

Charles W. Drago, Secretary

Charlie Crist, Governor

FORMAL HEARING INFORMATION SHEET

A Fail candidate may petition for a formal hearing before the Division of Administrative Hearings Judge pursuant to Section 120.569 and 120.57, Florida Statutes and pursuant to the uniform rules in Chapter 28-106, Florida Administrative Code. **Except** as noted below, the petition shall be filed with the Department, no later than **twenty-one (21) days from the receipt** of the Department's original notification of failure. Credit will only apply to the candidate who reviewed and challenged.

If you wish to initiate the formal hearing procedure, pertinent information is outlined below.

- The request for a hearing must be filed with the Department no later than twenty-one (21) days after the receipt of the letter notifying the candidate of the Department's evaluation decision regarding his/her challenges for State developed examinations. Similarly, twenty one days after the post-examination review date of national examinations. Certified mail is recommended.

A Fail candidate, who wishes to **review the examination to prepare for an administrative hearing** having previously conducted the post-examination review and paid the applicable review fee, will be able to do so along with his/her attorney or Subject Matter Expert at no charge. Any candidate who wishes to review the examination to prepare for an administrative hearing, but did not elect to exercise his/her right to a post-examination review, must pay the applicable review fee.

The petition must state all disputed facts pertaining to the examination questions or procedure objected to. The administrative hearing process is at times lengthy. Once the Bureau of Education and Testing receives your appeal request, **fifteen (15) days** is allowed for file preparation prior to forwarding to the General Counsel's office. General Counsel reviews and forwards the request to the Department of Administrative Hearings (DOAH). The hearing date is scheduled based on caseloads of the administrative law judge. After the appeal is received by DOAH, the hearing is usually scheduled within **eight (8) to ten (10) weeks** from the date the appeal was received. After the hearing, the law judge has **thirty (30) to ninety (90) days** to render a recommended order to the Board. The recommended order must be received by the Board at least **four (4) to six (6) weeks** prior to the next Board meeting to be placed on the agenda. The Board, with advice and assistance from legal counsel will make the final decision to accept or reject the recommended order from the law judge and must enter a final order within ninety (90) days.

You will have the responsibility of presenting witnesses to any facts that prove the unfairness or invalidity of the examination. Your already prepared file will be made available to you and your attorney on the day of the hearing. This is an adversary hearing and an attorney will represent the Department. It would be to your advantage to consult an attorney regarding your case.

Please submit the petition to: Department of Business and Professional Regulation
Bureau of Education and Testing
1940 North Monroe Street
Tallahassee, Florida 32399-0791
ATTENTION: Gus Ashoo, Chief

10/08