

**WAC 363-11-280 Depositions and interrogatories.** (1) Written interrogatories. Written interrogatories may be submitted in accordance with the rules of this chapter, which may become a part of the record of proceedings upon a motion made by one of the parties. Parties shall have sixty days to respond to interrogatories.

(2) Depositions and interrogatories in hearings brought pursuant to WAC 363-116-083 and 363-116-084. The board and the exam committee shall be required to produce for depositions no more than a total of three fact witnesses (two board/committee members, one test developer), and no more than one expert witness, in connection with any hearing requested pursuant to WAC 363-116-083 and 363-116-084, unless the board's chair, in his/her sole discretion, determines that additional witnesses are necessary. If the petitioner asserts that there is a necessity for additional witnesses, he/she must demonstrate to the presiding officer that "exceptional circumstances" exist and that such information cannot be obtained through other means in order to increase the number of witnesses.

No more than five written interrogatories (including subparts) in total may be submitted to other board and/or exam committee members, which may then be submitted as a part of the record of proceedings upon a motion duly made.

The scope of the deposition and interrogatories shall be limited to those issues set forth in WAC 363-116-083(5) and 363-116-084(5) and shall not include inquiry into the mental processes of a board or committee member concerning their decision making processes once a decision has been made and a written explanation has been provided. A written explanation may be in the form of a written recommendation, board or committee meeting minutes, performance evaluations, correspondence to the petitioner, and/or other documents submitted to the board as a part of the decision making process.

(3) Depositions and interrogatories in hearings brought pursuant to WAC 363-116-086.

(a) Board/TEC witnesses - The board and the trainee evaluation committee (TEC) shall be required to produce no more than a total of two fact witnesses (one board witness, one TEC witness) and no more than one expert witness in support of its decisions made pursuant to WAC 363-116-080, unless the chair, in his/her sole discretion, determines that additional witnesses are necessary. If the petitioner asserts that there is a necessity for additional witnesses, he/she must demonstrate to the presiding officer that "exceptional circumstances" exist and that such information cannot be obtained through other means in order to increase the number of witnesses.

No more than five written interrogatories (including subparts) in total may be submitted to other board and/or TEC members, which may then be submitted as a part of the record of proceedings upon a motion duly made. The scope of the deposition and interrogatories will be limited as set forth in WAC 363-116-086 (3)(b) and (c) and shall not include inquiry into the mental processes of a board or committee member concerning their decision making processes once a decision has been made and a written explanation has been provided. A written explanation may be in the form of a written recommendation, board or committee meeting minutes, correspondence to the petitioner, training trip reports, training trip report summary spreadsheets, and/or other documents submitted to the board as a part of the decision making process.

(b) Training and supervising pilots - The board has determined that requiring or permitting the deposition of training and supervis-

ing pilots in connection with a hearing pursuant to WAC 363-116-086 would jeopardize the integrity of the training program and would stifle candid and honest assessments of a trainee's performance in the training program. The training and supervising pilots prepare written training trip reports for each training trip. Those reports shall speak for themselves. Notwithstanding any other provision in these regulations, no training or supervising pilot shall be deposed, or called as a witness, in connection with a hearing brought pursuant to WAC 363-116-086. Consistent with WAC 363-11-410, to the extent a particular training trip report is considered by a party to be vague and/or ambiguous, a party may seek, by way of motion, a declaration from a training or supervising pilot, seeking clarification of specific issues which the party believes, for good cause shown, should be clarified. Such declaration may then become a part of the record of proceedings.

(4) Depositions and interrogatories in hearings brought pursuant to RCW 88.16.100(5), WAC 363-116-370 and 363-116-420. The board shall be required to produce for depositions no more than a total of two fact witnesses and, if it deems necessary one expert witness, in connection with any hearing requested pursuant to RCW 88.16.100(5), WAC 363-116-370 and 363-116-420, unless the board's chair, in his/her sole discretion, determines that additional witnesses are necessary. If the petitioner asserts that there is a necessity for additional witnesses, he/she must show just cause to the presiding officer as to why additional witnesses should be subject to deposition and/or interrogatories and that such information cannot be obtained through other means.

Unless the presiding officer rules otherwise based on a showing of just cause, no more than five written interrogatories (including subparts) in total may be submitted to other board members concerning the matters at issue, which may then be submitted as a part of the record of proceedings upon a motion duly made.

The scope of the deposition and interrogatories will be limited as set forth in RCW 88.16.100(5), WAC 363-116-370 and 363-116-420 and shall not include inquiry into the mental processes of a board or committee member concerning their decision making processes once a decision has been made and an adequate written explanation has been provided. A written explanation may be in the form of a written recommendation, board or committee meeting minutes, correspondence to the petitioner, and/or other documents submitted to the board as a part of the decision making process.

[Statutory Authority: Chapter 88.16 RCW. WSR 12-12-041, § 363-11-280, filed 5/30/12, effective 6/30/12. WSR 97-08-042, recodified as § 363-11-280, filed 3/28/97, effective 3/28/97; Rule .08.280, effective 3/1/60, filed 3/23/60.]