

**Chapter 456-09 WAC**  
**FORMAL HEARINGS—PRACTICE AND PROCEDURE**

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**WAC**

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5/2/89.] Repealed by WSR 22-05-051, filed 2/9/22, effective 3/12/22. Statutory Authority: RCW 82.03.170.

456-09-150 Meetings of the board. [Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-150, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-150, filed 5/2/89.] Repealed by WSR 05-19-091, filed 9/20/05, effective 10/21/05. Statutory Authority: RCW 82.03.170.

456-09-160 Form and size of documents. [Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-160, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-170 Docket number. [Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-170, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-215 Notice of appearance by representatives. [Statutory Authority: RCW 82.03.170. WSR 05-13-141, § 456-09-215, filed 6/21/05, effective 8/1/05.] Repealed by WSR 22-05-051, filed 2/9/22, effective 3/12/22. Statutory Authority: RCW 82.03.170.

456-09-320 Notice of appeal—Filing and service. [Statutory Authority: RCW 82.03.170. WSR 98-22-039, § 456-09-320, filed 10/29/98, effective 11/29/98; WSR 95-05-033 (Order 95-01), § 456-09-320, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 82.03.140 and 82.03.160. WSR 90-11-104, § 456-09-320, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-320, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-330 Amendments to notice of appeal. [Statutory Authority: RCW 82.03.170. WSR 05-13-141, § 456-09-330, filed 6/21/05, effective 8/1/05; WSR 95-05-033 (Order 95-01), § 456-09-330, filed 2/8/95, effective 3/11/95; WSR 89-10-056 (Order 89-02), § 456-09-330, filed 5/2/89.] Repealed by WSR 22-05-051, filed 2/9/22, effective 3/12/22. Statutory Authority: RCW 82.03.170.

456-09-350 Notice of appeal—Response. [Statutory Authority: RCW 82.03.170. WSR 95-05-033 (Order 95-01), § 456-09-350, filed 2/8/95, effective 3/11/95; WSR 89-10-056 (Order 89-02), § 456-09-350, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-355 Parties in exemption appeals. [Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-355, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-360 Intervention. [Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-360, filed 5/2/89.] Repealed by WSR 05-19-091, filed 9/20/05, effective 10/21/05. Statutory Authority: RCW 82.03.170.

456-09-365 Conversion of hearing. [Statutory Authority: RCW 82.03.170. WSR 98-22-039, § 456-09-365, filed 10/29/98, effective 11/29/98; WSR 95-05-033 (Order 95-01), § 456-09-365, filed 2/8/95, effective 3/11/95; WSR 94-07-044, § 456-09-365, filed 3/10/94, effective 4/10/94; WSR 91-07-038 (Order 91-01), § 456-09-365, filed 3/15/91, effective 4/15/91; WSR 89-10-056 (Order 89-02), § 456-09-365, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-410 Service of papers. [Statutory Authority: RCW 82.03.170. WSR 98-22-039, § 456-09-410, filed 10/29/98, effective 11/29/98; WSR 89-10-056 (Order 89-02), § 456-09-410, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-420 Method of service. [Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-420, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-430 Service of papers—When complete. [Statutory Authority: RCW 82.03.170. WSR 98-22-039, § 456-09-430, filed 10/29/98, effective 11/29/98. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-430, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-430, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-440 Proof of service—Certificate. [Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-440, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-440, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-610 Conferences—Two types. [Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-610, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-615 Settlement conference—Purpose. [Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-615, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-620 Settlement conference—When held. [Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-620, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-625 Settlement conference—Agreements. [Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-625, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-630 Prehearing conference—Purpose. [Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-630, filed 5/2/89.] Repealed by WSR 05-19-091, filed 9/20/05, effective 10/21/05. Statutory Authority: RCW 82.03.170.

456-09-635 Prehearing conference—When held. [Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-635, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-640 Prehearing conference—Documentary evidence. [Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-640, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-645 Prehearing conference—Excerpts from documentary evidence. [Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-645, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-650 Prehearing conference—Failure to supply prehearing information. [Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-650, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-655 Prehearing conference—Agreements. [Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-655, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-655, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-705 Advance submission of evidence—Delivery to adverse party. [Statutory Authority: RCW 82.03.170. WSR 95-05-033 (Order 95-01), § 456-09-705, filed 2/8/95, effective 3/11/95; WSR 89-10-056 (Order 89-02), § 456-09-705, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-710 Hearing—Setting of time and place. [Statutory Authority: RCW 82.03.170. WSR 95-05-033 (Order 95-01), § 456-09-710, filed 2/8/95, effective 3/11/95; WSR 89-10-056 (Order 89-02), § 456-09-710, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-715 Continuance—Extensions of time. [Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-715, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-720 Teleconference proceeding. [Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-720, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-725 Briefs. [Statutory Authority: RCW 82.03.170. WSR 95-05-033 (Order 95-01), § 456-09-725, filed 2/8/95, effective 3/11/95; WSR 89-10-056 (Order 89-02), § 456-09-725, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-730 Hearing—Notice of hearing—Time—Contents. [Statutory Authority: RCW 82.03.170. WSR 95-05-033 (Order 95-01), § 456-09-730, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-730, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-730, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-732 Hearing—Notice to limited-English speaking parties. [Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-732, filed 5/22/90, effective 6/22/90.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-735 Hearing—Standard and scope of review. [Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-735, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-760 Rules of evidence—Admissibility criteria. [Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-760, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-760, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-762 Hearings—Interpreters. [Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-762, filed 5/22/90, effective 6/22/90.] Repealed by WSR 22-05-051, filed 2/9/22, effective 3/12/22. Statutory Authority: RCW 82.03.170.

456-09-770 Official notice—Material facts. [Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-770, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-775 Motions—Application—Requirements. [Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-775, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-935 Petition for review and replies. [Statutory Authority: RCW 82.03.170. WSR 95-05-033 (Order 95-01), § 456-09-935, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-935, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-935, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-940 Finality of initial decision. [Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-940, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-940, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-945 Final decision following initial decision—Record. [Statutory Authority: RCW 82.03.170. WSR 95-05-033 (Order 95-01), § 456-09-945, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-945, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-945, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-950 Final decision—Precedential decisions. [Statutory Authority: RCW 82.03.170. WSR 02-14-034, § 456-09-950, filed 6/25/02, effective 7/26/02; WSR 89-10-056 (Order 89-02), § 456-09-950, filed 5/2/89.] Repealed by WSR 05-13-141, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170.

