

**ADOPTED REGULATION OF THE
STATE BOARD OF EQUALIZATION**

LCB File No. R029-05

Effective June 28, 2006

EXPLANATION – Matter in *italics* is new; matter in brackets ~~omitted material~~ is material to be omitted.

AUTHORITY: §§1, 3-41, NRS 361.375; §2, NRS 361.340.

A REGULATION relating to taxation; revising procedures for appeals to the State Board of Equalization; and providing other matters properly relating thereto.

Section 1. Chapter 361 of NAC is hereby amended by adding thereto the provisions set forth as sections 2 to 13, inclusive, of this regulation.

Sec. 2. 1. *Within 15 calendar days after a county clerk receives notice from the State Board of Equalization that an appeal of a decision of the county board of equalization has been docketed for a hearing at the State Board, the county clerk shall:*

(a) Prepare a record of the proceedings before the county board in the decision on appeal, including a general index in a format prescribed by the State Board of Equalization. The index must clearly identify each exhibit, paper, report or other documentary, audio or video evidence included in the record.

(b) Certify the record as complete except as shortened pursuant to subsection 3.

(c) Transmit the certified record to the State Board of Equalization.

(d) Serve a copy of the general index on each party to the appeal.

2. If a petitioner has delivered a certified transcript of the hearing before the county board to the county clerk pursuant to NRS 361.365, the clerk shall include a copy of the

transcript in the record. The transcript delivered to the clerk must be prepared by a certified court reporter.

3. Except as otherwise provided in this subsection, the record submitted to the State Board of Equalization must be complete. The record may be shortened:

(a) By written stipulation of all parties to the appeal; and

(b) By the omission of duplicate copies of any exhibit, paper, report or other documentary evidence submitted at the hearing before the county board. The clerk shall include original documents rather than copies of all documentary evidence, if possible.

Sec. 3. 1. *A person entitled to appeal the final decision of a county board to the State Board of Equalization pursuant to NRS 361.360 must file a petition requesting the State Board to hear his appeal.*

2. The petition must be on the form prescribed by the State Board and must include:

(a) The name and mailing address of the petitioner and his contact person, if any;

(b) The telephone number for daytime business hours 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 years being appealed;

(e) The assessor's parcel number or identifying number of the property on which the petitioner is appealing the valuation;

(f) The name of the county board, the 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 taxable value established by the county assessor as set forth on the secured or unsecured tax roll 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.

3. The State Board will provide a form of the petition to each county assessor and county clerk. The State Board will, and the county assessor and county clerk shall, make available a copy of the form to any person.

Sec. 4. 1. *A person entitled to file a direct appeal must file a petition with the State Board requesting the State Board to hear his appeal.*

2. The petition must be on the form prescribed by the State Board and must include:

(a) The name and mailing address of the petitioner and his contact person, if any;

(b) The telephone number for daytime business hours 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 years being appealed;

(e) The assessor's parcel number or other 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.

3. The State Board will annually provide a form of the petition to the Department, and each county assessor, who shall provide a copy of the form to any person upon request.

4. In addition to the information required pursuant to subsection 2, a petitioner must submit:

(a) A statement reciting the facts, reasons and statutory basis relied upon to support the claim that the State 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 which supports the claims therein;

(c) A copy of the 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.

↪ This information must be submitted on the date of filing of the petition, if available, and if not available on the date of filing, not later than 15 days before the date established for the hearing.

5. If the appeal is from a valuation established pursuant to NRS 361.320 or 361.325, the petition must be filed not later than January 15 of the year immediately following the year in which the valuation was made.

Sec. 5. 1. *Any petition, pleading, brief, correspondence, notice or other written document required or authorized to be filed with the State Board may be filed in person or by facsimile machine, United States mail or third-party delivery service.*

2. A document filed in person or by facsimile machine must be received by the State Board not later than 5 p.m. on the last day for filing the document set forth in the applicable statute or regulation. The State Board will stamp each document filed with the date and time it is received. A document is presumed to have been received at the date and time shown on the stamp.

3. Except as otherwise provided in this subsection, a document filed by mail or third-party delivery service is timely filed if it is deposited with the post office or delivery service, correctly addressed, postage prepaid and postmarked not later than the last day for filing the document set forth in the applicable statute or regulation. A postmark provided by a postage meter does not establish that a document is timely filed.

4. If the last day set forth in a statute or regulation for the performance of an act falls on a Saturday, Sunday or legal holiday, the act is timely if it is performed on the next business day. For the purposes of this section, the performance of an act includes, without limitation, filing a document with the State Board and serving a document on a party.

5. The State Board will not admit into evidence a document that is not timely filed as set forth in this section except upon a motion for its admission pursuant to section 11 of this regulation.

Sec. 6. 1. The State Board will acknowledge the receipt of each petition in writing.

