

STATE OF FLORIDA
DEPARTMENT OF REVENUE
PROPERTY TAX OVERSIGHT PROGRAM
CHAPTER 12D-9, FLORIDA ADMINISTRATIVE CODE
REQUIREMENTS FOR VALUE ADJUSTMENT BOARDS IN ADMINISTRATIVE
REVIEWS; UNIFORM RULES OF PROCEDURE FOR HEARINGS BEFORE
VALUE ADJUSTMENT BOARDS
AMENDING RULES 12D-9.001, 12D-9.014, 12D-9.019, 12D-9.020,
12D-9.025, AND 12D-9.026

12D-9.001 Taxpayer Rights in Value Adjustment Board Proceedings.

(1) No change.

(2) These rights include:

(a) through (h) No change.

(i) The right to appear at a hearing using electronic or other communication equipment upon written request at least 10 calendar days before the date of the hearing, in any county having a population of 75,000 or more, and in any county having a population of less than 75,000 that has not opted out as provided by law, and the right to be notified of this right on the notice of hearing;

(i) through (r) Renumbered as (j) through (s) No change.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), ~~213.06(1)~~ FS. Law Implemented 192.0105, 193.074, 194.011, 194.013, 194.015, 194.032, 194.034, 194.035, 194.036, 194.301,

195.002, 195.027, 195.084, 196.151, 196.193, 196.194 FS. History–New 3-30-10, Amended 9-19-17,_____.

12D-9.014 Prehearing Checklist.

(1) The board clerk shall not allow the holding of scheduled hearings until the board legal counsel has verified that all requirements in Chapter 194, F.S., and department rules, were met as follows:

(a) through (n) No change.

(o)1. The board has ascertained that the board has provided electronic or other communication equipment, to allow petitioners to appear at hearings, that is adequate and functional for clear communication among participants and for creating hearing records required by law, and that petitioners can submit and transmit evidence to the board in a format that can be processed, viewed, printed, and archived; or

2. Alternatively, the county has a population of less than 75,000, and the board adopted a resolution or motion to opt out of providing hearings using electronic or other communication equipment, as provided by law.

(2) No change.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), ~~213.06(1)~~ FS. Law Implemented 194.011, 194.015, 194.032, 194.034, 194.035 FS. History–New 3-30-10, Amended 9-19-17,_____.

12D-9.019 Scheduling and Notice of a Hearing.

(1) through (2) No change.

(3)(a) The notice of hearing before the value adjustment board shall be in writing, and shall be delivered by regular or certified U.S. mail or personal delivery, or in the manner requested by

the petitioner on Form DR-486, so that the notice shall be received by the petitioner no less than twenty-five (25) calendar days prior to the day of such scheduled appearance. The Form DR-486 series is adopted and incorporated by reference in Rule 12D-16.002, F.A.C. The notice of hearing form shall meet the requirements of this section and shall be subject to approval by the department. The department provides Form DR-481 as a format for the form of such notice. The Form DR-481, Value Adjustment Board – Notice of Hearing, (Form DR-481) is adopted and incorporated by reference in Rule 12D-16.002, F.A.C. This form is for use in noticing in person hearings as well as hearings using electronic or other communication equipment. If a notice is sent under this rule for a hearing using electronic or other communication equipment, it is unnecessary to send a Form DR-481REM under Rule 12D-9.026, F.A.C., with the same hearing information.

(b) The notice shall include these elements:

1. through 10. No change

11. Any information necessary to comply with federal or state disability or accessibility acts;
and,

12. Information regarding where the petitioner may obtain a copy of the uniform rules of procedure;

13. A checkbox that the clerk will check and that when checked signifies, when it is known at the time of sending the notice, that the hearing will be conducted using electronic or other communication equipment and states

“Your hearing will be conducted using electronic or other communication equipment.”

“You will be attending the hearing using electronic or other communication equipment.”

