



STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL OPINION	No. I26-003 (R25-013)
By	Re: State Board of Equalization hearing procedures
KRIS MAYES ATTORNEY GENERAL	
August 25, 2026	

To: George R. Shook
Acting Chairman
State Board of Equalization
100 N. 15th Avenue, Suite 130
Phoenix, Arizona 85007

Introduction

A.R.S. § 42-16154(C) directs that the State Board of Equalization (“SBOE” or the “Board”) shall adopt administrative rules and rules of procedure for hearings before the Board. The Board previously drafted proposed rules and submitted a notice of final rulemaking but its proposal was returned by the Governor’s Regulatory Review Counsel. *See* State Bd. of Equalization, *Notice of Final Rulemaking Submittal* (Feb. 15, 2022), <https://sboe.az.gov/sites/default/files/resources/Notice%20of%20Final%20Rulemaking%20for%20Submittal%20%2015%2022.pdf>; Governor’s Regulatory Review Council Meeting (Apr. 5, 2022), <https://archive.org/details/4.5.2022-cm> at 13:40-15:30 (returning proposed rulemaking package to SBOE). As a result, there are currently no rules governing hearings before the Board.

The Attorney General provides the following Opinion in response to your request for guidance regarding the statutory and due process requirements that apply to Board hearings in order to assist the Board with adopting rules as required by A.R.S. § 42-16154(C).

Question Presented

Your Request seeks “clarity on the interpretation and application” of A.R.S. §§ 42-16161(D) and 42-16161(E). Specifically, you asked:

- (1) Do existing State Board of Equalization practices as described in your Request comply with Title 42, Chapter 16, Article 4, the administrative proceedings statutes in Title 41, Chapter 6, Article 6, and with due process requirements for administrative hearings? If not, your Request seeks corrective guidance.
- (2) At a State Board of Equalization hearing, may the Board consider documents that are supplied along with the petition and prior to the hearing? If so, is the Board charged with reading these documents into the record if either party is not present for the hearing? And do such documents need to be sworn under oath?

Summary Answer

The Board is required to adopt administrative rules and rules of procedures for hearings before it. A.R.S. § 42-16154(C). That duty is not discretionary. At the same time, the Board’s authority is circumscribed by law. Thus, SBOE’s administrative rules and hearing procedures must comply with both the Board’s governing statutes, A.R.S. § 42-16161 *et seq.*, and with the Administrative Procedure Act’s (“APA”) adjudicative proceeding statutes for contested cases, A.R.S. § 42-1061 *et seq.* In addition, the Board’s procedures must comply with basic procedural due process elements such as notice and a meaningful opportunity to be heard. *See Comeau v. Ariz. State Bd. of Dental Examiners*, 196 Ariz. 102, 106-07 ¶ 20 (App. 1999) (discussing foundational procedural due process practices); *see also* A.R.S. § 41-1061(A), (D) (providing for notice and an opportunity to respond and present evidence and argument on all issues involved).

As described in more detail below, the Board’s current practices comply with its governing statutes and due process in some respects, but not others. In particular, the Board’s current practice

with respect to evidence submitted other than in-person at a hearing does not comply with A.R.S. § 42-16161(D) because it does not require the agreement of all parties to submit documents other than in-person at a hearing. *See* A.R.S. § 42-16161(D) (“Unless all parties agree otherwise, each party shall submit evidence in person.”). Per its governing statute, the Board should only consider evidence (1) offered in person at a hearing or during an agreed-upon telephonic hearing or (2) offered through an alternative method to which all parties have agreed. To the extent the Board issues rules creating an alternative submission method, there is no statutory or due process requirement for the Board to read documents into the record (even if one party fails to appear) or for the documents to be submitted under oath. However, the Board may institute those requirements via rule if it wishes to do so.

In addition, the Board’s current practice of requiring pre-hearing service of evidence for only telephonic hearings raises due process concerns. Parties are entitled to notice and an opportunity to be heard in both telephonic and non-telephonic proceedings. Accordingly, the Board should consider issuing rules requiring pre-hearing service of evidence on all parties in all hearings, regardless of format. Alternatively, to avoid due process concerns, the Board should consider issuing rules that adopt a procedure that provides each party with a “meaningful” opportunity to respond to the evidence presented.