2. The Secretary shall examine each petition upon receipt.

3. If the Secretary's examination reveals that:

(a) The petition is untimely filed; or

(b) It appears that the State Board lacks jurisdiction to hear the appeal,

↳ the Secretary shall recommend to the State Board that it order the appeal to be dismissed. The recommended order must be placed on the consent agenda of the next meeting of the State Board for which public notice pursuant to NRS 241.020 has not yet been given, and the Secretary shall notify the petitioner, or his authorized agent, of the time and place of the meeting at which the recommended order will be considered.

4. If the Secretary's examination reveals that:

(a) The petition is timely filed;

(b) The appeal appears to be within the jurisdiction of the State Board; and

(c) The petition satisfies the applicable requirements of section 3 or 4 of this regulation,

↳ the Secretary shall assign a case number to the appeal, place the appeal on the State Board's hearing docket and notify the petitioner and respondent that the case has been docketed for a hearing.

5. The Secretary shall, for each docketed case:

(a) Establish a case file;

(b) As each petition, exhibit, report, paper, pleading or other documentary evidence is received, mark it with the case number and place it in the case file; and

(c) If the appeal is from the final decision of a county board, notify the county clerk that the case has been docketed for a hearing and request the transmission of a certified copy of the record as set forth in section 2 of this regulation.

Sec. 7. 1. If two or more docketed cases present substantially the same issues of fact, law or valuation, the State Board may, on its own motion or upon the request of a party, consolidate the cases for purposes of a hearing or written decision.

2. *The State Board may move to consolidate cases at any time. A request for consolidation from a party must be filed with the State Board and served on all other parties not later than 30 days before the date established for the hearing.*

3. *A party who objects to the proposed consolidation of his case may request that his case be heard separately. The State Board will not proceed with a consolidated hearing until after it has ruled on the request for a separate hearing.*

Sec. 8. 1. *A petitioner who desires to be represented by an authorized agent must notify the State Board in writing. The notice may be filed with the State Board at any time before the commencement of the hearing. The State Board will accept a notice filed by facsimile transmission, but the original document must be filed with the State Board before the commencement of the hearing.*

2. *Except as otherwise provided in this section, the written notification must be on the form prescribed by the State Board. The notice must include:*

(a) *The date the authorization statement is executed;*

(b) *The specific parcels or assessments 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 telephone number and address of the petitioner.*

3. *The notification must be signed by:*

(a) The petitioner or, if the petitioner is a business entity, by an officer or authorized employee of the business entity; and

(b) The authorized agent.

4. If an authorized agent required to comply with NRS 361.362 to represent a petitioner before a county board wishes to represent the petitioner in an appeal to the State Board, the State Board will accept a copy of the written notice of authority filed with the county board as the notice required pursuant to this section so long as the other requirements of this section are met.

Sec. 9. 1. *The State Board may, at any time, require a party to submit a brief, memorandum or other written explanation. The State Board will prescribe:*

(a) The time for filing;

(b) The number of copies that must be filed with the State Board; and

(c) The parties that must be served, if any.

2. If the State Board does not require submission of a brief, memorandum or other written explanation, a party may submit such a written explanation on his own initiative.

Unless the State Board otherwise directs, the written explanation must be filed with the State Board and served on the other parties at least 20 days before the date established for the hearing.

3. A party may respond in writing to a brief, memorandum or other written explanation filed by another party. Unless the State Board otherwise directs, the written explanation must be filed with the State Board and served on the other parties not later than 10 days before the date established for the hearing.

4. A party served with a response to a brief, memorandum or other written explanation may reply in writing. Unless the State Board otherwise directs, the written explanation must be filed with the State Board and served on the other parties not later than 3 days after service of the response.

5. A party must not include in or attach to his brief, memorandum or other written explanation an exhibit, paper, report or other documentary evidence that is included in the record submitted to the State Board.

6. A brief, memorandum or other written explanation filed with the State Board pursuant to this section may be filed electronically, but the State Board may require a party to file the original document.

7. Unless otherwise provided by the State Board, the Secretary may perform any administrative function of the State Board set forth in this section.

Sec. 10. *All petitions, pleadings, briefs, correspondence, notices and other written documents filed with the State Board must be on white paper that is 8 1/2 by 11 inches in size and must be legibly written, printed or typewritten on one side of the paper only. Each document must be signed by the party, or authorized agent of the party, submitting it and must include the current mailing address and telephone number of the submitter. Documents submitted after the assignment of a case number pursuant to section 6 of this regulation must include the case number assigned.*

Sec. 11. 1. *A party may make a motion orally during a hearing or in writing.*

2. A motion must state with particularity the relief or order sought and identify the reason or authority pursuant to which the motion is made.

