



**ANTONIO VAZQUEZ**  
CHAIRMAN  
CALIFORNIA STATE BOARD OF EQUALIZATION

**Date:** October 9, 2020

**To:** Mike Schaefer, Board Vice Chair  
Ted Gaines, Board Member  
Malia M. Cohen, Board Member  
Betty T. Yee, State Controller

**From:** Antonio Vazquez, Board Chairman

**Re:** **Summary of Consensus Items from the September 23 COVID-19 County Boards of Equalization / Assessment Appeals Boards Workgroup Meeting**

As the result of the testimony, professional input, and robust discussion by the panel of experts on the COVID-19 County Boards of Equalization / Assessment Appeals Boards Workgroup on September 23, 2020, we are pleased to submit for your consideration, discussion and approval, the following items reflecting a consensus for specific guidance in a Letter to Assessors on remote hearings.

After discussion and any modifications the Board may find appropriate, Member Cohen and her staff and I encourage you to approve these items for inclusion in a Letter to Assessors issued by the Board's Executive Director at the earliest possible date. Sub-issues where there was no consensus will be taken up for further discussion and work at our October Board meeting; and these Sub-issues are listed herein without an identified consensus.

**Consensus Items by Issue**

**Issue a. Clarification on the Rights of the Hearing Participants**

**1) Right to the type of hearing (physical in-person or remote) for both procedural and evidentiary matters**

County boards of equalization and assessment appeals boards have the administrative authority and option to provide either in-person hearings or remote hearings, or both. Participants may reject a remote hearing and receive a continuance until an in-person hearing is available, or may reject an in-person hearing and receive a continuance. To ensure that appellants may exercise this right, BOE should take the necessary action to clarify that public health impacts resulting from the COVID-19 pandemic constitute "reasonable cause" under Property Tax Rule 323 for an AAB to grant such continuances. Where necessary, continuances beyond the two-year statute of limitations should require a waiver by the appellant.

**2) Short term right for emergencies or long-term option**

Although no consensus was reached on this issue, the Board’s guidance herein focuses on the short-term use of remote hearings with additional guidance to be provided in the future. The BOE Legal Department declared that county boards and assessment appeals boards have broad authority to implement and carry out remote hearings, and there is no statute or rule prohibiting it. AB 107, effective 9/29/20, recently memorialized and clarified this conclusion:

[http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=201920200AB107](http://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB107)

**3) Equal access in remote hearings; ensuring all parties and AAB members can view/hear each other during hearings**

Consistent with Property Tax Rule 302(a), equal access must be provided to all participants in remote hearings.

\*Please note: Subsequent discussions during the Workgroup meeting appeared to conflict with this consensus item. The Board may want to gain further clarification from the Workgroup participants.

**4) In-person hearing safety standards, continuances, other options if a remote hearing is not possible or refused**

All state and local public health safety standards should apply to both in-person and remote hearings.

**Issue c. Technology Options**

**1) Visual or auditory interruptions (freezing or dropped links) during hearings; remedies to ensure all parties have access / alternative options**

County board and AAB clerks should monitor and inform participants of any interruptions; the AAB chair should call a recess until the problem is resolved. If it cannot be resolved, the parties may stipulate to continuing the hearing or agree to continuing the hearing to the next available date.

**2) Reliable platforms for remote hearings (Zoom, WebEx, etc.); addressing bandwidth; other solutions to consider**

County boards and assessment appeals boards may select the best platform based on their needs, priorities, security, and ease for the user.

**3) Notice requirements to parties – access instructions, coaching/training videos and accommodations for special needs**

County board and AAB Clerks must provide notices to all parties informing them of remote hearing *access* instructions, coaching/training videos, staff availability and accommodations for special needs.

#### **Issue d. BOE Role**

**1) Possible modifications needed to Property Tax Rules 301 through 326 to facilitate remote hearings**

No immediate new Property Tax Rules or *rule* amendments are necessary in order to facilitate remote hearings. Guidance can be provided to counties *in the short term* through Letters to Assessors.

**2) Details on guidance needed to ensure uniformity on resolved remote hearing issues via Letters to Assessors and Assessment Appeals Manual**

The intent of BOE guidance to counties should be to ensure uniformity in addressing basic hearing issues reflected in the Property Tax Rules and statutes *and* should *simultaneously* allow flexibility for the adoption of local rules on notice requirements and other matters to allow for differences.

**3) Provide training for AAB members and staff, Assessors and staff, taxpayers, and other participants including but not limited to the use of technology and equipment required for remote hearings**

Training for AAB staff, AAB members and all participants *is essential and* should occur on a regular basis and be instituted as a core part of a county's remote hearing program.

**4) Clearing house function, ensuring information and communications among all counties, assessors, taxpayers is received and shared**

The BOE has an important clearing house role in facilitating communication *and training* regarding remote hearing procedures, practices, questions and protections among the counties and providing transparency for all participants.

**5) Publish *Letters to Assessors to County Board / AAB Clerks, County Counsels, Interested Parties* providing guidance on resolved issues and remaining concerns**

BOE should provide guidance to counties through Letters to Assessors and additions to the *Assessment Appeals Manual* with regard to remote hearing issues *and training* as they are addressed, and should regularly inform counties of remaining items to be addressed as well as any new legislation or rule-making efforts that may occur in the future.

#### **No consensus was reached on the following**

#### **Issue b. Appropriate Methods for Dealing with Document Submission**

**1) Requirements and protocols for entering all evidence electronically at or before a hearing**

**2) Timing for electronic submissions – day-of-the-hearing submissions; protocols on presenting documents for witness impeachment**

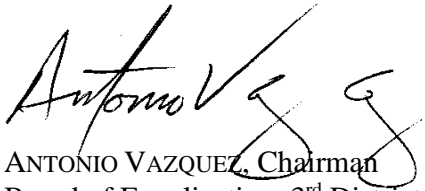
- 3) **Required platform for document submission and required format for documents (Word, Pdf, Excel, etc.)**
- 4) **Ensuring parties and AAB members can view all documents during hearings; necessity for simultaneous viewing**

**Issue c. Technology Options**

- 4) **Investment in remote hearing capability – efficiencies realized long term.**

**New Sub-Issues to Address**

- 1) **Develop efficiencies around scheduling and scheduling mechanisms**
- 2) **Establish a meet and confer process**
- 3) **Offer pre-hearing conferences**



ANTONIO VAZQUEZ, Chairman  
Board of Equalization, 3<sup>rd</sup> District

cc: Ms. Kari Hammond, Chief Deputy, Office of Chairman Antonio Vazquez  
Mr. Gary Gartner, Chief Deputy, Office of Vice Chair Mike Schaefer  
Mr. Matt Cox, Chief Deputy, Office of Member Ted Gaines  
Ms. Regina Evans, Chief Deputy, Office of Member Malia M. Cohen  
Ms. Yvette Stowers, Deputy State Controller  
Ms. Brenda Fleming, Executive Director  
Mr. Henry Nanjo, Chief Counsel