Finally, the Board’s current practice with respect to parties who fail to appear at a hearing is acceptable so long as the Board only considers properly submitted evidence (i.e., submitted in person or submitted otherwise with the consent of all parties). But because there is little statutory guidance regarding failure to appear, the Board should also consider issuing rules regarding the precise procedures it will follow if a party fails to appear.

Background

I. The SBOE oversees property valuation and classification appeals.

All property owners receive an annual assessment of their property’s value and its classification from the county. If a property owner believes that their property was overvalued or there is some other error, they may petition the county assessor to review and reconsider the

original assessment. A.R.S. § 42-16051(A). As part of that petition, the property owner must submit “substantial information” that justifies their claim for the property’s value or classification. A.R.S. § 42-16051(B).

If a Maricopa or Pima County property owner and county assessor do not reach an agreement, the property owner may file an appeal with the State Board of Equalization, which hears appeals related to the value or legal classification assigned to a property by a county assessor. A.R.S. § 42-16056(C); A.R.S. § 42-16157(A); *see also* Arizona State Board of Equalization, *Who We Are*, <https://sboe.az.gov/about/who-we-are> (last accessed August 10, 2026).¹

II. SBOE hearings must adhere to certain statutory and constitutional parameters.

While the Board’s governing statutes call for the Board to issue administrative rules and rules of procedure for its hearings, *see* A.R.S. § 42-16154(C), the Board has not yet adopted final rules. Thus, at present, the Board’s organic laws and the APA’s adjudicative proceeding statutes for contested cases are the primary sources of authority currently governing SBOE hearings. Those authorities set out the following parameters.

Petition requirements. To file an appeal with the Board, a property owner must file copies of the county assessor’s original determination and reconsideration decision. A.R.S. § 42-16161(B). This appeal petition must be filed within 25 days of the mailing of the county assessor’s refusal to reconsider its decision. A.R.S. § 42-16056(C); A.R.S. § 42-16157(A). The appeal petition and required documentation may be submitted electronically through the Board’s filing system. A.R.S. § 42-16161(A).

An appeal petition may not raise any issue that was not included in the original petition for reconsideration submitted to the county assessor. A.R.S. § 42-16056(D); *see also* A.R.S. § 42-

¹ If the property is located outside of Maricopa or Pima County, the property owner’s appeal typically first goes to a county board of equalization rather than the SBOE. *See* A.R.S. § 42-16102. There are some exceptions to this general rule, *e.g.*, A.R.S. § 42-16157(E), but because they are not relevant to the questions at issue here, this Opinion does not discuss them.

Similarly, the SBOE may hear other types of appeals. *See, e.g.*, A.R.S. § 42-16158(A); A.R.S. § 42-16157(B). Based on the facts described in the Request, those appeals are likewise not relevant to the questions at issue here.

16051(B) (petition should include substantial information to justify the property owner’s opinion of value and the specific method of valuation used for that opinion).

Hearing notice requirements. After a petition is received, the Board notices a hearing and that notice must be mailed at least 14 days before the hearing. *See* A.R.S. § 42-16163. The notice must include:

1. A statement of the time, place and nature of the hearing.
2. A statement of the legal authority and jurisdiction under which the hearing is to be held.
3. A reference to the particular sections of the statutes and rules involved.
4. A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter on application a more definite and detailed statement shall be furnished.

A.R.S. § 41-1061(B).

In SBOE hearing notices, the statement of the matters asserted is tied to the property owner’s petition. A.R.S. § 42-16056(D). Generally, a notice “frames the issues to be decided in the hearing” and hearings should not stray beyond those noticed issues. *See* Ariz. Attorney Gen. Handbook, Ch. 10, Administrative Adjudications, § 10.8.2, https://www.azag.gov/sites/default/files/2025-05/agency_handbook_chapter_10.pdf (hereafter “AG Handbook”) (only noticed issues may be introduced unless the issue is actually litigated with reasonable notice and an opportunity to cure surprise).

Evidentiary issues. The Board’s organic statutes and the APA offer limited instruction regarding evidentiary issues.