14. A space in which, if the checkbox is checked, the clerk will identify the specific form of communication technology to be used and include the following:

a. A statement that sets forth all necessary access instructions, such as meeting codes, passwords, telephone numbers, call in information, and any other required details,

OR

b. The statement as follows: “The necessary access instructions, such as meeting codes, passwords, telephone numbers, call in information, and any other required details are attached”,

OR

c. The statement as follows: “The clerk will email you the information needed to attend the hearing using electronic or other communication equipment. The email message may be generated by computer software related to the communication equipment. If you do not receive this information, please contact this office at ()”

AND

d. A statement that the petitioner must upload evidence or email evidence to the designated address of the value adjustment board no later than 9:00 a.m. at least two non-holiday workdays before the hearing date;

AND

e. The designated evidence upload email address or upload weblink to the software system;

15. A checkbox which when checked signifies this county has opted out of participating in hearings conducted using electronic or other communication equipment;

16. Information on how to make a written request that the hearing be held using electronic or other communication equipment;

17. Information on requirements for written requests for such hearings;

18. Information on where to send a written request that the hearing be held using electronic or other communication equipment.

19. The notice shall also contain the following statements:

“If this notice indicates that the hearing will be conducted by sets forth a communication mode using video conference, audio visual technology, you may request an in person hearing.”

“If this notice indicates that the hearing will be conducted by is for a telephone hearing, you may request an in person hearing. You may also request to appear by video conference if such technology is available and practicable a hearing using audio visual technology or an in person hearing.”

(c) If the petitioner requests an in person hearing the clerk shall accommodate the petitioner for the date, time, hearing address, and room. If the notice indicates the hearing will be conducted by is for a telephone hearing and the petitioner requests to appear by video conference, the clerk shall accommodate the request if such technology is available and practicable. The clerk shall accommodate a petitioner’s request for a hearing using ausio visual technology, if the prearranged default mode is in person or telephone. The board may maintain information about the availability of video conference hearings on its website. Requests for hearing using electronic or other communication equipment must be made as provided in Rule 12D-9.026, F.A.C.

(4) through (8) No change.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), ~~213.06(1)~~ FS. Law Implemented 194.011, 194.015, 194.032, 194.034, 195.022 FS. History—New 3-30-10, Amended 9-26-11, 6-14-16, 7-1-16, 3-13-17, 9-19-17, _____.

12D-9.020 Exchange of Evidence.

(1)(a)1. At least 15 days before a petition hearing, the petitioner shall provide to the property appraiser a list of evidence to be presented at the hearing, a summary of evidence to be presented by witnesses, and copies of all documentation to be presented at the hearing. This provision does not preclude rebuttal evidence that was not specifically requested of the petitioner in writing by the property appraiser.

2. At least 15 days before a petition hearing, the property appraiser shall provide to the petitioner a list of evidence to be presented at the hearing, a summary of evidence to be presented by witnesses, and copies of all documentation to be presented at the hearing. The property appraiser's evidence list must contain the current property record card. This provision does not preclude use of rebuttal evidence by the property appraiser. If the property appraiser does not provide the information to the petitioner within the time required, the hearing shall be rescheduled to allow the petitioner additional time to review the property appraiser's evidence. The petitioner may waive rescheduling.

~~(b)2.~~ To calculate the fifteen (15) days, the petitioner and property appraiser shall use calendar days and shall not include the day of the hearing in the calculation, and shall count backwards from the day of the hearing, using the calendar day before the hearing as day 1. The last day of the fifteen (15) day period shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period runs ~~shall run~~ until the end of the next previous day that is neither a Saturday, Sunday, or legal holiday.

~~(b) A petitioner's noncompliance with paragraph (1)(a), does not affect the petitioner's right to receive a copy of the current property record card from the property appraiser as described in Section 194.032(2)(a), F.S.~~