3. *A written motion must be filed with the State Board and served on all parties not later than 20 days before the date established for the hearing.*

4. *A party against whom a motion is directed may respond to the motion:*

(a) *Orally, if the motion is made during the hearing; or*

(b) *In writing, if the motion is made before the hearing. A written response must be filed with State Board and served on all parties within 10 days after service of the motion.*

5. *A party who has made a motion in writing and been served with a written response may, within 7 days after service of the response, reply to the response in a writing filed with the State Board and served on all parties.*

6. *The State Board may, for good cause, take action on its own motion. Unless its motion is made orally during the hearing, the State Board will serve each party with notice of its intent to take action and the reasons therefore. A party who receives the State Board's notice of intent and wishes to object to it must file his objection in writing with the State Board within 10 days after service of the notice. The State Board's notice of intent must advise a party of his right to file a written objection.*

Sec. 12. 1. *A party who believes that a decision or order of the State Board, or any portion thereof, is:*

(a) *Unlawful;*

(b) *Unreasonable; or*

(c) *Based on findings of fact or conclusions of law that are erroneous,*

↪ may file a petition for reconsideration. The petition must be filed with the State Board and served on all parties within 15 days after the date of service of the decision or order.

2. *A petition for reconsideration must:*

(a) Identify with precision each portion of the decision or order that the party alleges is unlawful, unreasonable or erroneous.

(b) Cite with specificity those portions of the record, the statutes or regulations that support the allegations in the petition. The petition must not include additional evidence or request the submission or taking of new evidence.

3. A party may submit an answer in opposition to a petition for reconsideration. The answer must be filed with the State Board and served on all other parties within 5 days after the date of service of the petition for reconsideration. The answer must be limited to the issues raised in the petition for reconsideration.

4. The State Board will grant or deny, in whole or in part, a timely filed petition for reconsideration within 60 days after the date of service of the final decision. If the State Board takes no action within the 60 days, the petition shall be deemed to be denied.

5. Unless otherwise provided by the State Board, the filing of a petition for reconsideration or the granting of such a petition by the State Board does not excuse compliance with or suspend the effectiveness of the challenged decision or order.

6. If the State Board grants a petition for reconsideration, it will reexamine the decision or order and the record with regard to the issues on which it granted reconsideration. After this reexamination, the State Board will issue a modified final order or reaffirm its original order.

7. A modified final decision or order incorporates all portions of the original decision or order not modified. A modified final decision or order, or the original decision or order if reaffirmed, is the final decision of the State Board.

8. *For the purposes of NRS 361.420, the date of the issuance of the decision of the State Board denying relief is:*

(a) If the State Board grants a petition for reconsideration, the date the State Board issues its modified final decision or order or reaffirms its original decision or order; or

(b) If the State Board denies a petition for reconsideration, the date the petition is denied or deemed to be denied.

Sec. 13. *A person who commences an action pursuant to NRS 361.410 to 361.435, inclusive, for redress from a finding of the State Board shall serve a copy of the summons, complaint or petition on the Department.*

Sec. 14. NAC 361.682 is hereby amended to read as follows:

361.682 1. The provisions of NAC 361.682 to 361.753, inclusive ~~1~~, *and sections 3 to 13, inclusive, of this regulation:*

(a) Govern the practice and procedure in contested cases before the *State* Board.

(b) Will be liberally construed to secure the just, speedy and economical determination of all issues presented to the *State* Board.

2. In special cases, where good cause appears, not contrary to statute, deviation from these rules, if stipulated to by all parties of record, will be permitted.

Sec. 15. NAC 361.684 is hereby amended to read as follows:

361.684 As used in NAC ~~361.686~~ *361.682* to 361.753, inclusive, *and sections 3 to 13, inclusive, of this regulation*, unless the context otherwise requires:

1. ~~“Board” means the State Board of Equalization.~~

~~—2.]~~ *“Assessor’s parcel number” means the number assigned by a county assessor to each piece of real property separately owned as it appears on the county assessment roll.*

2. *“Authorized agent” means a person who is authorized by a party to represent him in a proceeding before the State Board. The term includes an attorney.*

3. *“Business entity” includes a corporation, limited partnership, or a limited-liability company.*

4. *“Conclusion of law” means a determination of the law applicable to a finding of fact.*

5. *“Contact person” means a person designated by a party to receive communications concerning a proceeding before the State Board.*

6. *“County board” means a county board of equalization.*

7. *“Day” means a calendar day.*

8. *“Direct appeal” means an appeal from an assessment by a county assessor, the Department or the Commission directly to the State Board without appearing before or requesting relief from a county board. The term includes an appeal authorized in NRS 361.360, 361.403, 361.769, 361A.273 or 362.135.*

9. *“Finding of fact” means a brief statement of the determination of issues of fact supported by evidence in the record or matters officially noticed.*