Relevancy. Generally, because an appeal petition may not raise an issue not included in the original petition for reconsideration submitted to the county assessor, A.R.S. § 42-16056(D), evidence beyond those issues is likely to be irrelevant. While the Board is not obligated to adhere to the rules of evidence that govern court proceedings, the APA directs the Board to exclude “[i]rrelevant, immaterial or unduly repetitious evidence.” A.R.S. § 41-1062(A)(1).

Disclosure. Neither the Board’s organic statutes nor the APA explicitly require pre-hearing disclosure of evidence. *See, e.g.*, A.R.S. § 42-1062; A.R.S. § 42-16161; *see also* AG Handbook at § 10.9.6.1 (no pre-hearing disclosure requirement under APA).

The APA and due process require that a party must be given an opportunity to respond to evidence and argument on all issues involved. *See* A.R.S. § 41-1061(D); *see, e.g., Volk v. Brame*, 235 Ariz. 462, 469 ¶ 24 (App. 2014) (due process requires a party have an opportunity to confront adverse evidence). The APA also specifies that a party may request an opportunity to compare any copies of documentary evidence with the original document. A.R.S. § 41-1062(A)(2). But there is no specific statutory or blanket due process requirement that parties must disclose witnesses they intend to call or exhibits they plan to offer in advance of a hearing.

Often, agency rules will require that parties exchange such materials prior to a hearing and may exclude undisclosed evidence offered only at the administrative hearing. *See* AG Handbook at § 10.9.6.1. These rules further due process by ensuring that parties have an opportunity to review and consider adverse evidence thereby facilitating a “meaningful opportunity to be heard.” *See Volk*, 235 Ariz. at 464 ¶ 1. However, the specific procedural requirements required by due process vary with the circumstances of each case. *Id.* at 468 ¶ 21. Because the due process inquiry looks to “the fairness of the entire proceeding before the administrative agency,” *Matter of Wickman*, 138 Ariz. 337, 340 (App. 1983), there is no universal mandate for a pre-hearing exchange of evidence in all cases. If no pre-hearing disclosure occurs then generally “[d]uring ... the hearing, the offering party should furnish every other party one copy of any document offered as evidence.” *See* AG Handbook at § 10.9.9.8.8.

In-person submission. The Board’s statutes establish that the default expectation is that evidence be submitted “in person” at the hearing “[u]nless all parties agree otherwise.” A.R.S. § 42-16161(D). Relatedly, the Board’s decision should be based only on the evidence “presented by the parties attending the hearing.” A.R.S. § 42-16161(E); *see also* A.R.S. § 42-16162(A) (“Based on the evidence presented at a hearing on an appeal, the state board shall either grant or refuse the request of the petition, in whole or in part, as the state board considers just and proper.”).

Attestation. Neither the Board’s governing laws nor the APA direct that documentary evidence be submitted under oath or attestation. Nor does due process generally require that documents be submitted under oath or attestation. *See Wickman*, 138 Ariz. at 340 (explaining that due process requirements are specific to each case). However, “[a]s a general rule, all testimony should be given under oath.” *See* AG Handbook at § 10.9.9.8.2; *see also* A.R.S. § 41-1062(A)(4) (authorizing hearing officer to administer oaths).

Hearing attendance. SBOE statutes presume that hearings are attended in-person while allowing for telephonic hearings “when appropriate” and “[w]ith permission of all parties.” A.R.S. § 42-16161(C). The Board’s statutes regarding its duties also reflect a presumption that parties attend hearings, specifying that the Board “shall act on the petition, shall hear testimony *presented in person at the hearing* and may subpoena witnesses to testify regarding the petition. Unless all parties agree otherwise, each party shall submit evidence *in person*.” A.R.S. § 42-16161(D) (emphases added).

III. The Board’s existing practices.

Although there are no rules presently governing the Board’s hearing procedures, it has continued to conduct hearings according to certain practices. These practices, as discussed on the Board’s website and in the Request, are summarized below.

