

From: Rebecca Archer
To: Meeting Info
Subject: [External] Re Agenda Item 11-18-20 AA. COVID-19 County Boards of Equalization / Assessment Appeals Boards
Date: Tuesday, November 17, 2020 4:31:47 PM

Dear Members of the Board,

I am writing to express concern that a proposed rule for remote hearings may create confusion in the law. Specifically, "Sub-issue 2. Timing for electronic submissions – day-of-the-hearing submissions; protocols on presenting documents for witness impeachment" refers to Rule 313 and states, in part, as follows: "At the hearing, either party may introduce new evidence relating to information received from the other party; but the other party, upon request, shall be granted a continuance for a reasonable time." However, this is not part of Rule 313. The concept advanced, that a party has a right to a continuance where they have not previously been accorded access to information, is contained only in formal information exchange statutes. Revenue & Taxation code section 1606 and Rule 305.1 provide the rules for an exchange of information that would invoke this type of continuance in certain circumstances. Such dispensation, however, would not be allowed in a regular hearing where no such exchange occurred. In fact, it appears the language is taken in large part from Section 1606(d) and the last sentence of Rule 305.1(c). Therefore, I do not believe it is proper to add this language to rules for remote hearings as it alters the legal landscape normally present in hearings. This proposed rule should be revised either to say that the continuance is only available where a formal exchange of information was invoked under section 1606 and Rule 305.1, or taken out altogether.

Thank you for your consideration.

Rebecca M. Archer
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