10. *“Identifying number” means the number assigned to each piece of personal property separately owned as represented by the county assessment rolls.*

11. *“Party” means a person, government, governmental agency or political subdivision of a government entitled to appear in a proceeding of the State Board. The term includes an intervener.*

12. *“Secretary” means the ~~Executive~~ Secretary of the State Board who is the Executive Director of the Department.*

~~[3.]~~ 13. “Staff” means the staff of the Department. *The term includes the Attorney General and his duly appointed deputies when acting as legal advisers to the Department pursuant to NRS 228.110.*

14. *“State Board” means the State Board of Equalization.*

Sec. 16. NAC 361.686 is hereby amended to read as follows:

361.686 1. The *State* 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. *The State Board may conduct a meeting or any part thereof by means of a telephone conference call so long as it complies with the applicable provisions of chapter 241 of NRS.*

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.]~~

Sec. 17. NAC 361.688 is hereby amended to read as follows:

361.688 1. Informal communications must be addressed or delivered to the Secretary.

2. ~~[Formal communications and documents are deemed to be officially received by the Board when they are properly addressed, stamped and deposited in the United States mail.~~

~~—3.]~~ Informal communications from the staff or *State* Board must be signed by the responsible staff or ~~[board member.~~

~~—4.]~~ *member of the State Board.*

4. Each communication must be limited to one subject and contain the name and address of the communicant and the appropriate *assessor’s* parcel number or legal description of any property pertaining to the subject of the communication.

Sec. 18. NAC 361.690 is hereby amended to read as follows:

361.690 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.]~~ *who has been granted leave to intervene in a proceeding pursuant to NAC 361.692.*

2. “Petitioner” means a party who initiates or commences an administrative proceeding before the *State* 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.

Sec. 19. NAC 361.692 is hereby amended to read as follows:

361.692 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 *State* 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 *State* 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]~~ *include all the information required of a petition for a direct appeal pursuant to section 4 of this regulation* 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 working]~~ *15* days before the *date set for the* commencement of the hearing . ~~[or state a substantial reason for the delay.]~~

4. 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 *State* 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. 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 *State* Board may dismiss him from the proceeding.

Sec. 20. NAC 361.700 is hereby amended to read as follows:

361.700 1. No former employee of the Department or member of the Attorney General's staff may, at any time after severing his employment with the Department or the Attorney General, appear, except with the written permission of the *State* Board, in a representative capacity on behalf of other parties in a proceeding in which he previously took an active part as a representative of the *State* Board or Department.

2. No former employee of the Department may at any time after severing his employment with the Department, appear, except with the written permission of the *State* Board, as an expert

witness on behalf of other parties in a proceeding in which he previously took an active part in the investigation or preparation as a representative of the Department.

Sec. 21. NAC 361.702 is hereby amended to read as follows:

361.702 1. The *State* Board will give reasonable notice of any hearing held before it to ~~the petitioner and respondent~~ *each party or the authorized agent of a party* at the address of each of those persons as those addresses appear in the records of the Department.

2. The *State* 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 *State* Board; and

(b) Make any presentation prescribed by the *State* Board.

Sec. 22. NAC 361.706 is hereby amended to read as follows:

361.706 1. The *State* Board may, ~~before or during a hearing,~~ upon good cause shown, grant ~~continuances,~~ *a continuance:*

(a) *To defer a hearing to another day or time; or*

(b) *To extend the time for a pleading, motion or other document to be filed or served.*

2. *Unless otherwise provided by the State Board, the Secretary may perform any function of the State Board set forth in this section.*

Sec. 23. NAC 361.708 is hereby amended to read as follows:

361.708 1. *A party may appear in person or by his authorized agent.*

2. *If the property the valuation of which is the subject of a hearing is owned by more than one person, the appearance of any owner or the person who filed the petition shall be deemed the appearance of the party.*

3. *If a party is a business entity, it may appear by any officer or employee or by an authorized agent.*

4. At the time and place set for the hearing, if a party fails to appear, the *State* 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 *State* Board to enable the party to attend.

Sec. 24. NAC 361.712 is hereby amended to read as follows:

361.712 1. Subject to the restrictions imposed by NRS 360.240, *the Secretary may, on his own initiative or at the request of a party, issue* 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 *State* Board ~~{may be issued by the Secretary.}~~ *or compelling the production of books, papers or other documents.*

2. A petitioner or respondent desiring ~~{to subpoena a witness}~~ *a subpoena* must submit an application in writing to the Secretary stating the reasons why the subpoena is requested.

~~{3.—A}~~ *If the application is for a* subpoena for the production of books, ~~{waybills, papers, accounts}~~ *papers* or other documents, ~~{unless directed by the Secretary, will be issued only after the submission of an application in writing which specifies}~~ *the application must identify*, as clearly as may be, the books, ~~{waybills, papers, accounts}~~ *papers* or other documents desired.