Petition and attestation requirements. First, the Board provides specific petition forms for property owners to use when filing an appeal on its website. *See, e.g., Petition for Review of Real Property Valuation*, ADOR 82130, Ariz. Dept. of Revenue, <https://azdor.gov/forms/property-tax-forms/petition-review-real-property-valuation> (last accessed August 10, 2026).² These petition forms indicate that the property owner may submit additional

² The petition forms for property owners contain the following statement: “[i]n Maricopa and Pima counties, Rules of the SBOE containing filing requirements can be obtained by accessing the State Board’s Website @ <http://sboe.az.gov/>.” *See Petition for Review of Real Property Valuation*, ADOR 82130, Ariz. Dept. of Revenue, <https://azdor.gov/forms/property-tax-forms/petition-review-real-property-valuation> (last accessed August 10, 2026).

The Board’s website contains a copy of the proposed rules from 2022 which, as discussed above, were not formally adopted and thus are not legally binding.

evidence with the form under an oath of affirmation if marked with the parcel number and attached to the petition. *Id.*

The Board's website also states that a property owner may file their petition and required documents using either the SBOE's electronic filing system and by mailing or hand-delivering hard copy documents to the SBOE or by mailing or hand-delivering all documents. *See* State Bd. of Equalization, *How to File an Appeal*, <https://sboe.az.gov/taxpayers/how-file-appeal> (last accessed August 10, 2026).

Evidence disclosure and submission. With respect to the disclosure of documentary evidence, the Opinion Request notes that neither the initial petition and accompanying materials (nor any supplementary documents if submitted) are disclosed to the county assessor prior to the hearing. Request at 2. The Board's current practice is to consider any documents submitted to the Board prior to the hearing along with testimony and documents provided by the parties during the hearing in making its decision, "even if service of these documents on the [county assessor] is lacking." *Id.* The Board's website notes, however, that with respect to telephonic hearings only, property owners are "required to exchange evidence with the assessor prior to the hearing date" and that "[t]he assessor will also provide [the property owner] with their evidence in advance of the hearing via email." *See* State Bd. of Equalization, *Is a Petitioner Required to Attend a Hearing?*, <https://sboe.az.gov/taxpayers/petitioner-required-attend-hearing> (last accessed August 10, 2026).

For document submission, although the statutes governing Board appeals generally contemplate that "unless all parties agree otherwise" all evidence shall be presented in person by the parties attending the hearing, A.R.S. § 42-16161(D), the Board's website states that documents can also be submitted outside of the hearing if submitted at least three business days in advance: "To submit additional evidence, *other than what was already provided with your petition*, evidence must be filed to the SBOE no less than 3 business days prior to the date of the hearing via mail or hand delivered." *See* State Bd. of Equalization, *Is a Petitioner Required to Attend a Hearing?*, <https://sboe.az.gov/taxpayers/petitioner-required-attend-hearing> (last accessed August 10, 2026)

(emphasis added). Thus, this website instruction purportedly authorizes property owners to provide documents, beyond petition attachments, to the Board outside of a hearing regardless of the consent of any other party.

The Opinion Request confirms that in practice property owners will “supplement[] their initial petition to the SBOE with additional documents intended to support a reduction in their full-cash value or a change in the classification of their property.” Request at 2.

Hearing attendance. Finally, the Request also states that property owners often fail to appear at a hearing, explaining that there are “numerous instances when a petitioner does not appear at the hearing” but “may have the expectation that the documents provided to the Board are sufficient to prove their case.” *Id.* The Board’s website informs property owners that no party “is required to attend a hearing” and asks property owners to contact the Board if they wish to “choose to attend the hearing by phone” or if they “choose not to attend a hearing, . . .” *See* State Bd. of Equalization, *Is a Petitioner Required to Attend a Hearing?*, <https://sboe.az.gov/taxpayers/petitioner-required-attend-hearing> (last accessed August 10, 2026).

Discussion

Your Request sought guidance on the statutory and due process requirements applicable to SBOE hearings through two related questions. First, you asked whether SBOE’s existing practices align with the Board’s governing statutes, the APA’s adjudicative procedure requirements, and due process. Second, you asked whether SBOE may consider documents submitted along with the petition and prior to the hearing during its hearings, if the Board must read such documents into the record if either party is not present for the hearing, and if such documents must be submitted under oath.

