

**PROPOSED REGULATION OF THE STATE
BOARD OF EQUALIZATION**

(This proposed regulation was previously adopted as T028-04)

EXPLANATION – Matter in *italics* is new; matter in ~~striketrough~~ format and ~~[in brackets]~~ is material to be omitted.

AUTHORITY: NRS 361.375(9)

GENERAL PROVISIONS

Chapter 361 of the Nevada Administrative Code is hereby amended by adding thereto the provisions set forth as sections 1 to 13, inclusive, of this regulation.

COMMENCEMENT OF APPEAL

Sec. 1. *Filing. (NRS 361.375) 1. A petition shall be deemed filed with the State Board upon receipt by fax or upon hand delivery as evidenced by the board's file stamp, or, if mailed, the petition shall be deemed filed as of the federal post office or third party delivery service postmark date. Postage meters do not designate the mailing date.*

2. Petition forms for appeals from the decision of a county board may be obtained from the State Board, county assessors, or county clerks. The State Board shall annually provide a copy of the most current form to the county assessors and county clerks, which may be duplicated by the county assessors and county clerks as necessary.

3. Petition forms for appeals of centrally-assessed properties and net proceeds of minerals taxes may be obtained from the State Board or the Department. Petition forms for appeals pursuant to NRS 361.769 or NRS 361A.273 may be obtained from the State Board or the county assessor. The State Board shall annually provide a copy of the most current form to the Department and county assessors, which may be duplicated by the Department and county assessors as necessary.

Sec. 2. *Time of Filing. (NRS 361.375) 1. A petition will be deemed to have been timely filed if it was filed during the filing period required by statute, but not later than the last day of the filing period at 5:00 p.m.*

2. In the event a petitioner does not receive the final written administrative decision of a county board of equalization before March 5, the time period for filing a petition to the State Board shall be extended by 10 calendar days from the date of postmark of the county board decision. A copy of the postmark and decision notice must accompany the petition to the State Board.

3. If the last day of the filing period falls on a Saturday, Sunday, or legal holiday, the filing period shall be extended to the end of the next day which is neither a Saturday, Sunday, nor a legal holiday.

Sec. 3. Petition Procedures for Appeals from decisions of county boards of equalization (NRS 361.360, 361.375, 361.400, 362.100(1)(b))

1. An aggrieved taxpayer, county assessor, or representative of the Department who desires to appeal the decision of a county board of equalization may petition the State Board to hear his appeal by filing a written petition on a form approved by the State Board not later than March 10 or as provided in section 2, subsection 2 of these regulations. The petition must contain the following information:

- (a) The name and mailing address of the petitioner and his contact person, if any;*
- (b) The daytime business hours telephone number and facsimile number, if available, of the petitioner and his contact person, if any;*
- (c) The e-mail address, if available, of the petitioner and his contact person, if any;*
- (d) The tax year(s) being appealed;*
- (e) Assessor's parcel or identification number of the property on which the petitioner is appealing the valuation;*
- (f) The name of the county board, hearing or case number, and the date the case was heard by the county board;*
- (g) The name and mailing address of the respondent if the petition is filed by the county assessor or the Department;*
- (h) The roll value established by the county assessor and the current taxable value determined by the county board, if different, on which the assessment of the property is based;*
- (i) A statement that the petitioner has read the petition and believes the contents to be true, followed by the person's signature, or the signature of the authorized agent, if any; and*
- (j) A brief statement of the relief sought; or the specific taxable value sought for each component of the parcel such as land, improvements, or personal property.*

Sec. 4. Petition Procedures for Appeals from decisions regarding centrally-assessed properties, net proceeds of minerals or pursuant to NRS 361.769 or NRS 361A.273 (NRS 361.403, 361.769, 361A.273, 362.135)

1. Any person, firm, company, association, corporation, or any representative of any local government entity or the Department may file a direct appeal to the board pursuant to NRS 361.403, 361.769, 361A.273, or 362.135. The petition must contain the following information:

- (a) The name and mailing address of the petitioner and his contact person, if any;*
- (b) The daytime business hours telephone number and facsimile number, if available, of the petitioner and his contact person, if any;*
- (c) The e-mail address, if available, of the petitioner and his contact person, if any;*
- (d) The tax year(s) being appealed;*
- (e) Assessor's or Department's parcel number or identifying number of the property being appealed;*
- (f) The roll value established by the county assessor or the department, as applicable;*
- (g) The name and mailing address of the respondent if the petition is filed by a county assessor or the Department; and*

(h) A statement that the petitioner has read the petition and believes the contents to be true, followed by the person's signature, or the signature of the authorized agent, if any.

