

**WAC 363-116-083 Written examination protest and appeal procedures.** (1) Pilot applicants who take a written examination as provided in this chapter shall provide the board with an address to be used for notification of his/her written examination results. Such address shall be a place at which mail is delivered. In addition, a pilot applicant may provide the board with other means of contact such as telephone numbers and/or email addresses. It will be the responsibility of the pilot applicant to ensure that the board has a current mailing address at all times. The mailing address will be considered the primary means of notice by the board. If the pilot applicant cannot personally receive mail at the address provided to the board for any period of time, another person may be designated in writing and notarized to the board as having power of attorney specifically to act on the pilot applicant's behalf regarding such notice. Notice delivered to the address provided by the pilot applicant will be considered received by the pilot applicant for the purpose of "receipt of notification of the written examination results" as provided in subsection (2) of this section.

(2) A pilot applicant who takes either a written examination as provided in WAC 363-116-076 or a written local knowledge examination as provided in WAC 363-116-078 that cannot be retaken may submit a written protest regarding any such examination for review by the board and/or a committee designated by the board and/or by a firm under contract with the board for development and grading of the written examination. The standard of review for reviewing the written examination protests submitted by a pilot applicant is that the written examination score will not be set aside unless the pilot applicant proves the challenged score was the result of fraud, coercion, arbitrariness or manifest unfairness. If it finds that reasonable cause exists to question a written examination grade, the board may allow a pilot applicant protesting his/her written examination results to enter the simulator evaluation. If the pilot applicant chooses to enter the simulator evaluation before the pilot applicant receives notification of the result of the review of his/her *Protest Form* the pilot applicant shall be at all times responsible for the charge to enter the simulator evaluation. No pilot applicant approved by the board for entry into the simulator evaluation shall be disqualified by the successful examination appeal of another pilot applicant. Pilot applicants are not entitled to a review of the results of a written local knowledge examination given pursuant to WAC 363-116-078 if the pilot applicant is eligible to retake the written examination.

(3) The procedure for submitting a protest regarding the written examination or a written local knowledge examination that cannot be retaken is as follows:

(a) The pilot applicant must submit a protest in writing to the person administering such examination on the day that the pilot applicant takes such examination and before the pilot applicant leaves the examination room;

(b) On the day of such examination the pilot applicant will be provided a *Protest Form* by the person(s) administering such examination at the time that documents for taking such written examination are given to the pilot applicant;

(c) In defense of his/her written examination answers and in support of the pilot applicant's reasons for protesting a question or questions, the pilot applicant must write on the *Protest Form* the reason(s) why he/she protests a question or questions, what the pilot applicant claims is the correct answer to the protested question(s), and

if a protested question(s) involves mathematical calculations provide the calculations that the pilot applicant claims are correct;

(d) If there are protests regarding improprieties including but not limited to the administration and proctoring of the examination, these assertions must be documented in writing with sufficient detail naming times, people, places, protested activities and witnesses to permit the board to conduct an investigation;

(e) The pilot applicant will be identified only by number or letter for the purpose of review of the *Protest Form*;

(f) The pilot applicant shall submit his/her *Protest Form* at the same time that he/she submits the answer sheet for such written examination to the examination administrator.

(4) The procedure for review of the *Protest Form* submitted by the pilot applicant is as follows:

(a) The board, and/or a committee designated by it, and/or a firm under contract with the board for development and grading of the written examination will review the written examination and *Protest Form* completed by the pilot applicant; and

(b) After completion of such review the pilot applicant will be provided with written notification of the decision regarding review of the *Protest Form* submitted by the pilot applicant. The written notification will show any adjusted credits and scores for any answers that have been changed following such review.

(5) A pilot applicant who is not satisfied with the result of such review of his/her *Protest Form* may request an adjudicative hearing pursuant to RCW 88.16.090 and governed by the provisions of chapter 34.05 RCW to appeal his/her written examination results. Such hearing must be requested within thirty days of receipt of the result of the review of the *Protest Form* by sending a written request for an adjudicative hearing to the board of pilotage commissioners' office. The grounds and issues for the adjudicative hearing and any further appeal shall be limited to the following:

(a) Was the administrative protest procedure set forth in subsections (2) through (4) of this section followed?;

(b) Was the examination conducted in accordance with accepted psychometric and industrial/organizational psychology principles as determined by an expert in these fields of study?;

(c) Was the examination "job related" as determined by an expert in these fields of study?; and

(d) Was the examination, scoring, and appeal process validated by an expert in these fields of study?

[Statutory Authority: Chapter 88.16 RCW. WSR 12-05-064, § 363-116-083, filed 2/15/12, effective 3/17/12. Statutory Authority: Chapter 88.16 RCW and 2008 c 128. WSR 08-15-119, § 363-116-083, filed 7/21/08, effective 8/21/08. Statutory Authority: Chapter 88.16 RCW and 2005 c 26. WSR 05-18-021, § 363-116-083, filed 8/29/05, effective 10/1/05. WSR 97-08-042, recodified as § 363-116-083, filed 3/28/97, effective 3/28/97. Statutory Authority: RCW 88.16.035. WSR 88-10-038 (Order 88-10, Resolution No. 88-10), § 296-116-083, filed 5/3/88.]