456-09-970 Applicability of SEPA guidelines. [Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-970, filed 5/2/89.] Repealed by WSR 22-05-051, filed 2/9/22, effective 3/12/22. Statutory Authority: RCW 82.03.170.

## INTRODUCTION

**WAC 456-09-001 Purpose and application of chapter.** (1) This chapter explains the practice and procedure of formal hearings conducted before the board of tax appeals (board) in accordance with the Administrative Procedure Act, chapter 34.05 RCW. This chapter adds to but does not replace the provisions in chapter 82.03 RCW.

(2) The rules of practice and procedure contained in this chapter will be construed to secure the just, speedy, and efficient determination of every appeal.

(3) To the extent these rules differ from the model rules adopted by the chief administrative law judge pursuant to RCW 34.05.250 and chapter 10-08 WAC, these rules will prevail.

(4) Where procedures are not addressed by this chapter or chapter 10-08 WAC, the board may, upon its own motion or upon written motion by any party, refer to and apply any rule provided for in the Washington state superior court civil rules, including the rules of evidence.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-001, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-001, filed 6/21/05, effective 8/1/05.]

## HEARING OPTIONS

**WAC 456-09-010 Formal and informal hearings.** (1) A party making an appeal may choose either a formal or informal hearing in its written notice of appeal. Formal hearings are conducted pursuant to the Administrative Procedure Act, chapter 34.05 RCW, and the rules of practice and procedure of this chapter. Informal hearings are conducted pursuant to chapter 456-10 WAC. Failure to choose a formal hearing will result in the proceeding being conducted as informal.

(2) A formal decision of the board is subject to judicial review pursuant to RCW 34.05.570. Judicial review is limited to the record made of the proceedings before the board. The record includes a verbatim account of the hearings together with the evidence, pleadings, and documents submitted by the parties. In appeals from a decision of a board of equalization, the record includes the decision of that board together with the evidence submitted to it pursuant to WAC 458-14-170.

(3) An appeal may be converted from a formal to an informal proceeding at any time up to 30 calendar days before the date of the hearing as long as the parties submit a notice signed by all parties of the intent to convert the proceedings. Informal proceedings are explained in WAC 456-10.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-010, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-010, filed

6/21/05, effective 8/1/05; WSR 94-07-044, § 456-09-010, filed 3/10/94, effective 4/10/94; WSR 89-10-056 (Order 89-02), § 456-09-010, filed 5/2/89.]

## ADMINISTRATION

**WAC 456-09-110 Definitions.** (1) In this chapter, the subsequent terms have the following meanings:

(a) "Appellant" means a person or entity who appeals any order or decision.

(b) "Board" means the board of tax appeals as described in chapter 82.03 RCW, and chapters 456-09 and 456-10 WAC. Where appropriate, the term "board" also refers to the designated hearing officers, tax referees, or agents of the board of tax appeals.

(c) "Decision" means a written judgment or ruling issued by the board, designated hearing officers, tax referees, or agents of the board of tax appeals.

(d) "File" means to present or deliver. Filings with the board may be delivered personally, by mail, by commercial delivery service, by fax, or by electronic transmission as provided in these rules. The terms "to file" and "to submit" are used interchangeably.

(e) "Order" means a written direction given by the board instructing that some act be done or that some act is prohibited. Orders are not appealable unless otherwise provided by law.

(f) "Party" means any person or entity who is an appellant, respondent, or intervenor.

(g) "Presiding officer" or "hearing officer" means any member of the board, tax referee, or any person who is assigned to conduct a conference or hearing by the board. The presiding officer has the authority outlined in WAC 10-08-200 and chapter 34.05 RCW.

(h) "Respondent" means a person or entity who is listed as a responding party in any appeal.

(i) "Submit" means to present or to deliver to the board. Submissions may be delivered personally, by mail, by commercial delivery service, by fax or by electronic transmission as provided in these rules. The terms "to submit" and "to file" are used interchangeably.

(j) "Transmit" means to deliver electronically.

(2) If a term has not been defined in this section, the board will interpret the term as having its ordinary meaning.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-110, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-110, filed 6/21/05, effective 8/1/05; WSR 95-05-033 (Order 95-01), § 456-09-110, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-110, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-110, filed 5/2/89.]

## PRACTICE BEFORE THE BOARD

**WAC 456-09-210 Appearance and practice before the board.** Practice before the board in formal proceedings is limited to the following:

- (1) Taxpayers who are natural persons representing themselves;
  - (2) Attorneys at law duly qualified and entitled to practice in the highest court of any state;
  - (3) An authorized officer, partner, or full-time employee of an individual firm, association, partnership, or corporation who appears with the permission of such firm, association, partnership, or corporation;
  - (4) County assessors or their duly authorized representatives;
  - (5) Certified public accountants currently licensed in any state;
- and
- (6) Other persons permitted by law.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-210, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-210, filed 6/21/05, effective 8/1/05; WSR 91-07-038 (Order 91-01), § 456-09-210, filed 3/15/91, effective 4/15/91. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-210, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-210, filed 5/2/89.]

**WAC 456-09-220 Rules of professional conduct.** (1) All persons appearing in proceedings before the board are required to follow the rules of professional conduct (RPC) required of attorneys before the courts of Washington. If any such person does not follow these standards, the hearing officer may, in his/her discretion and depending on the circumstances, admonish or reprimand such person, exclude such person from further participation in the proceedings, adjourn the hearing, or report the matter to the board. Outside of the proceedings, all persons are required to treat all parties, representatives, and the board's staff courteously and fairly both inside and outside of the proceedings.

(2) The board in its discretion, either upon referral by a hearings officer or on its own motion, after information comes to light that establishes to the board a question regarding a person's ethical conduct and fitness to practice before the board, and after notice and hearing, may take appropriate disciplinary action including, but not limited to, refusal to permit such person to appear or appear in a representative capacity in any proceeding before the board.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-220, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-220, filed 6/21/05, effective 8/1/05; WSR 89-10-056 (Order 89-02), § 456-09-220, filed 5/2/89.]