2. In addition to the information required in Section 1, the following information and evidence must be submitted, to the extent available on the date of filing, and if not available on the date of filing, no later than fifteen (15) business days prior to any scheduled hearing:

(a) A statement reciting the facts, reasons and statutory basis relied upon to support the claim that the board should order a change in the taxable value or classification of the subject property;

(b) All evidence upon which the petition is based and supporting the claims therein;

(c) A copy of the county, Nevada Tax Commission, or Department final tax assessment notice for the year in question on the property that is the subject of the appeal; and

(d) A statement of the relief sought.

3. Petitions filed pursuant to NRS 361.403 or NRS 361.769 must be filed with the State Board no later than January 15 of the year following the year in which the valuation is made. Petitions appealing a notice of conversion postmarked between December 16 of the prior year and before July 1 of the current year pursuant to NRS 361A.273 must be filed with the State Board no later than July 15 of the current year. Petitions filed pursuant to NRS 362.135 must be filed with the board within 30 days after certification is sent to the taxpayer.

Sec. 5. *Petitions for Leave to Intervene.* *(NRS 361.375) Petitions for leave to intervene in any hearing must contain the same information required in Section 4 above and must be filed at least fifteen (15) business days prior to the date set for hearing, and served on all parties. In addition, the petition must meet the requirements of NAC 361.692.*

Sec. 6. *Authorized agents; notification* *(NRS 361.375)*

1. A petitioner may notify the State Board in writing at any time before a hearing that he is represented by an authorized agent. The State Board may accept a facsimile transmission pending receipt of the original notification. The written notification must be on a form adopted by the State Board and must include the following:

(a) The date the authorization statement is executed;

(b) The specific parcel(s) or assessment(s) covered by the authorization, or a statement that the agent is authorized to represent the petitioner on all parcels and assessments located in Nevada or in a specific county in Nevada;

(c) A statement to the effect that the agent is authorized to sign and file petitions in the specific calendar year in which the petition is filed and that the agent is authorized to represent the petitioner in all related hearings and matters; and

(d) Contact information including the phone number and address of the petitioner.

2. If the petitioner is a corporation, limited partnership, or a limited liability company, the agent authorization must be signed by an officer or authorized employee of the business entity.

Sec. 7. *Untimely Or Otherwise Defective Appeals.* *(NRS 361.375) The Secretary of the State Board shall examine the petition and recommend the appeal be dismissed if untimely or if the State Board otherwise lacks jurisdiction to hear the appeal pursuant to NRS 361.400. The Secretary's recommendation for dismissal shall be placed on the consent list of the next available agenda of the State Board for its approval. The Secretary shall notify the petitioner*

or his authorized agent and the respondent of the time and place of the hearing on the Secretary's recommendation.

Sec. 8. Processing of Petition. (NRS 361.375) *1. If the petition is timely filed and complete pursuant to Section 3 or Section 4, and the appeal is otherwise free of defects pursuant to section 7, the secretary shall place the petition on the State Board's docket and establish a separate file for each docketed case in which shall be placed all papers, pleadings, documents, transcripts, evidence and exhibits pertaining thereto, and all items shall have noted thereon the case number assigned.*

2. The State Board will acknowledge receipt of a petition in writing.

Sec. 9. Consolidation of Hearings and Decisions. (NRS 361.375) *1. The State Board, on its own motion or upon a request of one of the parties, may unite or consolidate two or more appeals into one hearing when the cases present substantially the same related issues of valuation, law, or fact. Requests for consolidation from one of the parties must be received at least 30 days prior to the scheduled hearing. The State Board may move to consolidate cases at any time. Any petitioner or respondent who objects to the consolidation may request at the time of the consolidation decision to have his case heard separately. The State Board must act on the request prior to any act of consolidation.*

2. The State Board at its discretion may issue a written decision in a consolidated format.

Sec. 10. Pleadings. (NRS 361.375) *All pleadings, letters, petitions, briefs, notices, and other documents shall be on white, eight and one-half inches by eleven inches (8-1/2 x 11) paper, legibly written, printed, or typewritten on one (1) side only and include the current mailing address and telephone number and be signed by the appropriate authorized party or any representative of record submitting the same.*

MOTIONS

Sec. 11. Filing of Motions. (NRS 361.375) *1. When a written motion is filed with the State Board, it must state with particularity the basis for the relief or order sought. The motion must refer to the reason or authority under which the motion is made. Motions must be filed with the State Board and served on all parties. No motions shall be filed within 15 days of any hearing.*

2. Any party against whom a motion is directed may file a response to the motion. A response must be in writing unless made during a hearing. Written responses to motions must be filed with the Board no later than seven (7) days after receipt of service of the motion, and served on all parties.

