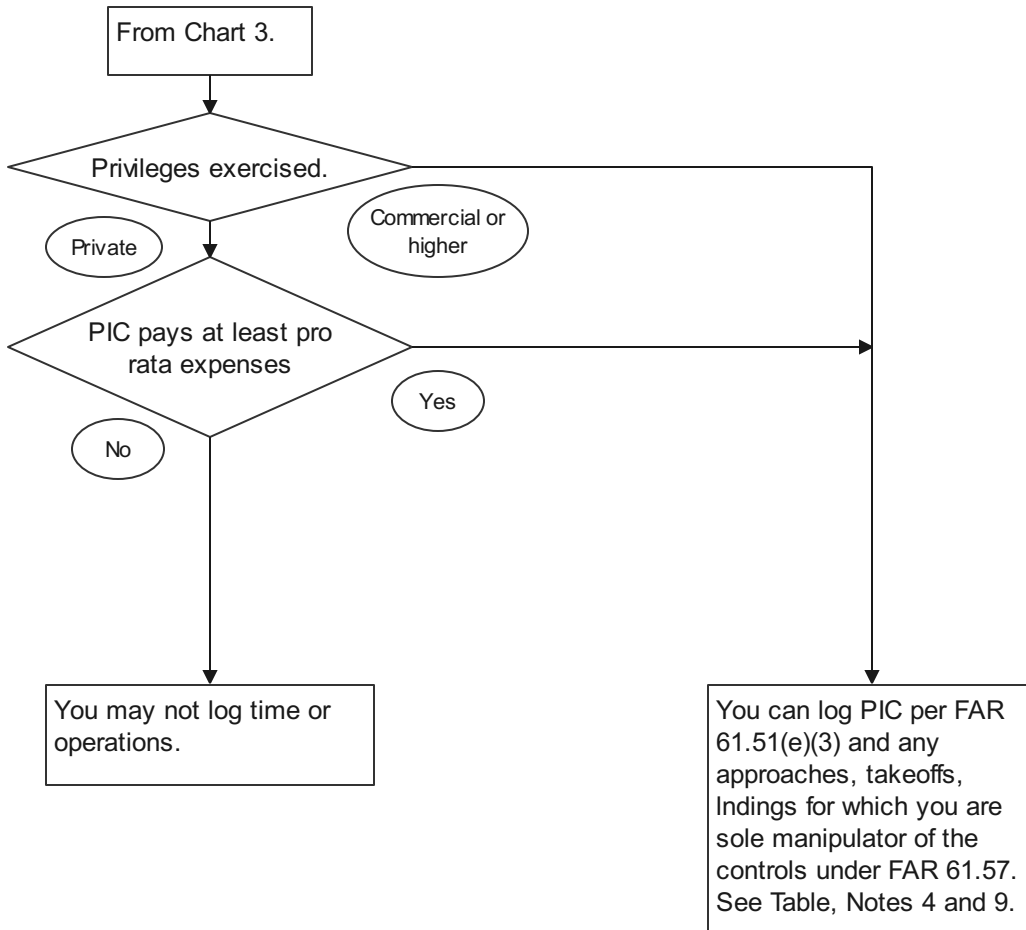
This flowchart describes a discreet issue. You must comply with all applicable FARs and CAP regulations. Consult the table in CAPP 70-4 for more information.

Can I log time/operations under this sortie?