**WAC 456-09-230 Ex parte communication.** Neither the board nor any person may make or attempt to make any ex parte communications with a member of the board, presiding officer, or tax referee which is prohibited by the Administrative Procedure Act. Attempts by anyone to make such prohibited ex parte communications will be subject to the sanctions in WAC 456-09-220 and 456-09-750.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-230, filed 2/9/22, effective 3/12/22; WSR 95-05-033 (Order 95-01), § 456-09-230, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, §

456-09-230, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-230, filed 5/2/89.]

## APPEAL PROCEDURE

**WAC 456-09-300 Initiating an appeal.** (1) Those who wish to initiate an appeal must file an original notice of appeal and a copy of the order or determination that is being appealed.

(2) The board will acknowledge receipt of a notice of appeal in writing to all parties in excise tax appeals within 30 days of receipt. The board may acknowledge receipt of a notice of appeal in all other cases.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-300, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-300, filed 6/21/05, effective 8/1/05.]

**WAC 456-09-310 Contents of notice of appeal.** (1) An appellant must submit a notice of appeal that substantially contains the following:

(a) The appellant's name, mailing address, telephone number, email address, and that of the representative, if any.

(b) The name of the respondent together with the respondent's mailing and email address, and phone number, if known. The board may add additional respondents in order to ensure that all necessary entities are a party to the appeal.

(c) A copy of the order, decision, or determination appealed from.

(d) The type of tax.

(i) In excise tax cases, the amount of the tax in controversy and the period at issue;

(ii) In property tax cases, the parcel number of the property, the assessment-year at issue, the value determined by the local board of equalization, and the appellant's contended value; and

(iii) In property tax exemption cases, the parcel number of the property, and the year(s) for which the exemption is at issue.

(e) A notice of intent that the hearing be formal and held pursuant to the Administrative Procedure Act.

(f) The relief sought.

(g) The signature or acknowledgment, electronic or otherwise, by the appellant or the appellant's representative that all the information contained in the notice of appeal is true and correct to the best of his or her knowledge, and that he or she will comply with the rules of conduct in this chapter.

(2) The board may, upon motion of a party or upon its own motion, require additional information or explanation of any matter stated in a notice of appeal.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-310, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-310, filed 6/21/05, effective 8/1/05; WSR 98-22-039, § 456-09-310, filed 10/29/98, effective 11/29/98. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-310, filed

5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-310, filed 5/2/89.]

**WAC 456-09-315 Deadlines for submitting a notice of appeal. (1)**

The jurisdiction of the board is limited to those appeals that comply with and are filed by the deadlines stated in this section or the statute governing the respective agency or proceeding involved.

(a) For appeals of a denial of petition or notice of determination for a reduction or refund taken pursuant to RCW 82.03.190, 30 days from the date the determination was mailed or transmitted.

(b) For appeals from a county board of equalization pursuant to RCW 84.08.130, 30 days from the date the decision was mailed or transmitted.

(c) For appeals by an assessor or landowner from an order of the director of revenue made pursuant to RCW 84.08.010 and 84.08.060, 30 days from the date the determination was mailed or transmitted.

(d) For appeals by an assessor or owner of an intercounty public utility or private car company from determinations by the director of revenue of equalized assessed valuation of property and its apportionment made pursuant to chapters 84.12 and 84.16 RCW, 30 days from the date the order was mailed or transmitted.

(e) For appeals by an assessor, landowner, or owner of an intercounty public utility or private car company from a determination of any county indicated ratio for such county compiled by the department of revenue pursuant to RCW 84.48.075, 15 days from the date the certification was mailed or transmitted.

(f) For appeals from the decisions of sale price of second class shorelands on navigable lakes by the department of natural resources pursuant to RCW 79.94.210, 30 days from the date the notification was mailed or transmitted.

(g) For appeals from urban redevelopment property tax apportionment district proposals established by governmental ordinances pursuant to RCW 39.88.060, 30 days from the date the ordinance was mailed or transmitted.

(h) For appeals from interest rates as determined by the department of revenue for use in valuing farmland under current use assessment pursuant to RCW 84.34.065, 30 days after the rate was published.

(i) For appeals from revisions to stumpage value tables used to determine value by the department of revenue pursuant to RCW 84.33.091, on or before the 60th day after the date of final adoption.

(j) For appeals from the denial of tax exemption application by the department of revenue pursuant to RCW 84.36.850, 30 days from the date the determination was mailed or transmitted.

(2) All time periods set forth in this section are expressed in calendar days unless otherwise noted. If the last date for submitting the notice of appeal falls upon a Saturday, Sunday or legal holiday as defined in RCW 1.16.050(1), the submission will be considered timely if submitted on the next business day by 5:00 p.m. Pacific Time.

(3) Any party may file a written motion to challenge the jurisdiction of the board. The board may, upon its own motion, raise a question about jurisdiction.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-315, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-315, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-315, filed



5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-315, filed 5/2/89.]

**WAC 456-09-325 Date and manner of submitting a notice of appeal.**

(1) A notice of appeal is considered submitted on the date of receipt by the board at its Olympia office if the notice of appeal is hand delivered. The board's date stamp will be evidence of the date of receipt. If the notice of appeal is mailed, the postmark will be evidence of the date of submission.

(2) A notice of appeal may be submitted by fax, electronic mail, or uploaded through the board's website. A submission will not be considered timely unless received by 5:00 p.m. Pacific Time on the date due. The date and time indicated by the board's fax or computer will be evidence of the date and time of receipt.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-325, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-325, filed 6/21/05, effective 8/1/05; WSR 98-22-039, § 456-09-325, filed 10/29/98, effective 11/29/98; WSR 95-05-033 (Order 95-01), § 456-09-325, filed 2/8/95, effective 3/11/95; WSR 94-07-044, § 456-09-325, filed 3/10/94, effective 4/10/94; WSR 91-07-038 (Order 91-01), § 456-09-325, filed 3/15/91, effective 4/15/91. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-325, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-325, filed 5/2/89.]

**WAC 456-09-335 Response to a notice of appeal.**

(1) The respondent must submit a response to the notice of appeal within 30 calendar days of the board acknowledging receipt of the notice of appeal, unless otherwise ordered, together with proof of service pursuant to WAC 456-09-345.

(2) The response must include:

(a) The respondent's name, mailing address, telephone number, email address, and that of the representative, if any;

(b) The type of tax.