3. A party who:

(a) Directs a motion against another party; and

(b) Receives a response to that motion pursuant to subsection 1,

may file a reply to the response. A reply filed pursuant to this subsection must be in writing unless made during a hearing. If made during a hearing, a reply may be written or oral. If a party to whom this subsection applies decides not to file a reply to the response, that party shall notify the State Board of the decision so that the State Board may decide the motion on the basis of the pleadings which have already been filed.

4. *A reply that is required to be in writing pursuant to subsection 3 must be:*
 - (a) *Served upon each party.*
 - (b) *Filed with the State Board no later than 7 days after receipt of service of the response.*
5. *For good cause, the State Board may take action on its own motion by providing notice of its intent to take the action and the reasons therefore to all parties. The notice of intent shall advise the parties they may file written objections within ten (10) calendar days of service of the notice.*

PETITION FOR RECONSIDERATION

Section 12. *Petitions for reconsideration; filing dates; answers; grant or denial. (NRS 361.375)*

1. *A petition for reconsideration must specifically:*
 - (a) *Identify each portion of the challenged order which the petitioner deems to be unlawful, unreasonable or based on erroneous conclusions of law or mistaken facts; and*
 - (b) *Cite those portions of the record, the law or the rules of the State Board which support the allegations in the petition. The petition may not contain additional evidentiary matter or require the submission or taking of evidence.*
2. *A petition for reconsideration of an order must be filed with the State Board and served upon all parties of record within 15 days after the date of service of the final decision.*
3. *An answer to a petition for reconsideration may be filed with the State Board by any party of record in the proceeding within 5 days after the filing of the petition. The answer must be confined to the issues contained in the petition. The answer must be served upon all parties of record. Proof of service must be attached to the answer.*
4. *The State Board or its designee will grant or deny a petition for reconsideration within 25 days after the date of service of the final decision. If no action is taken by the State Board within this time, the petition shall be deemed denied. The state board may delegate the decision to grant or deny a petition to the secretary.*
5. *Unless otherwise ordered by the State Board, the filing of a petition for reconsideration or the granting of such a petition does not excuse compliance with, or suspend the effectiveness of the challenged order.*
6. *If the State Board or its designee grants a petition for reconsideration, it will reexamine the record and order with regard to the issues on which reconsideration was granted and issue a modified final order or reaffirm its original order.*
7. *A modified final order of the State Board issued upon reconsideration will incorporate those portions of the original order which are not changed or modified by the modified final order. A modified final order is the final decision of the State Board.*

APPEAL OF STATE BOARD DECISION TO A COURT OF LAW

Sec. 13. *Appeal of State Board decision to a court of law. (NRS 361.410; 361.420) Any appeal of a State Board decision shall be served on the Department with a summons and petition.*

EQUALIZATION BY COUNTY BOARD OF EQUALIZATION

NAC 361.638 is hereby amended to read as follows:

NAC 361.638 Exhibits; minutes; petition forms. (NRS 361.340, 361.365)

Section 1. Any party desiring to enter an exhibit into the record must submit the exhibit to the county clerk. ~~[Each]~~ The county clerk shall ~~[1-M]~~ mark, record and file all exhibits submitted to the county board of equalization. ~~[A list of exhibits must be included on each petition at the place designated therefor.]~~

Sec. 2. The county clerk shall:

(a) Prepare complete minutes of each hearing, including any action taken by the board and the specific reasons for that action.

(b) Complete each petition form to reflect the action taken by the board and the specific reasons for that action.

(c) ~~[Submit petitions, exhibits, minutes, certificates of mailing and other material deemed pertinent by the county board of equalization to the secretary of the state board of equalization no later than the fourth Monday in February.]~~ *Transmit to the State Board the records of cases requested by the State Board. All other case records shall remain in the possession of the county clerk.*

Sec. 3. The record transmitted to the State Board must include a certified copy of the complete record of the final administrative decision from which the appeal is taken, including a general index identifying the documents and instruments in the record with reasonable definiteness.