3. *The application must be filed with the Secretary and served on all parties at least 20 days before the date established for the hearing.*

4. The Secretary, ~~[upon receipt of]~~ *not later than 5 days after he receives* an application for a subpoena, shall : ~~[within 3 days:]~~

(a) Grant the application and issue the subpoena; ~~[or]~~

(b) *Modify the application and issue the subpoena; or*

(c) Deny the application.

5. ~~[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.]~~ *The person to whom the subpoena is directed may request in writing that the Secretary modify or quash the subpoena. The Secretary shall grant this request if he determines that the subpoena is unreasonable or oppressive.*

6. *If the Secretary issues a subpoena at the request of a party, the party must arrange for service of the subpoena and bear the expense of such service.*

7. *If the Secretary denies the request of a party for a subpoena, the party may appeal the denial to the State Board.*

Sec. 25. NAC 361.714 is hereby amended to read as follows:

361.714 1. Oral evidence will be taken only upon oath or affirmation administered by:

(a) The Secretary;

(b) A member of the *State* Board; or

(c) A member of the staff ~~[of the Board]~~ who has been designated for that purpose by the *State* Board.

2. Before testifying, each person must swear or affirm that the testimony he is about to give will be the truth, the whole truth and nothing but the truth.

Sec. 26. NAC 361.720 is hereby amended to read as follows:

361.720 The *State* Board may take official notice of the following matters:

1. Rules, regulations, official reports, decisions and orders of the Commission, the *State* Board or any agency of the State.
2. Matters of common knowledge and technical or scientific facts of established character.
3. Official documents, if pertinent, when properly introduced into the record of formal proceedings by reference if proper and definite reference to the document is made by the party offering it and it is published and generally circulated so that all of the parties of interest at the hearing have an opportunity to examine it and present rebuttal evidence.
4. Matters which may be judicially noticed by the courts of the State.

Sec. 27. NAC 361.724 is hereby amended to read as follows:

361.724 *1. A document that is required to be served on another party may be served on the party or authorized agent of the party.*

2. A document that is required to be served on a party may be served in person or by regular mail.

3. If service is made by mail, the document must be deposited in the post office, properly addressed to the person being served, with postage prepaid, not later than the date set forth in the applicable regulation or order of the State Board.

4. 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

Sec. 28. NAC 361.726 is hereby amended to read as follows:

361.726 The *State* Board will order any additional information it deems necessary to determine the correct taxable value of any property under consideration and, if necessary, order the Department’s appraisers to view or appraise the property and to prepare for the *State* Board an estimate of its value or other relevant testimony and evidence.

Sec. 29. NAC 361.729 is hereby amended to read as follows:

- 361.729 1. Any person may testify before the *State* Board on behalf of a party.
- 2. If a person testifying before the *State* Board represents to the *State* Board that he is an appraiser of real estate but has not obtained a certificate, license or permit required by chapter 645C of NRS, the *State* Board will, unless the circumstances of the case otherwise require, give his testimony the same weight given to the testimony of a person who is not an appraiser.
- 3. If a person specified in subsection 2 receives or expects to receive any form of compensation for an analysis, opinion or conclusion concerning the nature, quality, value or use

of property the value of which is before the *State* Board, the *State* Board will inform the person that:

(a) It is unlawful to act or assume to act as an appraiser of real estate in this State without first obtaining the appropriate certificate, license or permit pursuant to chapter 645C of NRS; and

(b) The *State* Board may notify the Real Estate Division of the Department of Business and Industry of his conduct.

4. Upon informing a person pursuant to subsection 3, the *State* Board may notify the Real Estate Division of the Department of Business and Industry of the conduct specified in that subsection.

Sec. 30. NAC 361.731 is hereby amended to read as follows:

361.731 If a party wishes to obtain a transcript of any hearing conducted before the *State* Board, the party must:

1. Provide a reporter, if a reporter is not provided by the *State* Board for the hearing;
2. Pay for the transcript or obtain a copy from the reporter provided by the *State* Board at the party's expense; and
3. Provide a copy of the transcript to the Secretary, if requested.

Sec. 31. NAC 361.733 is hereby amended to read as follows:

361.733 During any hearing [~~other than a hearing concerning an appeal from a decision of a county board of equalization,~~] *of a direct appeal*, the petitioner, respondent and staff, *through the presiding member of the State 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]~~ *Direct any question to an* opposing witnesses ~~[on any matter]~~ *that the State Board determines is* relevant to the issues of the case. ~~[, regardless of whether that matter was covered in the direct examination.]~~

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.