With respect to your specific questions, we note that the Board’s existing practice of considering evidence that is not “presented by the parties attending the hearing” or otherwise presented “in person” is inconsistent with statute (unless the parties have agreed otherwise). A.R.S. §§ 42-16161(D)-(E). As such, the Board should not, as a matter of course, consider documents submitted before a hearing unless all parties have agreed that evidence may be

submitted other than in person at the hearing. If the parties agree that documents may be submitted other than in person at the hearing, nothing in the Board’s organic statutes nor the APA requires the Board to read these documents into the record nor must those documents be submitted under oath. The Board, however, may choose to implement such requirements through its rules if it wishes to do so. The Board should also be mindful that due process requires that an opposing party be given the opportunity to confront adverse evidence, *Volk*, 235 Ariz. at 469 ¶ 24, and that if the Board does not adopt a rule requiring pre-hearing disclosure, it should allow each party a meaningful opportunity to respond to any evidence submitted by the other party prior to a hearing.

More generally, the Attorney General provides the above background section regarding the statutory and due process requirements applicable to SBOE hearings for the Board’s use when drafting new rules. Consistent with its statutory obligation under A.R.S. § 42-16154(C), the Board should promptly promulgate rules to clarify how and when parties may agree to the submission of evidence other than in-person during a hearing and to address other procedural issues that are not explicitly addressed in statute, such as requirements for pre-hearing disclosure of evidence and how hearings should proceed if a party fails to appear.

I. Statute prohibits the Board from considering evidence submitted other than in-person during a hearing absent all parties’ agreement.

The Board’s organic statutes generally contemplate that the property owner will submit certain documents with an appeal petition and that all other evidence for the Board’s consideration will be presented in person by the parties. *See* A.R.S. § 42-16161(B) (requiring submission of original assessment, reconsideration request and determination); A.R.S. § 42-16161(D)-(E) (discussing in person evidence submission). Board statutes also prevent the Board from considering evidence beyond the petition form and its attachments that is not presented in-person unless all parties have agreed.³ *See* A.R.S. § 42-16161(D) (“Unless all parties agree otherwise,

³ To be clear, the Board may consider materials attached to the petition to the extent that they are relevant and non-cumulative. A.R.S. § 41-1062(A)(1); *cf.* Ariz. R. Civ. P. 10(c) (explaining that exhibits to a pleading are “a part of the pleading for all purposes”); *Denbo v. Badger*, 18 Ariz. App. 426, 427 (1972) (materials attached to a complaint are incorporated into it and may be considered).

each party shall submit evidence in person.”); *see also* A.R.S. § 42-16161(C) (permitting telephonic hearings with the permission of all parties).

The Board’s current practices, as described in the Request and on the Board’s website, however, do not condition the submission of documents prior to a hearing on the agreement of all parties as required by statute. *See* Request at 2-3; State Bd. of Equalization, *Is a Petitioner Required to Attend a Hearing?*, <https://sboe.az.gov/taxpayers/petitioner-required-attend-hearing>. (last accessed August 10, 2026). Therefore, when developing its rules, the Board should consider procedures describing how and when parties may submit evidence other than in-person at a hearing, based on the consent of all parties to that alternative submission procedure.

If the Board adopts rules to allow a party to submit evidence other than in-person, there is no statutory or blanket due process requirement that the Board must read those documents into the record. Nor is there a specific statutory or blanket due process requirement that documents must be filed under oath. Although there is no general requirement that documents be submitted under oath, unrepresented parties are “held to the same familiarity with court procedures and the same notice of statutes, rules, and legal principles as is expected of a lawyer.” *Higgins v. Higgins*, 194 Ariz. 266, 270 ¶12 (App. 1999). Thus, unrepresented parties are also expected to avoid misrepresentations and to not engage in deceitful conduct in front of the Board. *See id.*; *cf. Matter of Est. of Acciavatti*, No. 1 CA-CV 25-0606 PB, 2026 WL 2041963, at *4 ¶ 18 (Ariz. Ct. App. July 15, 2026) (“[W]hether attorney or self-represented litigant, all who file documents with the courts remain directly and personally responsible for the content, accuracy, and quality of legal filings submitted to all courts.”).

