

## Wyoming Administrative Rules

# Equalization, Board of

## General Agency, Board or Commission Rules

### Chapter 7: Uniform County Board of Equalization Practice and Procedure Rules

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## CHAPTER 7

### UNIFORM COUNTY BOARD OF EQUALIZATION PRACTICE AND PROCEDURE RULES

**Section 1. Authority.** These Rules are promulgated by authority of Wyoming Statutes 39-13-102, 39-13-109(b)(i), and 16-3-101 et seq.

**Section 2. Application of Rules.** These rules apply to all appeals brought before a county board concerning those matters administered by the assessor under Title 39 of the Wyoming Statutes. Specifically, these rules shall apply to appeals authorized in W.S. 39-13-109(b).

**Section 3. Construction.** These rules are to be construed to assure the fair and expeditious conduct of proceedings before a county board. If any portion of these Rules is found to be invalid or unenforceable, the remainder shall remain in effect.

**Section 4. Definitions.** For the purpose of this chapter:

(a) “Appeal” means a proceeding before a county board in which the legal rights, duties, or privileges of a party are to be determined after an opportunity for a hearing. An appeal is a contested case as that term is defined in W.S. 16-3-101(b)(ii).

(b) “Assessor” means the county assessor as set forth in W.S. 18-3-204.

(c) “County board” means the county board of equalization as set forth in W.S. 18-3-504 and 39-13-102(c).

(d) “Clerk” means the county clerk who is the clerk to a county board as set forth in W.S. 18-3-402 and 39-13-102(c).

(e) “Hearing officer” means the presiding officer in a contested case designated by the county board, pursuant to W.S. 16-3-112, to conduct the hearing before the county board.

(f) “Petitioner” means any person, firm, corporation, partnership, association or governmental entity who files an appeal seeking relief from any final administrative decision of an assessor.

**Section 5. General Course of Contested Case.** Unless otherwise provided by law, the course of proceedings is governed by W.S. 16-3-107 through -112, and these rules.

**Section 6. Commencement of Appeal.**

(a) Any petitioner wishing to contest his or her property assessment shall file with the assessor a written statement specifying the reasons why the assessment is incorrect. The statement shall include:

- (i) The name, mailing address and phone number of the petitioner;
- (ii) The legal description, if real property, and location of the property;
- (iii) A concise statement of the facts, issues and objections which the petitioner considers relevant to the assessment of the property;
- (iv) A reference to applicable statutes, rules, orders or any other authority;
- (v) A concise statement of the relief desired; and
- (vi) A copy of the assessment schedule.

(b) The statement shall be signed by the petitioner and filed within 30 days after the assessment schedule was sent pursuant to W.S. 39-13-103(b)(vii). If the 30th day is not a business day, the statement shall be filed by the first business day thereafter. The statement may be filed by regular mail, hand delivery, or electronic means. Electronic filings received after normal business hours will be considered filed on the next business day. The petitioner shall send a signed or otherwise duly executed original of any electronically filed statement to the assessor by regular mail or hand delivery the next business day after the electronic transmission.

(c) Upon receipt of a statement, the assessor shall stamp the date of receipt on the statement and provide a copy of the statement to the clerk.

(d) The county board shall dismiss any statement not timely filed, unless it determines that good cause exists to toll or extend the filing deadline.

(e) The county board may dismiss any statement otherwise not filed in substantial compliance with these rules.

(f) The assessor may provide a statement that conforms to the requirements of this section for use by petitioners.

#### **Section 7. Notice of Hearing.**

(a) The clerk shall set all timely filed appeals for hearing and provide written notice to the petitioner and assessor.

(b) The notice shall set forth the date, time, place, and nature of the hearing and shall advise the parties of the requirement to exchange information prior to the hearing.

#### **Section 8. Production of Documents and Discovery.**

(a) At least 30 days before the scheduled hearing, the petitioner and assessor, or their respective attorney or agent, shall disclose witnesses and exchange information, evidence, and documents relevant to the appeal, including sales information from relevant statements of consideration, if requested. The assessor shall specifically identify the sales information used to determine the market value of the property under appeal.

(b) Failure to disclose witnesses or to exchange information, evidence or documents may result in exclusion of the undisclosed testimony, evidence or documents at the hearing at the discretion of the county board or hearing officer.