(a) *Contemporaneous with filing the record, the clerk of the county board of equalization shall serve a copy of the general index on all parties to the appeal. The State Board shall provide a format for the general index to be used.*

Sec. 4. By written stipulation of all parties to an appeal, the record may be shortened.

Sec. 5. Any duplicative materials must be removed from the record. Original letters are preferred to facsimiles for purposes of retention in the record.

EQUALIZATION BY STATE BOARD OF EQUALIZATION

General Provisions

NAC 361.683 is hereby suspended until it can be repealed under permanent regulations:

~~[NAC 361.683 Form for filing protest. (NRS 361.360, 361.375) Each county assessor shall provide a form to any taxpayer whose real property placed on the unsecured tax roll was assessed after December 15 but before or on the following April 30 in order to file a protest with the state board of equalization.]~~

NAC 361.684 is hereby amended to read as follows:

NAC 361.684 Definitions. (NRS 361.375) As used in NAC 361.686 to 361.753, inclusive, unless the context otherwise requires:

1. *“Assessor’s Parcel Number” means the number assigned to each piece of real property separately owned as represented by the county assessment rolls.*

2. *“Authorized agent” means one who is directly authorized by the petitioner to represent the petitioner in a hearing before the state board, including attorneys.*

3. *“Chair” means the chair of the state board of equalization.*
4. *“Contact person” means the employee or representative of the party to whom communications are sent. The contact person may or may not be the same as the authorized agent.*
5. *“County Board” means the county board of equalization.*
6. *“Direct appeal” means an appeal of a Nevada Tax Commission, Department, or county assessor determination without an intervening decision of a county board.*
7. *“Findings of Fact and Conclusions of Law” means concise statements of the determinations made as to contested issues of fact, and statements of the applicable law as determined by the Board which are applicable to the findings of fact.*
8. *“Identifying number” means the number assigned to each piece of personal property separately owned as represented by the county assessment rolls.*
9. *“Party” means any person, natural or otherwise, or governmental subdivision or agency entitled to or appearing before the State Board in any proceedings of the State Board.*
10. *“Quorum” means a majority of all the members of the Board. In the event more than one member recuses himself from hearing an appeal, “quorum” shall mean at least three of the remaining members of the Board.*
- ~~[2-]~~ 11. *“Secretary” means the executive secretary of the board who is the executive director of the department.*
- ~~[3]~~ 12. *“Staff” means the staff of the department or the staff of the attorney general.*
- ~~[4-]~~ 13. *“State Board” means the state board of equalization.*

NAC 361.686 is hereby amended to read as follows:

NAC 361.686 Meetings: Notice; conduct; ~~[smoking prohibited]~~. (NRS 361.375, 361.380)

1. The board will post notices for each meeting at the Carson City, Reno, Las Vegas and Elko offices of the department 3 working days in advance of the meeting.

2. *At the discretion of the State Board, telephone conference calls may be used to conduct any proceeding subject to such terms and conditions consistent with the provisions of the Open Meeting Law as the State Board may order.*

~~[2-]~~ 3. A person appearing in a proceeding shall conform to the recognized standards of ethical and courteous conduct.

~~[3- Smoking is prohibited during all meetings of the board.]~~

Parties to Proceedings Before State Board of Equalization

NAC 361.690 is hereby amended to read as follows:

NAC 361.690 Classification of parties. (NRS 361.375)

1. “Intervener” means a person, government, governmental agency or political subdivision of a government, other than an original party to a proceeding, who is directly and substantially affected by the proceeding. ~~[and whose petition for leave to intervene is received in writing by the secretary and each party of record not later than 7 working days before the hearing.]~~

2. “Petitioner” means a party who initiates or commences an administrative proceeding before the board pursuant to the provisions of chapter 361 of NRS.

3. “Respondent” means a party who responds to an administrative proceeding initiated or commenced by a petitioner.

NAC 361.692 is hereby amended to read as follows:

NAC 361.692 Interveners. (NRS 361.375)

1. A person, government, governmental agency or political subdivision of a government, other than an original party to any proceeding, who is directly and substantially affected by the proceeding must secure an order from the secretary or the board granting leave to intervene before being allowed to participate. For the purposes of review by a court or an appeal, leave to intervene in any matter or proceeding is not a finding or determination of the secretary or the board that the party will or may be a party aggrieved by any ruling, order or decision.