(i) In property tax cases, the parcel number of the property, the assessment year at issue, and the respondent's contended value; and

(ii) In property tax exemption cases, the parcel number of the property, and the year(s) for which the exemption is at issue.

(c) A notice of intent that the hearing be formal and held pursuant to the Administrative Procedure Act;

(d) The relief sought; and

(e) A signature or acknowledgment, electronic or otherwise, by the respondent or the respondent's representative that all the information contained in the response is true and correct to the best of his or her knowledge, and that he or she will comply with the rules of conduct in this chapter.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-335, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-335, filed 6/21/05, effective 8/1/05; WSR 89-10-056 (Order 89-02), § 456-09-335, filed 5/2/89.]

**WAC 456-09-340 Intervention.** (1) Any person or entity whose interest may be substantially affected by an appeal may petition the board to be granted status as an intervenor.

(2) In determining whether a petitioner qualifies as an intervenor, the presiding officer will apply the rules of the superior courts of this state.

(3) If the presiding officer grants intervention, he or she may impose conditions upon the intervenor's participation, either at the time that intervention is granted or at any subsequent time. Conditions may include:

(a) Limiting participation to designated issues in which the intervenor has a particular and demonstrated interest;

(b) Limiting the use of discovery, cross-examination, and other procedures to promote the orderly and prompt conduct of the proceedings; and

(c) Requiring two or more intervenors to combine their presentations of evidence, argument, cross-examination, discovery, and other participation in the proceedings.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-340, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-340, filed 6/21/05, effective 8/1/05; WSR 95-05-033 (Order 95-01), § 456-09-340, filed 2/8/95, effective 3/11/95; WSR 89-10-056 (Order 89-02), § 456-09-340, filed 5/2/89.]

#### **SERVICE OF DOCUMENTS**

**WAC 456-09-345 Service and filing of documents and proof of service.** (1) All notices, pleadings, exhibits, correspondence specific to an appeal, and other papers submitted to the board must be served on all counsel and representatives of record, and to unrepresented parties or on their designated agents, or to other persons or entities as required by law.

(a) Service must be made personally or, unless otherwise provided by law, by first-class, registered, or certified mail; by fax; by commercial delivery company; or electronically.

(b) Service by mail will be considered completed as evidenced by the postmark. Service by fax will be considered completed as evidenced by a confirmation of transmission. Service by commercial delivery will be considered completed on delivery to the delivery company. Electronic service will be considered completed as evidenced by a sent receipt or the equivalent.

(c) Service must be completed by 5:00 p.m. Pacific Time on the date due.

(2) Receipt by the board, together with one of the following, will serve as proof of service:

(a) A copy was mailed to each party or his or her attorney or representative;

(b) A copy was faxed, to each party to the proceeding or his or her attorney or representative;

(c) A copy was delivered to a commercial delivery company; or

(d) A copy was electronically transmitted to each party or his or her attorney or representative.

(3) All notices, pleadings, exhibits, correspondence specific to an appeal, and other papers are considered filed with the board:

(a) On the date of receipt by the board at its Olympia office if the document is hand delivered, commercially delivered, or mailed. The board's date stamp will be evidence of the date of receipt; or

(b) On the date and time indicated by the board's fax or computer, if the document is submitted by fax, electronic mail, or uploaded through the board's website as long as the document shows it was received by 5:00 p.m. Pacific Time on the date due.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-345, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-345, filed 6/21/05, effective 8/1/05; WSR 89-10-056 (Order 89-02), § 456-09-345, filed 5/2/89.]

## PREHEARING AND HEARING PROCEDURE

**WAC 456-09-510 Limitations on discovery.** (1) If applicable and not in conflict with this chapter, the board will apply the statutes and court rules regarding pretrial procedures and discovery used in civil cases in the state of Washington's superior courts.

(2) The board may limit or prohibit discovery on its own motion or on a motion made by any party. The board may also condition the use of discovery on a showing of necessity and the unavailability of other means. In exercising such discretion, the board will consider the criteria set forth in RCW 34.05.446.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-510, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-510, filed 6/21/05, effective 8/1/05; WSR 89-10-056 (Order 89-02), § 456-09-510, filed 5/2/89.]

**WAC 456-09-520 Subpoena.** Subpoenas will be issued and enforced, and witness fees paid, as provided in RCW 34.05.446. Parties who wish to issue a subpoena must comply with the requirements in WAC 10-08-120.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-520, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-520, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-520, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-520, filed 5/2/89.]

**WAC 456-09-530 Settlement conference.** (1) At any time prior to a hearing, the board may, on its own motion or a written request of a party, order a settlement conference. The conference will be scheduled with at least 14 calendar days' notice to each party, and occur at a time and place determined by the board.

(2) In the event a settlement conference is unsuccessful, a hearing will be set. The presiding officer of the hearing will not be the person who conducted the settlement conference.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-530, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-530, filed

6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-530, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-530, filed 5/2/89.]

**WAC 456-09-540 Prehearing conference.** (1) The board, on its own motion or a request of a party, may conduct a prehearing conference to consider:

- (a) Simplification of issues;
  - (b) The necessity or desirability of amending the pleadings or other documents;
  - (c) The possibility of obtaining stipulations or admissions;
  - (d) Limitations on the number and consolidation of witness examinations;
  - (e) Procedural matters;
  - (f) Deadlines for completing discovery, disclosures of fact and expert witnesses, submissions of stipulations of facts and exhibit lists, and filing of briefs;
  - (g) The manner of identifying exhibits and attachments to briefs, motions, and other pleadings;
  - (h) The number of copies to be submitted; and
  - (i) Other matters that may help to dispose of the case in whole or in part, or streamline the proceeding.
- (2) Prehearing conferences may be held by phone, video, or other electronic means, or in-person as specified by the presiding officer.
- (3) Following the prehearing conference, the board will issue an order outlining the action taken at the prehearing conference, and any agreements made by the parties. The order will control the course of the proceeding unless modified for good cause by a subsequent order.
- (4) Documentary evidence that is not submitted as outlined in the prehearing conference order will not be allowed into evidence absent a clear showing that the party offering the evidence had good cause for failing to comply with the order.
- (5) Nothing in this rule will be construed to limit the right of the parties to settle the appeal at any time.
- (6) The board has authority to issue a prehearing order even if a prehearing conference has not been held.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-540, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-540, filed 6/21/05, effective 8/1/05; WSR 95-05-033 (Order 95-01), § 456-09-540, filed 2/8/95, effective 3/11/95; WSR 89-10-056 (Order 89-02), § 456-09-540, filed 5/2/89.]