(c) Upon request, a county board may allow discovery to all parties in accordance with W.S. 16-3-107(g).

### **Section 9. Motions.**

(a) An application for a county board order shall be by motion, which unless made during a hearing, shall be in writing and shall state with particularity the grounds and the relief or order sought. The movant shall file the original motion with the county board and serve a copy of the motion on the other parties.

(b) Any written motion shall advise the other parties that they may file a written response to the motion setting forth objections to the motion within 15 days of service of the motion, and that a copy of the response shall be served on the other parties.

(c) No motions, unless otherwise provided by these rules, shall be filed within 20 days of a hearing.

(d) The moving party or any party affected by the motion may request a hearing on a motion. Absent a request for a hearing, the county board may hold a hearing on any motion or decide the motion without a hearing. A motion not determined at or prior to the hearing shall be deemed denied.

### **Section 10. Continuances and Extensions of Time.**

(a) Motions requesting continuances or extensions of time are not favored. Continuances or extensions of time may be granted sparingly upon a showing of good cause or when necessary to assure fairness or otherwise avoid manifest injustice. Cases will not be continued upon stipulation of the parties.

(b) Unless time does not permit, motions for continuances of any hearing shall be in writing, shall state the reasons therefore, and shall be filed with the county board and served on all parties.

(c) Motions for extension of time for the doing of any act prescribed or allowed by these rules or by order of the county board shall be filed and served on all parties prior to the expiration of the applicable time period.

**Section 11. Subpoenas.** The county board shall issue subpoenas for appearance and to produce books, papers, documents, or exhibits upon written request of any party. Those subpoenas may be enforced pursuant to W.S. 16-3-107(c).

**Section 12. Representation.**

(a) A petitioner may be self-represented or represented by a representative designated by the petitioner.

(b) An assessor may be self-represented, may be represented by an attorney, or may be represented by an employee or designee who is a state certified property tax appraiser.

(c) The county board may be advised by the county attorney or another attorney hired by the county board.

(d) The county attorney may advise the county board or represent the assessor, but not both.

**Section 13. Telephone or Video Conferences.** At the discretion of the hearing officer or the county board, telephone or video conferences or similar technology may be used to conduct any proceeding.

**Section 14. Presumption, Burden of Going Forward and Burden of Persuasion.**

(a) There is a presumption that the assessor's property valuation is valid, accurate, and correct.

(b) Petitioner shall have the burden of going forward. Petitioner may present any credible evidence to rebut the presumption in favor of the assessor's valuation.

(c) If petitioner provides credible evidence that the assessor's valuation is incorrect or unlawful, the burden shifts to the assessor to defend the valuation. The ultimate burden of persuasion rests with the petitioner, which burden shall be met by a preponderance of the evidence.

(d) Where the issue is the exemption of publicly owned property, the assessor has the ultimate burden of persuasion to establish taxability.

**Section 16. Conduct of the Hearing.** As nearly as possible, hearings shall be conducted in the following order:

(a) The hearing officer, who shall conduct the hearing, shall convene the hearing and identify the appeal to be heard. The hearing officer shall note all appearances for the record.

(b) The hearing officer shall then take up any motions or preliminary matters to be heard and shall mark and admit all evidence, unless there is an objection to the admission of any evidence.

(c) Opening statements will be heard at the discretion of the county board or hearing officer.

(d) The petitioner, or petitioner's representative, then presents the petitioner's evidence after which the assessor or the assessor's representative shall present evidence. Evidence may be presented through witnesses, oral statements or documentary evidence. All witnesses shall be sworn prior to testifying. Each party shall have the opportunity to cross-examine witnesses on any matter relevant to the issues, even though the matter was not covered in direct examination. Any objection to testimony or evidentiary offers should be directed to the hearing officer and the basis of the objection stated. The hearing officer shall rule on all objections. The members of the county board or hearing officer may ask questions of any party or any witness for the purpose of clarifying their understanding of the case. If the case involves the tax exemption of publicly owned property the assessor shall be the party to initially present evidence.

(e) After presentation of all evidence, both parties may present closing arguments, including summaries of the evidence and legal arguments.

(f) After all proceedings have been concluded, the county board or hearing officer shall excuse all witnesses and declare the hearing closed. The county board shall take the appeal under advisement. The county board may request the parties file briefs or proposed findings of fact and conclusions of law.