2. A petition for leave to intervene must be in writing and clearly identify the proceeding in which intervention is sought. The petition must set forth the name and address of the intervener and contain a clear and concise statement of the direct and substantial interest of the intervener in the proceeding, stating the manner in which the intervener will be affected by the proceeding and outlining the matters relied upon by him as a basis for the petition for leave to intervene. If affirmative relief is sought, the petition must contain a clear and concise statement of the relief sought and the basis for that relief, together with a statement as to the nature and quantity of evidence the intervener will present if his petition is granted.

3. ~~[A petition for leave to intervene and any evidence the intervener wishes to present must be submitted to filed with the secretary and served on each party of record not less than 7 fifteen (15) working days before the commencement of the hearing or state a substantial reason for the delay.]~~

~~[4].~~ 3. If a petition for leave to intervene shows a direct and substantial interest in the subject matter of the proceeding or any part of the proceeding and does not unduly broaden the issues, the secretary or the board may grant leave to intervene or otherwise appear and participate in the proceeding with respect to the matters set forth in the petition, subject to any reasonable conditions that may be prescribed.

~~[5].~~ 4. If it appears during the course of a proceeding that an intervener has no direct or substantial interest in the proceeding, and that the public interest does not require his participation in the proceeding, the board may dismiss him from the proceeding.

Hearings

NAC 361.702 is hereby amended to read as follows:

NAC 361.702 Notice *and Procedure*. (NRS 361.375)

1. The board will give reasonable notice of any hearing held before it to the petitioner and respondent at the address of each of those persons, *or his authorized agent*, as those addresses appear in the records of the department.

2. The board will notify the appropriate county assessor of a hearing relating to any property in his county or which may have a direct effect upon his county. The county assessor or his representative shall:

(a) Attend any hearing specified in this subsection, unless otherwise directed by the board; and

(b) Make any presentation prescribed by the board.

3. No hearing before the Board shall be held unless a quorum is present.

NAC 361.706 is hereby amended to read as follows:

NAC 361.706 Continuances. (NRS 361.375) ~~[The board may, before or during a hearing, upon good cause shown, grant continuances.]~~ *1. A party desiring to continue the hearing to another day or time, or to continue the date when pleadings, motions, or other documents are to be filed, shall file with the State Board a motion or request for continuance as far in advance of the hearing date or filing due date as is practicable, but in no case less than ten (10) business days before the hearing or filing due date. The motion or request must show that good cause exists for continuance. Motions or requests for continuance filed less than ten (10) business days before the hearing or filing due date will be granted only in the case of an emergency, such determination to be at the sole and absolute discretion of the State Board, or in such cases where there has been a failure to comply with any state statute or the regulations in this chapter.*

2. The State Board may delegate decisions concerning continuances to the Secretary.

3. The State Board may continue a hearing or a briefing due date to a later date on its own motion.

NAC 361.708 is hereby amended to read as follows:

NAC 361.708 ~~[Failure of party to appear.]~~ *Appearances* (NRS 361.375)

1. At the time and place set for the hearing, if a party fails to appear the board may:

~~[1.]~~ *(a) Proceed with the hearing;*

~~[2.]~~ *(b) Dismiss the proceeding with or without prejudice; or*

~~[3.]~~ *(c) Recess the hearing for a period to be set by the board to enable the party to attend.*

2. If the property is held in joint or common ownership or in co-ownership, the presence of the petitioner or any one of the owners shall constitute a sufficient appearance.

3. Where one party is a corporation, limited partnership, or a limited liability company, the business entity shall make an appearance by the presence of any officer, employee, or an authorized agent, thoroughly familiar with the facts pertaining to the matter before the board.

4. If an agent is previously authorized by the petitioner to file a petition for the current year before the State Board, no further authorization is required for that agent to represent the petitioner at the subsequent hearing of the State Board.

NAC 361.712 is hereby amended to read as follows:

NAC 361.712 Subpoenas *requiring appearance of witness or compelling production of document.* (NRS 360.240, 361.375)

1. Subject to the restrictions imposed by NRS 360.240, ~~[a subpoena requiring the attendance of a witness from any place in the state to any designated place of a hearing for the purpose of taking the testimony of the witness orally before the board may be issued by the secretary.]~~ the Secretary may, upon his own initiative, issue an order requiring the attendance and testimony of witnesses and the production of a book, paper, document or other tangible thing.