**WAC 456-09-545 Summary judgment.** A motion for summary judgment may be granted if the written record shows that, viewing the evidence in a light most favorable to the nonmoving party, there is no genuine issue as to any material fact and that a party is entitled to judgment as a matter of law. Motions for summary judgment must comply with WAC 456-09-555.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-545, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-545, filed 6/21/05, effective 8/1/05.]

**WAC 456-09-550 Time for filing evidence, briefs, replies, witness lists, stipulations, and documentary evidence.** (1) In the absence of a prehearing order, evidence, briefs, and other documents must be submitted to the board by the following deadlines:

(a) A list of fact or expert witnesses who will testify at the hearing must be submitted to the board together with proof of service pursuant to WAC 456-09-345 at least 100 days before the hearing. Three copies are required if the proceeding occurs in front of the entire board.

(b) Any factual stipulations must be submitted to the board together with proof of service pursuant to WAC 456-09-345 at least 55 days before the hearing. Three copies are required if the proceeding occurs in front of the entire board.

(c) Documentary evidence to be introduced at a hearing must be submitted to the board together with proof of service pursuant to WAC 456-09-345. Documentary evidence must be introduced at least 38 calendar days before the hearing. Each page of documentary evidence must be numbered and indicate whether it is submitted by the appellant or respondent. A list of the documentary evidence submitted must be filed at the same time.

(d) Pretrial motions, if any, must be submitted to the board together with proof of service pursuant to WAC 456-09-345. Pretrial motions must be submitted at least 38 days before the hearing. Three copies are required if the proceeding occurs in front of the entire board.

(e) Summary judgment motions, if any, must be submitted to the board together with proof of service pursuant to WAC 456-09-345. Summary judgment motions must be submitted at least 38 days before the hearing. Three copies are required if the proceeding occurs in front of the entire board.

(f) Trial briefs are required and must be submitted to the board together with proof of service pursuant to WAC 456-09-345. Trial briefs must be submitted at least 31 days before the hearing. Three copies are required if the proceeding occurs in front of the entire board.

(g) Responses or Response Briefs are not required, but if submitted to the board, the responding party must include proof of service pursuant to WAC 456-09-345. Responses and Response Briefs must be submitted according to the timeline outlined in the Prehearing Order. Three copies are required if the proceeding occurs in front of the entire board.

(h) Replies to any motion or brief are only permitted with written permission. If allowed, replies must be submitted to the board together with proof of service pursuant to WAC 456-09-345. Replies must be submitted at least 17 calendar days before the hearing. Three copies are required if the proceeding occurs in front of the entire board.

(i) Posthearing briefing and proposed findings of fact and conclusions of law may be required by the board. If so, this document must be submitted together with proof of service pursuant to WAC 456-09-345. Proposed findings of fact and conclusions of law must be received by the board no later than the date specified by the board, or if no date is specified, no later than 21 calendar days after a hearing. Three copies are required if the proceeding occurs in front of the entire board.

(2) Failure to comply with these requirements may be grounds to exclude evidence, witnesses, replies, responses, or briefs, or to dismiss the appeal in accordance with WAC 456-09-750.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-550, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-550, filed 6/21/05, effective 8/1/05; WSR 89-10-056 (Order 89-02), § 456-09-550, filed 5/2/89.]

**WAC 456-09-551 Limits on exhibits and evidence.** (1) Each party must indicate the specific pages it intends to rely on, if any, from the body from which the party appeals. Failure to indicate specific page numbers will result in the presumption that the party does not intend to rely on the underlying record, and instead intends to submit and rely only on new evidence.

(2) Each party may submit evidence and/or exhibits in support of its appeal; however, submissions are limited to the page limitations below. These page limitations exclude the findings or determination of the body from which the decision or finding is appealed, audit documents, property tax assessments, and formal appraisals from a licensed appraiser:

(a) For residential property tax appeals, each party is limited to submitting a total of 175 pages per assessment-year appealed, including any evidence from the record of the county board of equalization not excluded as outlined above which the party intends to rely on;

(b) For commercial property tax appeals, each party is limited to submitting a total of 275 pages per assessment-year appealed, including any evidence from the record of the county board of equalization not excluded as outlined above which the party intends to rely on;

(c) For property tax exemption appeals, each party is limited to submitting a total of 375 pages, including any evidence from the record of the department of revenue not excluded as outlined above which the party intends to rely on;

(d) For department of revenue excise tax appeals, each party is limited to submitting a total of 500 pages, including any evidence from the record of the department of revenue not excluded as outlined above which the party intends to rely on, if any;

(e) For all other appeals, including appeals to reconvene a county board of equalization, each party is limited to submitting a total of 175 pages, including any evidence from the record of the body from which a decision is appealed and not excluded as outlined above, and which the party intends to rely on.

(3) A party may file a motion with the board to submit evidence and/or exhibits up to 1,000 pages, which the board will grant for good cause. Requests for submissions beyond 1,000 pages are strongly discouraged, and will only be granted if justice so requires. Exceeding the page limits without the board's advance, written permission may result in the hearing being continued, or the exclusion of evidence beyond the page limits.

(4) For property tax appeals, the board strongly encourages each party to submit the following exhibits or evidence in the following instances:

(a) A table of comparable sales if the party intends to rely on such evidence. The table should include at least the age, size, sales price, date of sale, and location relative to the subject property of

each comparable sale. A suggested table is available on the board's website or by contacting the board's staff.

(b) An income approach to valuation outline if the party intends to rely on such evidence. The outline should include at least the subject property's square footage, contended price per square foot, vacancy rate, operating expenses, income, and capitalization rate.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-551, filed 2/9/22, effective 3/12/22.]

**WAC 456-09-552 Amicus.** (1) Any person or entity whose interest may be substantially affected by a proceeding before the board may request status as an amicus. The request must be made by written motion, and must comply with WAC 456-09-555 and 456-09-345.