To the extent the Board believes a documentary attestation requirement would prevent misrepresentations by parties, it may adopt that requirement by rule. The petition form provided by the Board currently instructs that any documentary evidence attached to the petition be submitted under an oath of affirmation. *See, e.g.,* Ariz. Dept. of Revenue, *Petition for Review of Real Property Valuation*, ADOR 82130, available at <https://azdor.gov/forms/property-tax-forms/petition-review-real-property-valuation> (“I hereby affirm that the information included or

attached is true and correct.” (capitalization removed)).⁴ Therefore, requiring that any additional evidence (submitted in person or through an alternative submission method with the agreement of all parties) is also subject to an oath of affirmation would ensure that all evidence is submitted under the same standard.

II. Board practices and rules regarding the disclosure of evidence must comply with the due process requirements of notice and opportunity to be heard.

The Board appears to have adopted a practice that requires pre-hearing disclosure only for telephonic hearings. *See* State Bd. of Equalization, *Is a Petitioner Required to Attend a Hearing?*, <https://sboe.az.gov/taxpayers/petitioner-required-attend-hearing> (last accessed August 10, 2026) (stating that property owner and assessor will be required to exchange any new evidence prior to telephonic hearing). Pre-hearing disclosure is a topic often addressed by agency rules. *See* AG Handbook at § 10.9.6.1. The Board’s statutes and the APA are silent on this precise issue. But both the APA and due process principles require that a party have a meaningful opportunity to confront adverse evidence. *Volk*, 235 Ariz. at 469 ¶ 24; A.R.S. § 41-1061(D) (“Opportunity shall be afforded all parties to *respond* and present evidence and argument on *all issues* involved.” (emphasis added)). As such, a practice that hamstringing a party’s ability to respond to evidence—such as permitting introduction of evidence previously undisclosed for the first time at an in-person hearing—raises serious due process concerns. Thus, in formulating its rules, the Board should consider pre-hearing disclosure requirements more broadly across all hearing types. In addition, pre-hearing disclosure may help ensure that no party is attempting to introduce evidence beyond the issues identified in the original petition and hearing notice. *See* A.R.S. § 42-16056(D) (limiting

⁴ The same “petition for review” form is used to request an assessor’s reconsideration and to begin an SBOE appeal. Although the petition form indicates that additional evidence may be attached for the assessor’s consideration, there is no prohibition on providing additional evidence when submitting the petition form to the SBOE.

appeal to issues included in original reconsideration petition); *see also* AG Handbook, § 10.8.2 (party must have reasonable notice and opportunity to cure surprise on non-noticed topics).

In the absence of pre-hearing disclosure, the Board should consider rules to ensure that each party is afforded the opportunity to meaningfully respond to the evidence presented against them. To the extent the Board creates a procedure that allows parties to submit documents other than in person and does not require pre-hearing disclosure, it should also create a procedure for the disclosure of those documents during the hearing so that the opposing party has an opportunity to meaningfully respond.

In addition, the Board's Chairman is authorized to "review any decision to ensure due process to all parties." A.R.S. § 42-16164(A). Thus, the Chairman has the authority to and may review decisions to ensure that due process was satisfied, including with respect to disclosure.

III. Statute does not preclude the Board from proceeding with a hearing when a party fails to appear.

The Request notes (at 2-3) that property owners may fail to appear at a hearing and that in such cases, the Board's decision rests on the property owner's previously submitted petition and documents and any evidence submitted by the county assessor during the hearing. Neither the Board's governing statutes nor the APA directly address how the Board should proceed when a party fails to appear. In the absence of statutory direction, the Board's current practice is acceptable so long as the Board only considers properly submitted evidence (i.e., submitted in person or submitted otherwise with the consent of all parties). *See Coulas v. Smith*, 96 Ariz. 325, 328 (1964) (explaining that when a party files a pleading but then fails to appear at trial, the trial may proceed and the judgment will be on the merits).

The Board may wish to specify through rulemaking the precise procedures it will follow if a party fails to appear as other Arizona agencies often do. *Cf.* A.C.C. R2-19-117 (DES rule regarding how administrative law judge should proceed if a party fails to appear).

Conclusion

As directed by A.R.S. § 42-16154(C), the Board should adopt procedural rules consistent

with statutory and due process parameters outlined above.

Kris Mayes
Attorney General