2. A petitioner or respondent desiring to subpoena a witness to attend and testify at the hearing, or to compel the production of a book, paper or document must submit an application in writing to the secretary stating the reasons why the subpoena is requested. The application must identify, as clearly as possible, the book, paper or document desired. The party making the request shall make the written request at least ten (10) business days in advance of the scheduled hearing date so that the subpoenaed party has an adequate opportunity to fully comply with the subpoena prior to the commencement of the hearing

3. ~~[A subpoena for the production of books, waybills, papers, accounts or other documents, unless directed by the secretary, will be issued only after the submission of an application in writing which specifies as clearly as may be, the books, waybills, papers, accounts or other documents desired.]~~

~~[4.]~~ 3. The secretary, upon receipt of an application for a subpoena, shall within ~~[3]~~ *seven* (7) *calendar* days:

- (a) Grant the application and issue the subpoena; or
- (b) Deny the application.

The Secretary shall, upon his own initiative or upon a written request by the party to whom the subpoena is directed, quash or modify the subpoena if it is determined to be unreasonable or oppressive.

~~[5.]~~ 4. ~~[All costs incident to the subpoenas issued at the request of the petitioner or respondent must be paid by the petitioner or respondent and the secretary may demand payment of the costs before the issuance of a subpoena.]~~ *If a subpoena is issued at the request of one of the parties, the requesting party is responsible for serving it and for the payment of witness fees and mileage.*

NAC 361.722 is hereby amended to read as follows:

NAC 361.722 Briefs; *Written Explanations*. (NRS 361.375)

1. ~~[In any hearing, the board will order briefs to be filed, if necessary, within such time as it prescribes.]~~ *The State Board or the Secretary may request briefs or written explanations from the parties either prior to the hearing of the evidence or after said hearing. The State Board or the Secretary will prescribe the time for filing the briefs as necessary and the number of copies to be filed with the secretary. Briefs may be submitted to the State Board by electronic transmission, provided that an original document is also submitted if requested by the State Board or the Secretary.*

2. *Each brief* ~~[Ten copies of each brief must be filed with the secretary and]~~ must be accompanied by an acknowledgment of or a certificate showing service on all other parties of record, *if the brief is submitted by an attorney representing one of the parties.*

3. *Briefs or written explanations must not contain duplicative material already in the record. A reference to the material in the record is sufficient.*

4. *Any party to a hearing before the State Board may submit a brief, memorandum, or written explanation in support of the party's petition. Unless otherwise directed by the State Board or Secretary, such brief, memorandum, or written explanation must be filed with the State Board at least fifteen (15) business days prior to the date set for hearing, and served on all parties.*

5. *Any party may file a written response to the brief or written explanation provided for in subsection (4). Unless otherwise directed by the State Board or Secretary, responses to briefs must be filed with the Board no later than ten (10) business days after receipt of service of the brief, and served on all parties.*

6. *A party who:*

- (a) Submits a brief or memorandum pursuant to subsection (4) and*
- (b) Receives a response to that brief or memorandum pursuant to subsection 5,*
may file with the State Board a reply to the response no later than three (3) business days after receipt of service of the response brief, and served on all parties.

NAC 361.724 is hereby amended to read as follows:

NAC 361.724 ~~[Certificate of service]~~ *Service of Documents.* (NRS 361.375) *1. All briefs, response briefs, reply briefs and motions submitted to the State Board by an attorney representing a party shall be served upon all other parties, counsel, or parties' representatives of record. Service by regular mail of such documents will be considered adequate service. If service is made by mail the papers shall be deposited in the post office properly addressed to the person to whom they are being served, with postage prepaid. Proof of such service must be filed with the State Board. An affidavit or certificate of service, or acknowledgment of service will be considered adequate proof of service.*

2. The State Board may serve all notices, decisions and orders upon the party, or alternatively, upon the authorized agent

3. With all documents required to be served, an acknowledgment of service or substantially the following certificate must be included:

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon all parties of record in this proceeding (by delivering a copy thereof in person to) (by mailing a copy thereof, properly addressed, with postage prepaid to).