(2) The motion requesting amicus status must include:

(a) The applicant's interest, or the interest of the person or group represented by applicant, in the proceeding before the board;

(b) The applicant's familiarity with the issues in the proceeding before the board, and with the scope of the arguments presented or to be presented by the parties;

(c) The specific issues to which the brief will be directed; and

(d) The applicant's reason as to why additional argument is necessary on the issues identified.

(3) The deadline for filing an amicus brief is the same as the deadline for the filing of the brief for the party whose position the amicus supports.

(4) The board, on its own motion and with notice to the parties, may request a brief of amicus from any person or entity deemed to be substantially affected by a proceeding.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-552, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-552, filed 6/21/05, effective 8/1/05.]

**WAC 456-09-555 Motions.** (1) Any request for an order or ruling or a request for relief is considered a motion. Every motion, unless made during hearing, must be in writing and include:

(a) A statement of the relief sought;

(b) The basis for the relief;

(c) A statement that the moving party made a good faith effort to meet and confer with the other party or parties to resolve the subject of the motion;

(d) A request for oral argument, if any, and if so, how much time the party desires;

(e) Proof of service pursuant to WAC 456-09-345; and

(f) A proposed order.

(2) All motions must be properly captioned and signed by the party, their attorney, or their representative.

(3) At the discretion of the board, a hearing on a motion may be held in person, by phone, by video, or by other electronic means.

(4) A response to a motion must be submitted to the board and opposing parties within 14 calendar days of the date the motion was served on the responding party together with proof of service pursuant to WAC 456-09-345.

(5) Replies are not permitted absent prior permission of the board. The board will consider a request to file a reply within 24 hours of a response being filed. If granted, the reply must be filed within five calendar days of the board's receipt of the response. A reply is limited to addressing the facts and arguments presented in the response.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-555, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-555, filed 6/21/05, effective 8/1/05.]

**WAC 456-09-557 Requirements for briefs, motions, responses, replies, memorandum, and other documentary evidence.** (1) All briefs, motions, responses, replies, and memorandum must:

(a) Be legibly printed on letter-size paper (8-1/2 by 11 inches). All margins must be a minimum of one inch. This rule also applies to attachments unless the nature of the attachment makes compliance impractical.

(b) Be double spaced and in 12 point or larger type in one of the following fonts or their equivalent: Times New Roman, Courier, CG Times, or Arial. Footnotes may be single spaced in 10 point or larger type. This rule also applies to attachments unless the nature of the attachment makes compliance impractical.

(c) Include a signature block that the signer certifies the number of words in the brief, motion, or memorandum that substantially states: "I certify that this memorandum contains ..... words, in compliance with the board's rules."

(d) Refrain from including, or partially redact where inclusion is necessary, the following personal data identifiers from all documents filed or used as exhibits, unless otherwise ordered by the board:

(i) Dates of birth - Redact to the year of birth, unless deceased;

(ii) Social Security numbers and taxpayer-identification numbers - Redact in their entirety;

(iii) Financial accounting information - Redact identification numbers to the last four digits; and

(iv) Driver license numbers - Redact in their entirety.

(2) In the absence of a prehearing order, the following word limits will apply:

(a) Trial briefs may not exceed 12,000 words (approximately 24 pages).

(b) Motions *in limine* and any brief in opposition may not exceed 9,000 words (approximately 18 pages).

(c) Dispositive motions, including motions for summary judgment and motions to dismiss, must not exceed 12,000 words (approximately 24 pages). Responses must not exceed 12,000 words, and replies 6,000 words (approximately 12 pages).

(d) Exceptions and motions for reconsideration and any responses must not exceed 3,000 words (approximately six pages).

(e) All other motions must not exceed 3,000 words (approximately six pages), and responses 1,500 words (approximately three pages).

(3) The board may refuse to consider any text, including footnotes, which is beyond the word limit. Captions, tables of contents, tables of authorities, signature blocks, and certificates of service need not be included within the word limit.



(4) Motions to file over-length motions or briefs are disfavored, but may be filed subject to the following:

(a) The motion must be no more than 1,000 words (approximately two pages) in length, and must request a specific number of additional words; and

(b) No opposition to the motion may be filed unless requested by the board.

If the board grants leave to file an over-length motion, the brief in opposition will automatically be allowed an equal number of additional words. In all cases, the reply brief cannot exceed one-half the total length of the brief filed in opposition.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-557, filed 2/9/22, effective 3/12/22.]

**WAC 456-09-560 Postponement, continuance, and extensions of time.** (1) Postponements, continuances, and extensions of time may be ordered by the board on its own motion.

(2) Requests to postpone, continue, extend the time, or reschedule the prehearing conference must be made in writing and comply with WAC 456-09-555 and 456-09-345. The board will freely grant a party's first request. For second and subsequent requests, the moving party must show good cause as to why a new date and time is needed.

(3) Requests to postpone, continue, extend the time, or reschedule the hearing date must be made in writing, comply with WAC 456-09-555 and 456-09-345, and be filed 30 calendar days before the scheduled hearing. The board will freely grant a party's first request. For second and subsequent requests, the moving party must show good cause as to why a new date and time is needed. The presiding officer will decide whether to hear argument and will rule on the request.

(4) Other requests for a postponement, continuance, or extension of time must be timely, in writing, and comply with WAC 456-09-555 and 456-09-345. The presiding officer will decide whether to hear argument and will rule on the request.

(5) This section does not extend any deadline to file an initial appeal.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-560, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-560, filed 6/21/05, effective 8/1/05; WSR 89-10-056 (Order 89-02), § 456-09-560, filed 5/2/89.]

**WAC 456-09-565 Teleconference proceeding.** All or part of a hearing, prehearing, or settlement conference may be conducted by phone, video, or other electronic means. Each party and participant in the proceeding will have an opportunity to hear and effectively participate in the proceeding.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-565, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-565, filed 6/21/05, effective 8/1/05.]

**WAC 456-09-570 Requirements for a notice of hearing.** (1) A notice of a hearing will be sent or transmitted to all parties and to those granted intervention or amicus status at least 20 calendar days before the hearing date unless a different period is required by law. The notice will include the information specified in RCW 34.05.434, and whether the hearing will be conducted by phone, video or other electronic means.

(2) The notice will state that if a limited-English speaking or hearing-impaired party or witness needs an interpreter, a qualified interpreter will be appointed at no cost. The notice will include a form to indicate whether an interpreter is needed and in what language and dialect.