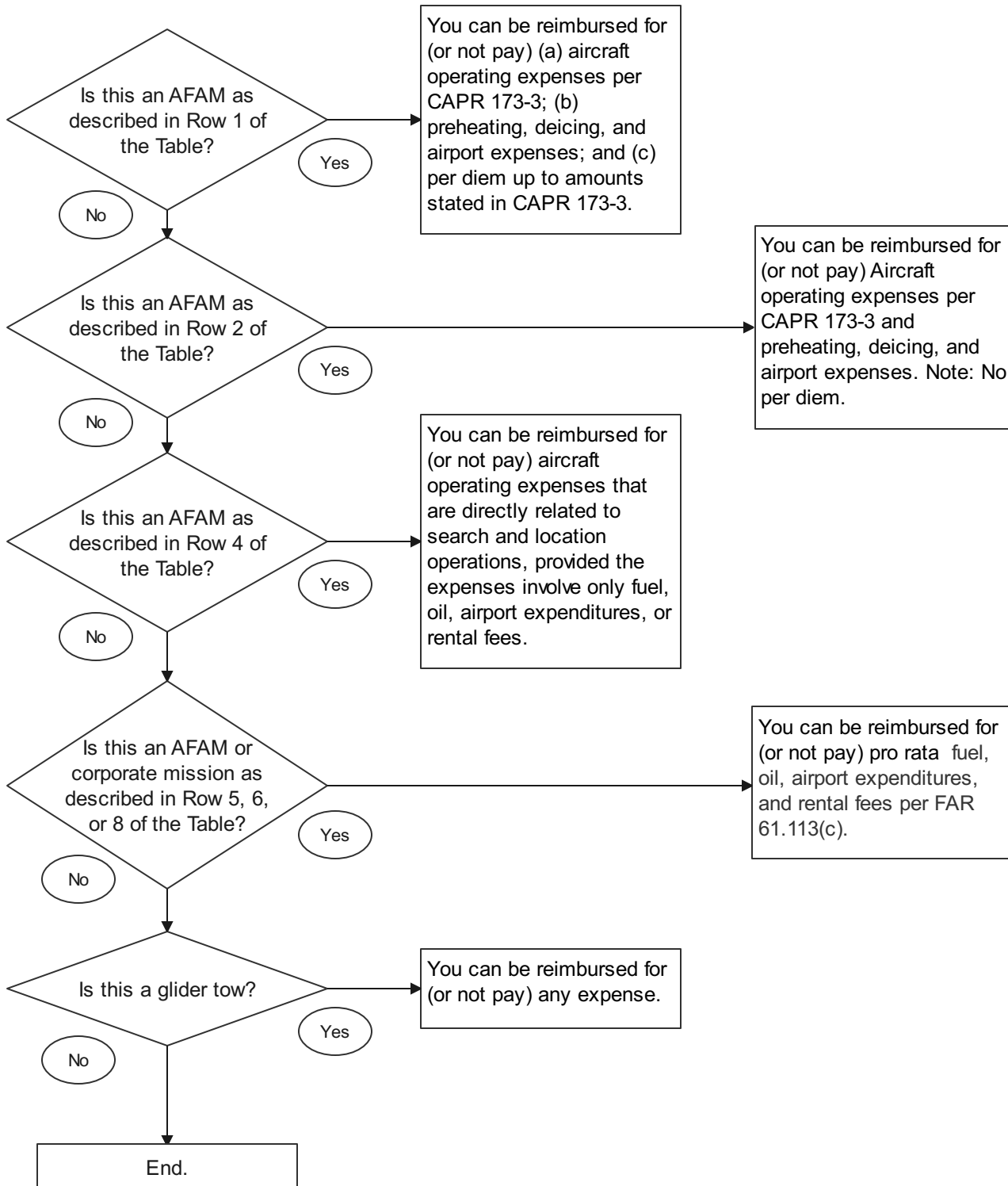
This flowchart describes a discreet issue. You must comply with all applicable FARs and CAP regulations. Consult the table in CAPP 70-4 for more information.

Can I log time/operations under this sortie? Missions Described in Lines 5, 6, and 8 of Table



This flowchart describes a discreet issue. You must comply with all applicable FARs and CAP regulations. Consult the table in CAPP 70-4 for more information.

For what can I be reimbursed as PIC when exercising private privileges?



This flowchart describes a discreet issue. You must comply with all applicable FARs and CAP regulations. Consult the table in CAPP 70-4 for more information.