Dated at this day of the month of of the year

.....
Signature

NAC 361.682 is hereby amended to read as follows:

NAC 361.733 is hereby amended to read as follows:

NAC 361.733 **Rights of petitioner, respondent and staff.** (NRS 361.375) During any hearing, other than a hearing concerning an appeal from a decision of a county board of equalization, the petitioner, respondent and staff, *through the chair of the board*, may:

1. Call and examine witnesses concerning any matter relevant to the issues of the case.
2. Introduce exhibits relevant to the issues of the case.
3. ~~[Cross examine opposing witnesses on any matter relevant to the issues of the case, regardless of whether that matter was covered in the direct examination.]~~ *May request the State Board to direct questions to opposing witnesses if the State Board first determines the questions are relevant to the issue of the case.*
4. Impeach any witness regardless of which party first called him to testify.
5. Offer rebuttal evidence.
6. Call any person who, because of his relationship to any other party, may be an adverse witness and examine him as an adverse witness.

NAC 361.737 is hereby amended to read as follows:

NAC 361.737 Admission of evidence; depositions. (NRS 361.375) In any *direct* hearing: ~~[other than a hearing concerning an appeal from a decision of a county board of equalization:]~~

1. The hearing will not be conducted according to the technical rules of evidence and procedure as practiced in civil actions. Except as otherwise provided in NAC 361.745 or by a specific statute, any relevant evidence may be admitted, if it is of a type commonly relied upon by reasonable and prudent persons in the conduct of their affairs, regardless of whether the evidence is subject to objection in civil actions.

2. Hearsay evidence, as that term is used in civil actions, may be admitted to supplement or explain other evidence, but it is not sufficient by itself to support findings of fact unless it is admissible over objection in civil actions.

3. The rules of privilege will be applied as they are applied in civil actions.

4. Irrelevant, cumulative and unduly repetitious evidence is not admissible, nor is incompetent evidence, as that term is used in civil trials, with the exception of hearsay evidence as provided in subsection 2.

5. The parties or their counsel may, by written stipulation, agree that certain specified evidence may be admitted, regardless of whether the evidence is otherwise subject to objection.

6. The *State Board*, ~~[for any party to the hearing]~~, may cause the depositions of witnesses to be taken in the manner prescribed by law and the rules of the court for depositions in civil actions.

(a) Upon a motion by a party of record or by the person from whom a deposition is sought and for good cause shown, the State Board or Secretary may prohibit, restrict or modify the scope of the deposition.

(b) Depositions must be completed at least 15 business days before the date set for the hearing unless otherwise ordered by the State Board or Secretary. Any party of record seeking to have this time shortened or lengthened must do so by a motion to the State Board. The State Board shall grant the motion for good cause shown.

7. Where objections are made to the admission or exclusion of evidence, the grounds relied upon shall be stated briefly at the time the evidence is offered. Formal exceptions to rulings are unnecessary and need not be taken.

8. An Offer of Proof for the record shall consist of a statement of the substance of the evidence to which objection has been sustained. In any event, where the Board rules evidence inadmissible, the party seeking to introduce such evidence must first make an Offer of Proof regarding it in order to have such evidence considered by the Board.

9. Failure to enter timely objection to evidence constitutes a waiver of the objection.

10. The parties in any direct appeal to the State Board shall exchange a list of witnesses and copies of all evidence and exhibits each party expects to introduce at the hearing no less than ten (10) business days prior to the scheduled hearing of the State Board.

NAC 361.739 is hereby amended to read as follows:

NAC 361.739 Appeal of decision of county board: Submission of petition; standard of review; consideration of new evidence. (NRS 361.360, 361.375, 361.400)

~~[1. A party may appeal a decision of a county board of equalization by submitting a written petition to the board not later than March 10.]~~

~~[2.]~~*1.* Except as otherwise provided in ~~[sub]~~section ~~[3]~~*2*, the appeal must be based upon the same facts and evidence submitted to the county board of equalization.

~~[3-]~~ 2. If new evidence is discovered which could not, by due diligence, have been discovered before the final adjournment of the county board of equalization, the *State Board* will consider the new evidence. The evidence must be submitted in writing to the *State Board* and all parties of record not less than ~~[7]~~ *ten (10) business* days before the hearing on the matter. *No new evidence and data submitted to the State Board less than ten business days will be admitted unless it is proven to the satisfaction of the State Board that it was impossible in the exercise of due diligence to have discovered or secured such evidence and data in time to have submitted the same to the State Board prior to the deadline.*

3. Summaries or extractions from evidence already submitted to the county board shall not be considered new evidence, but shall be considered rebuttal evidence.