(3) The notice will also state that a party or witness with disabilities may request reasonable accommodations to allow for effective participation in the proceedings. The notice will include a form to describe the reasonable accommodations requested.

(4) Notice of the requirements listed in this section may be waived if the waiver is knowing and voluntary.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-570, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-570, filed 6/21/05, effective 8/1/05; WSR 89-10-056 (Order 89-02), § 456-09-570, filed 5/2/89.]

**WAC 456-09-575 Hearing notices for limited-English speaking parties.** If the board is notified or otherwise made aware that a limited-English-speaking person as defined in RCW 2.43.020 is a party, all notices about the hearing, including continuances and dismissals:

(1) Must be written in the primary language of the party; or

(2) Must include a notice in the primary language of the party which describes the significance of the notice and how the party may receive assistance in understanding and responding to the notice.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-575, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-575, filed 6/21/05, effective 8/1/05.]

## HEARING PROCEDURE

**WAC 456-09-740 Testimony under oath.** (1) Every person testifying before the board must swear or affirm in any manner allowed in chapter 5.28 RCW that the person's testimony will be truthful.

(2) Every interpreter will take an oath affirming that the interpreter will make a true interpretation to the person being examined in a language or in a manner which the person understands, and that the interpreter will repeat the statements of the person being examined to the board, in the English language, to the best of the interpreter's skill and judgment.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-740, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-740, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-740, filed

5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-740, filed 5/2/89.]

**WAC 456-09-742 Recording devices.** (1) All hearings will be recorded by manual, electronic, or other recording device.

(2) Photographic and recording equipment of others will be permitted at hearings; however, the presiding officer may impose such conditions upon their use as deemed necessary to prevent disruption of the hearing, or when a statute or law limits such use.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-742, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-742, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-742, filed 5/22/90, effective 6/22/90.]

**WAC 456-09-743 Hearing procedure.** (1) Unless otherwise ordered, hearings will be conducted in the following format:

- (a) Administration of an oath to all persons testifying;
- (b) The appellant's opening statement;
- (c) The respondent's opening statement;
- (d) The appellant's case in chief:
  - (i) Direct examination of witness;
  - (ii) Cross-examination by the respondent;
  - (iii) Redirect examination by the appellant;
  - (iv) Recross examination;
  - (v) The above procedure is followed for each witness.
- (e) The respondent's case in chief:
  - (i) Direct examination of witness;
  - (ii) Cross-examination by the appellant;
  - (iii) Redirect examination by the respondent;
  - (iv) Recross examination;
  - (v) The above procedure is followed for each witness.
- (f) The appellant's rebuttal, following the procedure in subsection (d) for each witness;
- (g) The appellant's closing argument;
- (h) The respondent's closing argument;
- (i) The appellant's closing rebuttal.

(2) The board may pose questions to the parties, their representatives, and any witnesses at any time during the hearing.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-743, filed 2/9/22, effective 3/12/22.]

**WAC 456-09-745 Failure to attend and hearing on the record.** (1) When a party has failed to attend a hearing after receiving timely notice, the board will consider a motion for default or dismissal brought by any party to the proceedings or on its own motion. An order for default or dismissal will include the reason for the order and will be served upon all parties.

Within 14 calendar days of service of the default order or dismissal, the party against whom the order was entered may submit a written objection requesting that the order be vacated. The objection must state the specific reasons why the order should be vacated to-

gether with proof of service pursuant to WAC 456-09-345. The board may set aside a dismissal or default for good cause.

(2) If the parties agree in writing and the presiding officer approves, the board may hold an appeal on the record and the attendance of one or more parties will not be required.

[Statutory Authority: RCW 82.03.170. WSR 22-23-080, § 456-09-745, filed 11/14/22, effective 12/15/22; WSR 22-05-051, § 456-09-745, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-745, filed 6/21/05, effective 8/1/05; WSR 89-10-056 (Order 89-02), § 456-09-745, filed 5/2/89.]

**WAC 456-09-750 Dismissal, stipulation, and withdrawal of actions.** (1) An appeal may be dismissed for any of the following reasons:

(a) All parties stipulate to dismissal. Stipulations of the value of real property must include the parcel number, assessment year(s), the agreed upon value(s) of the subject property, and a brief statement supporting the agreed upon value(s). The board may request additional information as to the reason or reasons for the stipulation.

(b) The appellant makes a motion to dismiss or withdraw the appeal any time before the respondent presents his or her case.

(c) Upon motion by the respondent alleging that the appellant has failed to prosecute the case, failed to comply with this chapter, or failed to follow any order of the board.

(d) Upon the board's own motion for failure by the parties to comply with applicable rules or any order of the board.

(2) An appeal will be dismissed when the appellant requests in writing to withdraw the appeal before the scheduled hearing.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-750, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-750, filed 6/21/05, effective 8/1/05; WSR 89-10-056 (Order 89-02), § 456-09-750, filed 5/2/89.]

**WAC 456-09-755 Rules of evidence and admissibility criteria.**

(1) All relevant evidence, including hearsay, is admissible if, in the opinion of the board, it is the kind of evidence that a reasonably prudent person is accustomed to relying on his or her business affairs. The board may exclude evidence for constitutional or statutory reasons or for a privilege recognized in the courts of this state. The board may also exclude evidence that is irrelevant, immaterial, or unduly repetitious.

(2) The board's experience, technical knowledge, competency, and specialized knowledge may be used to evaluate evidence.

(3) If not inconsistent with subsection (1) of this section, the board may rely on, but will not be bound by, the Washington rules of evidence.

(4) Copies or excerpts of documentary evidence may be submitted instead of the original evidence.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-755, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-755, filed 6/21/05, effective 8/1/05; WSR 89-10-056 (Order 89-02), § 456-09-755, filed 5/2/89.]

**WAC 456-09-763 Record evidence.** (1) A board of equalization or other tribunal should submit their record in a numbered format specified by the board. If the record is not properly numbered, the board will number the record.

(2) Parties relying on evidence from a board of equalization or other tribunal must indicate which pages they intend to rely on. Failure to do so will be understood by the board to indicate that the party does not want the record understood and will instead submit other evidence.

(3) The board will not review the record of a county board of equalization or any other tribunal that is unduly large or disorganized.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-763, filed 2/9/22, effective 3/12/22.]

