

Cause No. 07-02R

Name: Jeffrey L. Huber

Administrative Law Judge: William K. Teegarden

Date: February 1, 2008

Commission Action: Affirmed

FINDINGS OF FACT

1. The Department of Homeland Security is an agency within the meaning of IC 4-21.5.
2. The Agency is the state entity charged with the responsibility of certifying Fire Instructors within the State of Indiana.
3. IC 4-21.5, IC 22-14, and 655 IAC 1 apply to this proceeding.
4. The Board of Firefighting Personnel Standards and Education (“Board”) is the ultimate authority within the meaning of IC 4-21.5 over Fire Instructor certification actions taken by the Agency.
5. For approximately 25 years, Huber was certified as an instructor by the Agency and its predecessors.¹
6. Sometime prior to January of 2007, Huber retired from the Goshen Fire Department after 22 years of service.
7. Humber moved to Michigan after retirement and heads the Fire Science program at Lansing Community College.
8. Humber submitted a timely and complete application for recertification including his continuing education credits.
9. Huber was denied recertification by the Agency for one reason; he no longer resided in the State of Indiana.
10. The Board has long maintained that it only has the duty to certify Indiana residents as instructors subject to the following 2 narrow exceptions:
 - (1) IFSAC certifications are considered as though the holder was certified as an Indiana instructor, and
 - (2) The holder is an active Indiana firefighter even though he or she lives in a neighboring state.
11. Clearly, Huber does not fall in either category.
12. Huber’s case, however, literally begs for a third, very narrowly drawn exception.
13. The Agency’s Brief in Support of its Motion for Summary Judgment correctly discusses the need for an Indiana certified instructor to understand the wide range of fires that local departments need to fight.

¹ Huber also was a Board member for approximately 4 years during the Bayh governorship.

14. The policy and interpretation as put forth by the Agency is a valid reason for denying certification to someone who lives out of state, has no history of fire fighting and fire fighting instruction in the state, and who wishes to become an Indiana Certified instructor.
15. This rationale, however, fails when applied to Huber.
16. A member of an Indiana Fire Department who retires with full benefits and in good standing who also has a lengthy tenure as a certified Firefighter instructor in Indiana who meets the continuing education requirements should not be denied recertification solely because the member moved out of state.
17. Huber's certification should be renewed.

NONFINAL ORDER

Jeffrey L. Huber is entitled to recertification by the Department of Homeland Security as an Indiana Fire Instructor II/III.