

**WAC 363-116-084 Simulator evaluation review and appeal procedures.** (1) Pilot applicants who take a simulator evaluation as provided in this chapter shall provide the board with an address to be used for notification of his/her simulator evaluation 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 simulator evaluation results" as provided in subsection (2) of this section.

(2) A pilot applicant who takes a simulator evaluation as provided in this chapter may request a review of his/her simulator evaluation results. This request must be in writing and must be received by the board within five business days of receipt of notification of the simulator evaluation results. The standard of review for reviewing the simulator evaluation results challenged by a pilot applicant is that the challenged evaluation score will not be set aside unless the pilot applicant proves the challenged score was the result of fraud, coercion, arbitrariness or manifest unfairness.

(3) The procedure for filing a request for review of the simulator evaluation is as follows:

(a) The pilot applicant must contact the board office for an appointment to appear personally to review his/her simulator evaluation;

(b) The pilot applicant will be provided a *Review Form* to complete in the board designated review location in defense of his/her simulator evaluation performance;

(c) In review of his/her simulator evaluation performance, the pilot applicant must demonstrate that his/her proposed evaluation of the simulator evaluation is correct;

(d) In review of his/her simulator evaluation performance, the pilot applicant must cite on the *Review Form* provided by the board, the specific situation(s) presented in the simulator evaluation (i.e., crossing, passing, meeting situations, environmental changes like fog descending, navigational decisions and/or rules-of-the-road interpretations) and detail why the actions he/she took in that situation should receive more credit than that which was given, to demonstrate that his/her score on the simulator evaluation provided by the board is incorrect;

(e) Only the recorded performance of the pilot applicant will be considered in any review of the simulator evaluation performance. If there are assertions regarding improprieties in the administration, proctoring, grading or scoring of the simulator evaluations, 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;

(f) The pilot applicant will be identified only by number or letter for the purpose of this review;

(g) The board will make available to the pilot applicant reviewing his/her simulator evaluation a copy of his/her simulator evaluation performance; and

(h) At the completion of the review session, the pilot applicant will submit all the *Review Forms* to the board and return all materials used to review his/her simulator evaluation. The pilot applicant will not be allowed to take any notes or materials from the board designated review location upon leaving.

(4) The procedure for the board's review of the request for review of the simulator evaluation filed 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 simulator evaluation will review the simulator evaluation and *Review 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 *Review 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 *Review 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 simulator evaluation results. Such hearing must be requested within thirty days of receipt of the result of the review of the *Review 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 WAC 363-116-083 (2) through (4) 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, § 363-116-084, filed 2/15/12, effective 3/17/12. Statutory Authority: Chapter 88.16 RCW and 2008 c 128. WSR 08-15-119, § 363-116-084, filed 7/21/08, effective 8/21/08.]