**WAC 456-09-765 Official notice.** (1) The board may take official notice of the following:

(a) Any judicially cognizable facts;

(b) Any matter of public record;

(c) Technical or scientific facts within the agency's specialized knowledge; and

(d) Codes or standards that have been adopted by any state or federal agency or by a nationally recognized organization or association.

(2) Any party may controvert such a fact by filing a petition for review of an initial decision pursuant to WAC 456-09-930 or by a petition for reconsideration of a final decision pursuant to WAC 456-09-955. The petition must concisely and clearly set forth the sources, authority, and other data relied upon to show the existence or nonexistence of the fact assumed or denied in the decision.

(3) A party asking the board to take official notice may be required to produce a copy of the material to be noticed.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-765, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-765, filed 6/21/05, effective 8/1/05; WSR 89-10-056 (Order 89-02), § 456-09-765, filed 5/2/89.]

## DISPOSITION OF CASES

**WAC 456-09-910 Assistance to the board.** (1) The board may obtain assistance from a county board of equalization as allowed by RCW 82.03.130 (1)(b), or from the staff of the department of revenue as provided by RCW 82.03.160. If the board intends to seek assistance, the board will notify the parties and indicate the reason or reasons for seeking such assistance. Once notified, the parties may recommend an alternative to the board to achieve the same objectives.

(2) Any evidence from the department of revenue about requested assistance under this section will only be presented in an open hearing after notice to all parties.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-910, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-910, filed

6/21/05, effective 8/1/05; WSR 89-10-056 (Order 89-02), § 456-09-910, filed 5/2/89.]

**WAC 456-09-915 Posthearing evidence.** Unless requested, the board will not accept any evidence after a hearing unless such evidence could not reasonably have been anticipated before the hearing.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-915, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-915, filed 6/21/05, effective 8/1/05; WSR 89-10-056 (Order 89-02), § 456-09-915, filed 5/2/89.]

**WAC 456-09-920 Contents of a decision.** Every decision, whether initial or final, will:

- (1) Be captioned to include the name of the proceeding;
- (2) Designate all parties and representatives participating in the proceeding;
- (3) Include a concise statement of the nature and background of the proceeding;
- (4) Contain findings of fact in a manner outlined in RCW 34.05.461;
- (5) Contain conclusions of law, including citations to statutes and rules relied upon in a manner outlined in RCW 34.05.461;
- (6) Indicate whether it is an initial or final decision, and whether all contested issues have been resolved; and
- (7) Contain a description of available posthearing remedies.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-920, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-920, filed 6/21/05, effective 8/1/05; WSR 89-10-056 (Order 89-02), § 456-09-920, filed 5/2/89.]

**WAC 456-09-925 Initial decision.** (1) The board will issue an initial decision when:

- (a) An appeal has been heard by only one member of the board;
  - (b) An appeal has been heard by only two members of the board when there is no vacancy and the two members cannot agree on an outcome. In such instances, the third member of the board will review the decision; or
  - (c) An appeal has been heard by a hearing officer.
- (2) An initial decision will be considered a final decision 20 calendar days after transmission to or service on the parties unless a petition for review is timely filed and served as provided in WAC 456-09-930.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-925, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-925, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-925, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-925, filed 5/2/89.]

**WAC 456-09-930 Petition for review of an initial decision, replies, and disposition.** (1) A party may petition for review of an initial decision. A petition for review of an initial decision is also referred to as an exception.

(2) A petition for review must be sent or transmitted to the board within 20 calendar days of the date the initial decision was transmitted unless specified otherwise. Proof of service must be filed with the board pursuant to WAC 456-09-345.

(3) A petition for review must indicate which portions of the initial decision or what evidence in the record supports the petition.

(4) Any party may make a reply to a petition for review within 10 calendar days of the date the petition is served on the opposing party or parties. The response, if any, must be sent or transmitted to the board together with proof of service pursuant to WAC 456-09-345.

(5) The board will address a petition for review in a written order. The board may require the parties to submit briefs or to appear and present oral argument on the petition.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-930, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-930, filed 6/21/05, effective 8/1/05; WSR 95-05-033 (Order 95-01), § 456-09-930, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-930, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-930, filed 5/2/89.]

**WAC 456-09-955 Petition for reconsideration of a final decision.**

(1) A petition for reconsideration of a final decision is not available where an initial decision was first issued, unless:

(a) The alleged error or errors could not have been previously addressed in an exception to the initial decision; or

(b) The alleged error or errors are of constitutional concern.

(2) After the board issues a final decision, any party may submit a petition for reconsideration as provided in RCW 34.05.470. The petition must be submitted to the board and served on all parties or their representatives within 14 calendar days from the date the final decision was sent or transmitted to the parties together with proof of service as outlined in WAC 456-09-345. The petition must also state the specific grounds for relief.

(3) The party opposing a petition for reconsideration must submit a response together with proof of service pursuant to WAC 456-09-345. The response must be filed within 10 calendar days of the date the petition for reconsideration was served on the responding party.

(4) The board must accept or deny a petition within 30 calendar days from the date a petition is served on the opposing party. If the board does not act within this time period, the petition is deemed to be denied.

(5) Except as outlined in subsection (4) of this section, the board will address a petition by written order. The board may also require the parties to submit briefs or to appear and present oral argument on a petition.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-955, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-955, filed 6/21/05, effective 8/1/05; WSR 95-05-033 (Order 95-01), § 456-09-955, filed 2/8/95, effective 3/11/95. Statutory Authority: RCW 82.03.170,

34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-955, filed 5/22/90, effective 6/22/90. Statutory Authority: RCW 82.03.170. WSR 89-10-056 (Order 89-02), § 456-09-955, filed 5/2/89.]

**WAC 456-09-960 Record on appeal.** When an appeal is made to superior court, the appealing party is responsible for ordering and paying for a transcript of the board's hearing.

[Statutory Authority: RCW 82.03.170. WSR 22-05-051, § 456-09-960, filed 2/9/22, effective 3/12/22; WSR 05-13-141, § 456-09-960, filed 6/21/05, effective 8/1/05. Statutory Authority: RCW 82.03.170, 34.05.250, 82.03.140 and 82.03.160. WSR 90-11-105, § 456-09-960, filed 5/22/90, effective 6/22/90.]