(c) No petitioner may present for consideration, nor may a board or special magistrate accept

for consideration, testimony or other evidentiary materials that were specifically requested of the petitioner in writing by the property appraiser in connection with a filed petition, of which the petitioner had knowledge and denied to the property appraiser. If the property appraiser asks in writing for specific evidence before the hearing in connection with a filed petition, and the petitioner has this evidence and knowingly refuses to provide it to the property appraiser, the evidence cannot be presented by the petitioner or accepted for consideration by the board or special magistrate. Such evidentiary materials shall be considered timely if provided to the property appraiser no later than fifteen (15) days before the hearing in accordance with the exchange of evidence rules in this section. A petitioner's ability to introduce the evidence, requested of the petitioner in writing by the property appraiser, is lost if not provided to the property appraiser as described in this paragraph. A petitioner's noncompliance with paragraph (1)(a), does not authorize a value adjustment board or special magistrate to exclude the petitioner's evidence. However, under Section 194.034(1)(h), F.S., if the property appraiser asks in writing for specific evidence before the hearing in connection with a filed petition, and the petitioner has this evidence and knowingly refuses to provide it to the property appraiser a reasonable time before the hearing, the evidence cannot be presented by the petitioner or accepted for consideration by the board or special magistrate. Reasonableness shall be determined by whether the material can be reviewed, investigated, and responded to or rebutted in the time frame remaining before the hearing. These requirements are more specifically described in subsection (8), of this rule, and in paragraphs 12D-9.025(4)(a) and (f), F.A.C.

(2)(a) If the property appraiser receives the petitioner's documentation as described in paragraph (1)(a), and if requested in writing by the petitioner, the property appraiser shall, no later than seven (7) days before the hearing, provide to the petitioner a list of evidence to be

~~presented at the hearing, a summary of evidence to be presented by witnesses, and copies of all documentation to be presented by the property appraiser at the hearing. The evidence list must contain the current property record card. There is no specific form or format required for the petitioner's written request.~~

~~(b) To calculate the seven (7) days, the property appraiser shall use calendar days and shall not include the day of the hearing in the calculation, and shall count backwards from the day of the hearing. The last day of the period so computed shall be included unless it is a Saturday, Sunday, or legal holiday, in which event the period shall run until the end of the next previous day which is neither a Saturday, Sunday, or legal holiday.~~

~~(3)(a) If the petitioner does not provide the information to the property appraiser described in paragraph (1)(a), the property appraiser need not provide the information to the petitioner as described in subsection (2).~~

~~(b) If the property appraiser does not provide the information to the petitioner within the time required by paragraph (2)(b), the hearing shall be rescheduled to allow the petitioner additional time to review the property appraiser's evidence.~~

~~(4) through (6) Renumbered as (2) through (4) No change.~~

~~(7) A property appraiser shall not use at a hearing evidence that was not supplied to the petitioner as required. The remedy for such noncompliance shall be a rescheduling of the hearing to allow the petitioner an opportunity to review the information of the property appraiser.~~

~~(8) No petitioner may present for consideration, nor may a board or special magistrate accept for consideration, testimony or other evidentiary materials that were specifically requested of the petitioner in writing by the property appraiser in connection with a filed petition, of which the petitioner had knowledge and denied to the property appraiser. Such evidentiary materials shall~~

~~be considered timely if provided to the property appraiser no later than fifteen (15) days before the hearing in accordance with the exchange of evidence rules in this section. If provided to the property appraiser less than fifteen (15) days before the hearing, such materials shall be considered timely if the board or special magistrate determines they were provided a reasonable time before the hearing, as described in paragraph 12D-9.025(4)(f), F.A.C. A petitioner's ability to introduce the evidence, requested of the petitioner in writing by the property appraiser, is lost if not provided to the property appraiser as described in this paragraph. This provision does not preclude rebuttal evidence that was not specifically requested of the petitioner by the property appraiser.~~

~~(5)(9)~~ No change.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), ~~213.06(1)~~ FS. Law Implemented 194.011, 194.015, 194.032, 194.034, 194.035, 195.022 FS. History—New 3-30-10, Amended 6-14-16, 4-10-18, _____.

12D-9.025 Procedures for Conducting a Hearing; Presentation of Evidence; Testimony of Witnesses.

(1) through (3) No change.