NAC 361.741 is hereby amended to read as follows:

NAC 361.741 Appeal of decision of county board: Burden of proof; order of presentations. (NRS 361.360, 361.375, 361.400) In a hearing concerning an appeal from a decision of a county board of equalization:

1. The petitioner has the burden of proof.
2. The order and length of presentations will ordinarily be:
 - (a) A brief orientation by the county assessor or his staff;
 - (b) A presentation of not more than 15 minutes by the petitioner;
 - (c) A presentation of not more than 15 minutes by the respondent; and
 - (d) A rebuttal of not more than 5 minutes by the petitioner.

3. Presentation time allotted to the parties does not include questions directed to the witnesses by the parties or the State Board; or the presentation of new evidence.

NAC 361.743 is hereby suspended until it can be repealed under permanent regulations:

~~[NAC 361.743 Appeal of valuation of property by commission. (NRS 361.375, 361.403)
—1. Any person, government, governmental agency or a political subdivision of a government desiring to appeal any valuation of property determined by the commission pursuant to NRS 361.320, 361.321, 361.323 or 361.325 may appear before the board during its annual meeting in March if a written petition for a hearing is delivered to the secretary not later than January 15 of the year following the year in which the valuation is made.
—2. The petition must:
—(a) Specify the issues and contentions upon which the petition is based;
—(b) Specify the portions of the commission's formulas for valuation that are in question;
—(c) Specify the bases for the questions; and
—(d) Include any evidence upon which the petition is based that the petitioner possesses at the time the petition is submitted to the secretary.
—3. Any additional evidence in support of the petition must be submitted to the board not later than 10 days before the date of the hearing.]~~

NAC 361.745 is hereby amended to read as follows:

NAC 361.745 ~~[Appeal of decision of commission]~~ Direct Appeals: Limitation on new issues, contentions and evidence. (NRS 361.375, 361.403) ~~[An appeal from a decision of the commission]~~ *Any direct appeal* that is before the board will be limited to the issues and contentions set forth in the petition for a hearing before the board. Issues, contentions and evidence beyond the scope of the petition may be considered by the board if:

1. New issues, contentions and evidence are discovered which could not by due diligence have been discovered and presented in the petition; and
2. The issues, contentions and evidence are submitted in writing to the board and each party *pursuant to the requirements of Section 4(2) of these regulations* ~~[not less than 10 days before the hearing of the appeal.]~~
3. Each party is entitled to respond to any such issue, contention or evidence *in the manner provided in NAC 361.722 or orally during the hearing.*

NAC 361.747 is hereby amended to read as follows:

NAC 361.747 Decision of board: Duties of department; contents; service. (NRS 361.375)

- 1. The proceeding shall stand submitted for decision by the State Board after taking of evidence, the filing of briefs and/or the presentation of oral arguments as may have been prescribed by the State Board.*
- 2. State Board decisions are binding only for the tax year or years at issue. In connection with any appeal the Board may sustain, reverse, or modify any decision being appealed. Any member who dissents or concurs may state their reasons.*
- 3. In determining whether the value of property is equalized pursuant to NRS 361.360 (1), the State Board may consider whether the real or personal property is exempt from taxation.*
- 4. The State Board is not required to choose between the opinions of value promoted by the parties to the appeal, but may make its own determination of value.*
- ~~[1.]~~ *5. After the hearing of a contested case, the ~~[department]~~ staff shall prepare the State B[~~b~~]oard's final decision on the issues presented in the hearing pursuant to the direction and with the approval of the board. The draft of ~~[a]~~ all decisions must be approved by the chairman of the board before being issued.*
- ~~[2.]~~ *6. The State B[~~b~~]oard's final decision in a contested case will be written and will include separate findings of fact and conclusions of law based upon substantial evidence or matters officially noticed. When a case stands submitted for final decision on the merits the State Board may, in its discretion, request proposed findings of fact and conclusions of law from each party.*
- ~~[3.]~~ *7. The department shall serve a copy of the State B[~~b~~]oard's decision upon each party of record, any representative of a party of record and each member of the board, in person or by certified mail, within ~~[30]~~ 60 days after the date of the decision.*
- 8. Clerical mistakes in decisions and orders or other parts of the record may be corrected by the staff, or on the motion of any party. During the pendency of a judicial appeal, clerical mistakes may be corrected with leave of the court.*
9. Cases in which the parties have stipulated to settlement terms in advance of the scheduled hearing may be placed on the consent agenda of the *State* Board. The *State* Board may issue an order based on the settlement terms without further hearing, provided the terms are consistent with Nevada statutes and regulations. Cases in which the parties agree to settlement terms during the course of the hearing may be immediately placed on the consent agenda of the *State* Board.