(g) The hearing officer may reasonably limit the time for the conduct of the hearing.

**Section 16. Evidence.** All evidence that is not irrelevant, immaterial or unduly repetitious shall be admitted at the hearing. The county board will observe the rules of privilege recognized by law. W.S. 16-3-108 generally sets forth the rules of evidence that the county board shall follow.

**Section 17. Record of Proceedings.**

(a) All hearings shall be recorded electronically or by a court reporter or a qualified stenographer or transcriptionist.

(b) The record shall include all pleadings, notices, motions, rulings, documentary evidence, proposed findings, objections thereto, ruling on objections, and the final order. Unless the county board chooses to use a court reporter or a qualified stenographer or transcriptionist, any party desiring the hearing to be transcribed must make the necessary arrangements and bear the cost thereof.

(c) Minutes of any meeting in which the county board considers an appeal shall be taken and filed with the clerk.

**Section 18. Briefs.** Any party may submit a written brief to the county board either before or during the hearing. Any party desiring to submit a brief after the hearing shall make a request to the county board or hearing officer. If approved, a briefing schedule will be set. The briefs may set forth the factual and legal position of the submitting party.

**Section 19. Failure to Appear at Hearing.** The county board may dismiss an appeal if the petitioner willfully neglects or refuses to attend a hearing and be examined or answer any material question upon the county board's request.

**Section 20. County Board Decision.**

(a) After the hearing, the county board shall issue a written decision containing findings of facts and conclusions of law separately stated. The decision shall either affirm the assessor's valuation or reverse the valuation and remand to the assessor with instructions. The decision will be recorded into the county board minutes and filed with the clerk, and shall contain a notice advising the parties of their right to appeal from an adverse decision.

(b) The county board shall issue a written decision in each case no later than the first day of October.

(c) The clerk shall provide each party with a copy of the county board's written decision, and execute a certificate showing the method of delivery and date.

**Section 21. Statements of Consideration Confidential.**

(a) A petitioner who timely contests his property tax assessment or valuation as provided by law and these rules is entitled to review statements of consideration and all other information used by the assessor in determining the property value.

(b) Statements of consideration are not public records and shall be held confidential by the clerk, assessor, county board, state board, the Wyoming Department of Revenue, and when disclosed pursuant to W.S. 34-1-142(g) and 39-13-109(b)(ii), any person wishing to review or contest his property tax assessment or valuation and the county board. The assessor may require a petitioner to sign an agreement to protect the confidentiality of the statements of consideration prior to their disclosure.

(c) Statements of consideration provided for review under this Section shall not be subject to discovery in any other county or state proceeding unless otherwise provided by law.

(d) The hearing shall be closed while statements of consideration will be disclosed. Only the petitioner, petitioner's agent and petitioner's legal counsel, the assessor and the assessor's employees or designee and the assessor's legal counsel, the members of the county board, the hearing officer, county board counsel, the clerk and the court reporter, qualified

stenographer or transcriptionist may remain for the closed portion of the hearing. The hearing officer shall regulate the course and conduct of the hearing to ensure that the parties shall disclose statements of consideration, and examine witnesses relative to those statements, only while the hearing is closed.

**Section 22. Ex Parte Communications.**

(a) No party or anyone on a party's behalf shall communicate with a county board member, a staff member of the county board, or any presiding officer designated by the county board on any material fact at issue in the appeal after its commencement and before its final disposition, except to the extent authorized by law, and unless the opposing party is present.

(b) If an ex parte communication occurs, the persons who were party to the communication shall:

(i) Immediately draft a written document or summary setting forth the contents and circumstances of the communication;

(ii) Mail or hand deliver the document to all parties to the proceeding and all other officials involved in the decision process; and

(iii) State that the matter covered in the communication will be considered at the next scheduled hearing related to the appeal, or as otherwise scheduled with notice to all parties.

**Section 23. Recusal.** Any member of the county board may, at any time while a case is pending and without stating a reason, recuse himself or herself from consideration of the case by filing a notice of recusal with the clerk for service on all parties and filing in the case record. From and after the date of the notice of recusal, the member shall not participate in any county board decisions or orders with regard to the case.

**Section 24. Appeal to State Board of Equalization.** A petitioner or assessor may appeal a final adverse written decision or order of a county board to the Wyoming State Board of Equalization (state board) as provided in Chapter 3 of the State Board's rules.