(4)(a) No evidence shall be considered by the board or special magistrate except when presented and admitted during the time scheduled for the petitioner's hearing, or at a time when the petitioner has been given reasonable notice. ~~The petitioner may still present evidence if he or she does not participate in the evidence exchange. However, if the property appraiser asks in writing for specific evidence before the hearing in connection with a filed petition, and the petitioner has this evidence and refuses to provide it to the property appraiser, the evidence cannot be presented by the petitioner or accepted for consideration by the board or special~~

~~magistrate. These requirements are more specifically described in paragraph (f), below.~~

(b) No change.

(c) In a hearing other than a remote hearing under Rule 12D-9.026, F.A.C., in order to be reviewed by the board or special magistrate, copies of any evidence filed with the board clerk shall be brought to the hearing by the party. This requirement shall not apply where:

1. through 2. No change.

(d) through (e) No change.

(f)1. No petitioner shall present for consideration, nor shall the board or special magistrate accept for consideration, testimony or other evidentiary materials that were specifically requested of the petitioner in writing by the property appraiser in connection with a filed petition, of which the petitioner had knowledge and denied to the property appraiser. If the property appraiser asks in writing for specific evidence before the hearing in connection with a filed petition, and the petitioner has this evidence and refuses to provide it to the property appraiser, the evidence cannot be presented by the petitioner or accepted for consideration by the board or special magistrate.

2. Such evidentiary materials shall be considered timely if provided to the property appraiser no later than fifteen (15) days before the hearing in accordance with the exchange of evidence rules in Rule 12D-9.020, F.A.C.,~~and, if provided to the property appraiser less than fifteen (15) days before the hearing, shall be considered timely if the board or special magistrate determines they were provided a reasonable time before the hearing.~~

3. A petitioner's ability to introduce the evidence requested of the petitioner in writing by the property appraiser, is lost if not provided to the property appraiser as described in this paragraph.

~~4. This provision does not preclude rebuttal evidence that was not specifically requested of the petitioner by the property appraiser. For purposes of this rule and Rule 12D-9.020, F.A.C., reasonableness shall be assumed if the property appraiser does not object. Otherwise, reasonableness shall be determined by whether the material can be reviewed, investigated, and responded to or rebutted in the time frame remaining before the hearing. If a petitioner has acted in good faith and not denied evidence to the property appraiser prior to the hearing, as provided by Section 194.034(1)(h), F.S., but wishes to submit evidence at the hearing which is of a nature that would require investigation or verification by the property appraiser, then the special magistrate may allow the hearing to be recessed and, if necessary, rescheduled so that the property appraiser may review such evidence.~~

~~5.2.~~ No change.

(g) No change.

(5) No change.

(6)(a) By agreement of the parties entered in the record, the board or special magistrate may leave the record open and postpone completion of the hearing to a date certain to allow a party to collect and provide additional relevant and credible evidence. Such postponements shall be limited to instances where, after completing original presentations of evidence, the parties agree to the collection and submittal of additional, specific factual evidence for consideration by the board or special magistrate. In lieu of completing the hearing, upon agreement of the parties the board or special magistrate is authorized to consider such evidence without further hearing.

(b) No change.

(c) In a petition to decrease the just value, the board or special magistrate may not revise the value above the property appraiser's presented value. In a petition to decrease the just value, the

following limitations shall apply if the property appraiser seeks to present additional evidence that was unexpectedly discovered and that would increase the assessment.

1. through 6. No change.

(d) In a petition to increase the just value, the property appraiser may provide an increased just value to the petitioner before the hearing or at the hearing. In such case, if the petitioner agrees with the property appraiser's increased just value, the petitioner may settle or withdraw the petition. If the petitioner does not agree with the property appraiser's increased just value, the hearing shall not be canceled on that ground. This provision applies only in petitions to increase the just value. In a petition to increase the just value, the board or special magistrate may not revise the value below the property appraiser's presented value.

(7) through (10) No change.

Rulemaking Authority 194.011(5), 194.034(1), 195.027(1) FS. Law Implemented 193.092, 194.011, 194.032, 194.034, 194.035 FS. History—New 3-30-10, Amended 6-14-16, 9-19-17, 8-17-21, 11-26-23, ____.

12D-9.026 Procedures for Requesting and Conducting a Hearing by Electronic Media.