Sec. 32. NAC 361.735 is hereby amended to read as follows:

361.735 In any hearing ~~[other than a hearing concerning an appeal from a decision of a county board of equalization:]~~ *of a direct appeal:*

1. The petitioner has the burden of proof.

2. Evidence will ordinarily be received from the parties in the following order:

(a) A brief orientation by the county assessor or his staff;

(b) The petitioner;

(c) The respondent;

(d) Interveners;

(e) Rebuttal by the petitioner; and

(f) Rebuttal by the respondent.

3. The Secretary or a person he has designated shall mark, record and file all exhibits submitted at the hearing.

Sec. 33. NAC 361.737 is hereby amended to read as follows:

361.737 In any hearing ~~[other than a hearing concerning an appeal from a decision of a county board of equalization:]~~ *of a direct appeal:*

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 ~~[, or any party to the hearing, may cause]~~ *may:*

(a) *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.

(b) *Upon the motion of a party or the person from whom the deposition is sought, and upon a showing of good cause, prohibit, restrict or modify the scope of the deposition.*

↳ Unless the State Board otherwise directs, all depositions conducted pursuant to this section must be completed not later than 10 days before the date established for the hearing. A party may file a motion with the State Board asking that depositions be completed earlier or later. The State Board will grant such a motion on a showing of good cause.

7. *A party that objects to the admission or exclusion of any piece of evidence must, at the time he makes his objection, briefly state the grounds on which he objects.*

8. *If the State Board sustains an objection to the admission of certain evidence, the party offering the evidence may make an offer of proof for the record. An offer of proof must consist of a statement of the substance of the evidence to which objection has been sustained. An offer of proof must be included in the record.*

9. *The failure of a party to enter a timely objection to the admission or exclusion of a piece of evidence constitutes a waiver of his right to object.*

10. *Not later than 10 days before the date established for the hearing, a party shall provide all other parties with:*

(a) *The names of each witness that the party expects to call to offer testimony at the hearing.*

(b) *A copy of each exhibit, paper or other documentary evidence that the party expects to introduce at the hearing.*

Sec. 34. NAC 361.739 is hereby amended to read as follows:

361.739 1. ~~{A party may}~~ *In a hearing of an* appeal *of* a decision of a county board ~~{of equalization by submitting a written petition to the Board not later than March 10.~~

~~—2.— Except as otherwise provided in subsection 3, the appeal must be based upon the same facts and evidence submitted to the county board of equalization.~~

~~—3.— If~~, *a party that wishes to introduce evidence that was not submitted to the county board in the first instance must:*

(a) *Satisfy the State Board that the* new evidence ~~[is discovered which]~~ could not, by due diligence, have been discovered *or secured* before the final adjournment of the county board ~~[of equalization, the Board will consider the new evidence. The evidence must be submitted]~~ ; *and*

(b) *Submit the evidence* in writing to the *State* Board and all parties of record not less than 7 *business* days before the hearing on the matter.

2. For the purposes of this section:

(a) *A new summary or extract prepared from evidence that was submitted to a county board in the first instance is not new evidence.*

(b) *The State Board interprets “days” as used in NRS 361.360 to mean calendar days.*

Sec. 35. NAC 361.741 is hereby amended to read as follows:

361.741 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. *If the State Board allows a party, pursuant to NRS 361.360 and 361.400 and NAC 361.739, to present new evidence, the State Board will extend the length of the party’s presentation by the time required to present the evidence and, in the case of new testimony, for the State Board to question the witness.*

Sec. 36. NAC 361.745 is hereby amended to read as follows:

361.745 ~~{An appeal from a decision of the Commission that is before}~~

1. *Except as otherwise provided in this section, in a direct appeal, the State Board will ~~be limited~~ limit its consideration to the issues and contentions set forth in the petition for a hearing before the State Board.*

2. Issues, contentions and evidence beyond the scope of the petition may be considered by the State Board if:

~~{1.}~~ (a) New issues, contentions and evidence are discovered which could not by due diligence have been discovered and presented in the petition; and

~~{2.}~~ (b) The issues, contentions and evidence are *set forth in an addendum to the petition.*

3. *The addendum to the petition must be* submitted in writing to the State Board and each party not less than ~~{10}~~ 15 days before the hearing of the appeal.

~~{3.}~~ *The addendum must include:*

(a) *A statement reciting the facts, reasons and statutory basis relied upon to support each claim raised in the addendum;*

(b) *All evidence upon which the addendum to the petition is based and which supports the claims therein; and*

(c) *A statement of the relief sought.*

4. Each party is entitled to respond to any such issue, contention or evidence ~~{1.}~~:

(a) *In a brief, memorandum or other written document as set forth in section 9 of this regulation; and*

(b) *Orally, at the hearing.*

Sec. 37. NAC 361.747 is hereby amended to read as follows:

361.747 1. After the hearing of a contested case, ~~the Department~~ *and the receipt by the State Board of all posthearing briefs or the expiration of the time prescribed by the State Board for submitting such briefs, if any, the case shall stand submitted for decision.*

2. *In reaching its decision in a contested case, the State Board:*

(a) Will make an independent valuation of the property that is the subject of the appeal.