(1) This rule sets forth criteria for hearings in addition to those found in Rules 12D-9.024 and 12D-9.025, F.A.C. Hearings conducted by electronic media shall occur ~~only~~ under the conditions set forth in this rule section. The board must reasonably accommodate parties that have hardship or lack necessary equipment or ability to access equipment.

~~(a) The board must approve and have available the necessary equipment and procedures.~~

~~(b) The special magistrate, if one is used, must agree in each case to the electronic hearing.~~

~~(c) The board must reasonably accommodate parties that have hardship or lack necessary equipment or ability to access equipment. The board must provide a physical location at which a~~

~~party may appear, if requested.~~

(2) A petitioner may request to appear at a hearing using electronic or other communication equipment by submitting a written request at least 10 calendar days before the date of the hearing. For any hearing conducted by electronic media, the board shall ensure that all equipment is adequate and functional for allowing clear communication among the participants and for creating the hearing records required by law. The board procedures shall specify the time period within which a party must request to appear at a hearing by electronic media.

(a) Unless the request is made on the petition by checking the appropriate box, the The written request must:

1. Contain the petition number and parcel number.
2. Contain petitioner's name.
3. Be sent to the value adjustment board email address listed on Form DR-481 that notices this hearing.
4. Contain an email address for response and follow up by the clerk.

(b) To calculate the ten (10) days, the petitioner must use calendar days and not include the day of the hearing in the calculation, and count backwards from the day of the hearing, using the calendar day before the hearing day as day 1. The last day of the ten (10) day period is included unless it is a Saturday, Sunday, or legal holiday, in which event the period runs until the end of the next previous day that is neither a Saturday, Sunday, or legal holiday.

(c) The clerk must ensure that all parties are notified of such written request.

(d) If a request is received in any county in which the board has opted out of providing hearings using electronic communication equipment, the clerk shall promptly notify any petitioner requesting a hearing using electronic or other communication equipment of such opt

out, in accordance with Section 194.032(2)(b)4., F.S.

(3) A hearing must be noticed by the clerk sending a Value Adjustment Board - Notice of Remote Hearing (form DR-481REM, incorporated by reference in Rule 12D-16.002, F.A.C.), unless the hearing was noticed using Form DR-481 as described in Rule 12D-9.019(3)(b)13. through 14. If the clerk has sent a Form DR-481 providing for the hearing to be conducted using electronic or other communication equipment, it is not necessary to send a Form DR-481REM. However, Form DR-481REM must not be used in lieu of Form DR-481. Consistent with board equipment and procedures:

(a) The notice must read: Any party may request to appear at a hearing before a board or special magistrate, using telephonic or other electronic media. If the board or special magistrate allows a party to appear by telephone, all members of the board in the hearing or the special magistrate must be physically present in the hearing room. Unless required by other provisions of state or federal law, the board clerk need not comply with such a request if such telephonic or electronic media are not reasonably available.

“Your hearing will be conducted using electronic or other communication equipment.”

“You will be attending the hearing using electronic or other communication equipment.”

(b) The notice must: The parties must also all agree on the methods for swearing witnesses, presenting evidence, and placing testimony on the record. Such methods must comply with the provisions of this rule chapter. The agreement of the parties must include which parties must appear by telephonic or other electronic media, and which parties will be present in the hearing room.

1. Contain the petition number;

2. Contain the petitioner’s name;

3. Contain the hearing date and time;

4. Identify the specific form of communication technology to be used and include the following:

a. A statement that sets forth all necessary access instructions, such as meeting codes, passwords, telephone numbers, call in information, and any other required details,

OR

b. The statement as follows: “The necessary access instructions, such as meeting codes, passwords, telephone numbers, call in information, and any other required details are attached”,

OR

c. The statement as follows: “The clerk will email you the information needed to attend the hearing using electronic or other communication equipment. The email message may be generated by computer software related to the communication equipment. If you do not receive this information, please contact this office at (_____)”

AND

d. A statement that the petitioner must upload evidence or email evidence to the designated address of the value adjustment board no later than 9:00 a.m. at least two non-holiday workdays before the hearing date;