This valuation may be different from any valuation proposed by a party to the appeal.

(b) May sustain, reverse or modify, in whole or in part, any decision appealed to it.

(c) If the appeal is brought pursuant to subsection 1 of NRS 361.360, may determine the question of whether real or personal property is exempt from taxation pursuant to any provision of NRS 361.045 to 361.187, inclusive.

3. *The staff* shall prepare the *State* Board's final decision on the issues presented in the hearing pursuant to the direction and with the approval of the *State* Board. The draft of ~~the~~ *decision relating to centrally assessed property* *each decision* must be approved by the *chairman of the State* Board before being issued.

~~2.~~ 4. The *State* Board'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.

~~3.~~ *After a case stands submitted for decision, the State Board may request proposed findings of fact and conclusions of law from a party.*

5. The Department shall serve a copy of the *State* Board's decision upon each party of record, any representative of a party of record and each member of the *State* Board, in person or by certified mail, within ~~30~~ *60* days after the date of the decision.

6. Except as otherwise provided in this subsection, a clerical mistake in a decision, order or any other part of the record of the State Board may be corrected by the staff on its own initiative or on the motion of a party. If the record of the State Board is before a court pursuant to NRS 361.410 to 361.435, inclusive, a clerical mistake may be corrected only as directed by the court.

Sec. 38. NAC 361.749 is hereby amended to read as follows:

361.749 1. Any person may petition for an advisory opinion concerning matters within the jurisdiction of the Department or *State* Board.

2. All petitions must be in writing, be addressed to the Secretary and set forth at least the following:

- (a) A statement that an advisory opinion is requested;
- (b) A succinct statement of all the facts and circumstances necessary to dispose of the petition;
- (c) A clear, simple statement of the issue or question to be resolved;
- (d) A statement of all statutes, rules, agency decisions or other authorities which the petitioner believes may be relevant in disposing of the petition; and
- (e) A statement with supporting arguments and authorities of the petitioner's opinion of a proper disposition of the petition.

Sec. 39. NAC 361.751 is hereby amended to read as follows:

361.751 Since the *State* Board's jurisdiction is limited to the equalization of the assessed valuation of property, the Secretary may respond to any request for an advisory opinion as being directed to the ~~[Nevada Tax]~~ Commission.

Sec. 40. NAC 361.753 is hereby amended to read as follows:

361.753 1. Advisory opinions must:

(a) Be written;

(b) Include a statement of facts, question, analysis and opinion;

(c) Be issued by the Secretary within 45 days after filing of the petition unless the Secretary, in writing, orders an extension of time up to a maximum of 60 days after filing; and

(d) Be delivered to the petitioner in person or by certified mail.

2. Advisory opinions of the Secretary are appealable to the *State* Board in the same manner as any other valuation decision.

Sec. 41. NAC 361.683, 361.722 and 361.743 are hereby repealed.

TEXT OF REPEALED SECTIONS

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.

361.722 Briefs. (NRS 361.375)

1. In any hearing, the Board will order briefs to be filed, if necessary, within such time as it prescribes.

2. 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.

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.

**NOTICE OF ADOPTION OF PROPOSED REGULATION
LCB File No. R029-05**

The State Board of Equalization adopted regulations assigned LCB File No. R029-05 which pertain to chapter 361 of the Nevada Administrative Code on June 23, 2006.

Notice Date: 5/23/2006
Hearing Date: 6/23/2006

Date of Adoption by Agency: 6/23/2006
Filing Date: 6/28/2006

INFORMATIONAL STATEMENT

The following statement is submitted for amendments, additions and deletions, to Nevada Administrative Code (NAC) Chapter 361 adopted by the Nevada State Board of Equalization under the authority of NRS 361.375(9).

- 1. A description of how public comment was solicited, a summary of public response, and an explanation how other interested persons may obtain a copy of the summary.**

The Department of Taxation, as staff to the Nevada State Board of Equalization, solicited comment from the public by sending notice of workshops and hearings by electronic or regular mail as follows:

<u>Date of Notice</u>	<u>Workshop/ Hearing</u>	<u>Date of Workshop</u>	<u>Number Notified</u>	<u>Representing Businesses</u>
May 23, 2006	Hearing	June 23, 2006	360	79
October 3, 2005	Workshop	October 21, 2005	360	79
July 19, 2005	Workshop	August 23, 2005	360	79
CBE proposals / not adopted				
October 3, 2005	Workshop	October 21, 2005	360	79
July 28, 2005	Workshop	August 9, 2005	409	80
July 28, 2005	Workshop	August 3, 2005	409	80
Temporary regulations				
October 30, 2003	Workshop	November 17, 2003	444	233
February 4, 2004	Workshop	February 26, 2004	444	233
April 12, 2004	Workshop	April 12, 2004	444	233
October 22, 2004	Workshop	November 9, 2004	444	233
November 10, 2004	Hearing	December 15, 2004	444	233

The mailing list included the interested parties list maintained by the Department, as well as officials of local jurisdictions, including County Clerks and County Assessors.