AND

e. The designated evidence upload email address or upload weblink to the software system;

5. Contain the clerk’s telephone number;

6. Contain the clerk’s email;

7. Contain the clerk’s or deputy’s name and signature;

8. Any information necessary to comply with federal or state disability or accessibility acts.

(4) ~~The board must have available the necessary equipment and procedures for using the equipment in hearings.~~

(a) ~~“Electronic or other communication equipment: means:~~

~~1. Technology in compliance with applicable law which enables real time, two-way communication using electronic means in which participants are able to see, hear, and communicate with one another; or~~

~~2. telephone; or~~

~~3. a combination thereof.~~

~~(b) The board must maintain provide electronic or other communication equipment and procedures to conduct hearings and allow petitioners to appear using the petitioner’s selected hearing format electronic or other communication equipment at hearings that is. The equipment must be adequate and functional to ensure for clear communication among all participants and create the for creating hearing records required by law. The board must also ensure and that petitioners are able to can submit and transmit evidence to the board in a format that can be received, processed, viewed, printed, and archived.~~

~~(b)(e) Petitioners requesting a telephone or video conference hearing remote hearings must ensure are responsible for ensuring they have the necessary connectivity and equipment to appear and participate remotely.~~

(5)(a) Hearing procedures must include applicable procedures in Rules 12D-9.024 and 12D-9.025, F.A.C.

(b) If the board or special magistrate allows a party to appear using electronic or other communication equipment, all members of the board in the hearing or the special magistrate must be physically present in the hearing room.

(6)(a) Evidence, including rebuttal evidence must be uploaded or emailed to the designated address of the value adjustment board, and received no later than 9:00 a.m. at least two non-holiday workdays before the hearing date. If a hearing is on Monday, then evidence must be uploaded by 9:00 a.m. on the previous Thursday.

(b) The petitioner must submit and transmit evidence to the board in a format that can be processed, viewed, printed, and archived. The documents must be in portable document format (“.pdf”).

(c) The documents must have a cover page which includes:

1. Petition number;

2. Parcel or folio number(s);

3. Petitioner name;

4. Which party is submitting the documents;

5. Telephone number; and

6. Witnesses’ names and telephone numbers if they are not at petitioner’s telephone number.

(d) Pages of the documents must be sequentially numbered if the clerk does not utilize any software in operating the value adjustment board and/or if the clerk’s software does not number pages automatically.

(e) The process of uploading the documents into the value adjustment board’s computer system, or emailing the documents to the designated address of the value adjustment board, described in this subsection is a separate process from the evidence exchange between a petitioner and the property appraiser described in Rule 12D-9.020, F.A.C. The evidence exchange process happens outside of the purview of the value adjustment board. Petitioners must participate in both of these processes, separately.

(7) Witnesses must be available.

(a) The petitioner is responsible for ensuring all witnesses called by the petitioner are available, have the necessary electronic or other communication equipment, and have copies of documents necessary to their testimony.

(b) Witness information for witnesses that will not be at the petitioner's location must be included on the cover page to the documents as specified in paragraph (6)(c).

(8)(a)(4) The board must provide a physical location at which a party may appear, if requested. Such hearings must be open to the public either by providing the ability for interested members of the public to choose either to join the hearing using electronic or other communication equipment to the extent practicable electronically or to monitor the hearing at the location of the board or special magistrate. If the board or special magistrate allows a party to appear using electronic or other communication equipment, all members of the board in the hearing or the special magistrate must be physically present in the hearing room.

(b) To be open to the public using electronic or other communication equipment, proper notice must be given and interactive access by members of the public provided to the extent practicable.

1. A list of hearings must be posted on the board's website, or the clerk must provide hearing information upon request.

2. For hearings using video conference audio-visual technology, the login information, links and passwords must be posted on the board's website to allow public access via the Internet or the clerk must provide this hearing information on request.

*Rulemaking Authority 194.011(5), 194.034(1), 195.027(1), ~~213.06(1)~~ FS. Law Implemented
194.011, 194.032, 194.034, 195.035, 195.022, 195.084 FS. History—New 3-30-10, Amended*