Many oral and written comments were received at the workshops. A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2180 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at npaulson@tax.state.nv.us.

The Legislative Counsel Bureau completed its review and revisions of the temporary regulations on August 1, 2005. The State Board further amended the regulation at the hearing on June 23, 2006.

2. The number persons who:

(a) Attended and testified at each workshop:

<u>Date of Workshop</u>	<u>Attended</u>	<u>Testified</u>
October 21, 2005	18	16
August 23, 2005	15	10
CBE Regulations		
October 21, 2005	13	11
August 9, 2005	14	9
August 3, 2005	16	9
Temporary Regulations		
November 17, 2003	16	14
February 26, 2004	13	8
April 12, 2004	10	9
November 9, 2004	13	13

(b) Attended and testified at each hearing:

<u>Date of Hearing</u>	<u>Board/ Public Attended</u>	<u>Public Testified</u>
June 23, 2006	19	6

(c) Submitted to the agency written comments:

<u>Date of Workshop / Hearing</u>	<u>Number Received</u>
See attached index	See attached index.

3. A description of how comment was solicited from affected businesses, a summary of their response, and an explanation how other interested persons may obtain a copy of the summary.

Comments were solicited from affected and interested businesses and persons, by notices posted at the Nevada State Library; various Department of Taxation locations throughout the state; and at the Main Public Libraries in counties where an office of the Department of Taxation is not located. Comments were also solicited by direct mail to assessors and the interested parties list maintained by the Department.

Members of the Nevada State Board of Equalization, officials of the Nevada Department of Taxation, the County Assessors' Association, the Nevada Taxpayers Association, the Nevada Mining Association, the Incline Village Tax Revolt, practicing attorneys, and members of the general public commented on some or all of the proposed language changes during the workshop process and during the Adoption Hearing.

A copy of the audio taped comments or the record of proceedings may be obtained by calling the Nevada Department of Taxation at (775) 684-2180 or by writing to the Department of Taxation, 1550 East College Parkway, Carson City, Nevada 89706, or by e-mailing the Department at npaulson@tax.state.nv.us.

4. If the regulation was adopted without changing any part of the proposed regulation, a summary of the reasons for adopting the regulation without change.

The permanent regulation was adopted with changes reflecting the verbal and written comments submitted to, or received by, the Department of Taxation primarily from attorneys representing private industry, county assessors, Incline Village Tax Revolt, and State Board of Equalization members during the workshops and hearings listed above. The State Board of Equalization adopted the permanent regulation as revised in workshops and at the adoption hearing; and believed no changes other than those made were necessary.

5. The estimated economic effect of the adopted regulation on the businesses which it is to regulate and on the public. These must be stated separately, and each case must include:

- (a) Both adverse and beneficial effects; and**
- (b) Both immediate and long-term effects.**

The State Board of Equalization has found that the regulation does not impose a direct and significant burden upon businesses and the public in Nevada. The permanent regulation identifies the rules of practice and procedure before the State Board of Equalization. These procedures include how appeals may be commenced with the State Board; procedures for filing motions and petitions for reconsideration with the State Board; appeals of State Board decisions to a court of law; and various other amendments to existing administrative code regulations from NAC 361.683 through NAC 361.747. The proposed regulations present no reasonably foreseeable or anticipated immediate or long-term negative economic effects to businesses or to the general public. The immediate and long-term effects of the regulation are to promote better understanding of

the appeal process by the public and to promote the use of standardized appeal procedures.

6. The estimated cost to the agency for enforcement of the adopted regulation.

The Department anticipates little, if any, additional cost to administer the regulations.

7. A description of any regulations of other state or government agencies which the proposed regulation overlaps or duplicates and a statement explaining why the duplication or overlapping is necessary. If the regulation overlaps or duplicates a federal regulation, the name of the regulating federal agency.

There are no other state or government agency regulations that the proposed amendments duplicate.

8. If the regulation includes provisions that are more stringent than a federal regulation which regulates the same activity, a summary of such provisions.

The State Board of Equalization is not aware of any provision in this regulation which is also governed by federal regulation.

9. If the regulation provides a new fee or increases an existing fee, the total annual amount the agency expects to collect and the manner in which the money will be used.

The State Board of Equalization is not aware of any provision in this regulation that provides for a new fee, or increases an existing fee.