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# HEARING OFFICER'S MANUAL

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## Contents

O.C.G.A. 48-5-311 .....	3
CHAPTER 1. ....	5
DUE PROCESS.....	5
CHAPTER 2. ....	6
PRE-HEARING ACTIVITY .....	6
CHAPTER 3. ....	8
HEARING .....	8
CHAPTER 4. ....	16
O.C.G.A. ....	16
48-5-299(c) .....	16
48-5-306. Notice of changes made in taxpayer's return; contents; posting notice; new assessment description.....	16
48-5-311. Creation of county boards of equalization; duties; review of assessments; appeals.....	20
CHAPTER 5. ....	44
RULES AND REGULATIONS.....	44
Hearing Officer Procedural Form-1 .....	48

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## O.C.G.A. 48-5-311

O.C.G.A. § 48-5-311 establishes the role, defines the scope, and sets forth qualifications of a **Hearing Officer**.

### The Scope:

- The scope of issues to be decided by a hearing officer include:

Any dispute involving the value or uniformity of a parcel of nonhomestead real property with a fair market value in excess of ~~\$750,000.00~~ \$500,000.00 O.C.G.A. § 48-5-311(e.1)(1)(A). Or, any dispute involving the values or uniformity of one or more account numbers of wireless property as defined in this subparagraph with an aggregate fair market value in excess of ~~\$750,000.00~~ \$500,000.00 O.C.G.A. § 48-5-311(e.1)(1)(B)(ii).

### Qualifications:

- Individuals desiring to serve as hearing officers and who are either state certified general real property appraisers or state certified residential real property appraisers as classified by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board or are designated appraisers by a nationally recognized appraiser's organization for wireless property appeals shall
  - Complete and submit an application. The application is submitted to the Georgia Real Estate Commission/ Georgia Real Estate Appraisers Board
  - Submit a list of counties the hearing officer is willing to serve. These county list are a part of the Hearing Officer listing on the GREAB website, see link <http://www.grec.state.ga.us/PDFS/Appraiser/WebListHearingOfficers.pdf>
  - Submit a disqualification questionnaire and resume
  - Be approved by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board to serve as a hearing officer.
  - Complete an initial eight hours of DOR training.
  - Complete four hours of annual continuing education approved by the Revenue Commissioner. O.C.G.A. § 48-5-311(e.1)(2) & O.C.G.A. § 48-5-311(e.1)(11).

### Supervision:

- The term ““appeal administrator” means the clerk of the superior court” and “the appeal administrator shall have oversight over and supervision of all boards of equalization of the county and hearing officers.” O.C.G.A. § 48-5-311(a) and (d)(4)
- The Appeal Administrator shall randomly select a hearing officer to hear the appeal, unless the taxpayer and the county board of tax assessors mutually agree upon a hearing officer. O.C.G.A. § 48-5-311(e.1)(6).
- The appeal administrator will provide the taxpayer(s), and their agent, and the county board of tax assessors the name and qualifications of the hearing officer. O.C.G.A. § 48-5-311(e.1)(6)(A).

### **Burden of Proof:**

- “The board of tax assessors shall have the burden of proving its opinion of value and the validity of its proposed assessment by a preponderance of evidence.” O.C.G.A. § 48-5-311(e.1)(7).

### **Duties:**

- The hearing officer shall set a time and place to hear evidence and testimony from both parties. The hearing shall take place in the county where the property is located, or such other place as mutually agreed to by the parties and the hearing officer. 48-5-311(e.1)(6)(A).
- “The hearing officer shall swear in all witnesses, perform the powers, duties, and authority of a county or regional board of equalization, and determine the fair market value of the real property based upon the testimony and evidence presented during the hearing. Any issues other than fair market value and uniformity raised in the appeal shall be preserved for appeal to the superior court.” O.C.G.A. § 48-5-311(e.1)(7).
- “At the conclusion of the hearing, the hearing officer shall notify both parties of the decision verbally and shall either send both parties the decision in writing or deliver the decision by hand to each party, with written receipt. O.C.G.A. § 48-5-311(e.1)(7).
- If at any time before or during the appeal, the taxpayer and the county board of tax assessors “execute a signed written agreement on the fair market value and any other issues raised, the appeal shall terminate as of the date of such signed agreement and the fair market value as set forth in such agreement shall become final.” O.C.G.A. § 48-5-311(e.1)(9).
- Each hearing officer “shall be paid at a rate of not less than ~~\$75.00~~ \$100.00 per hour for the first hour and not less than \$25.00 per hour for each hour thereafter as determined by the county governing authority or as may be agreed upon by the parties with the consent of the county governing authority” O.C.G.A. 48-5-311(e.1)(10)

STATE OF GEORGIA  
DEPARTMENT OF REVENUE

HEARING OFFICER'S MANUAL

**CHAPTER 1.**  
**DUE PROCESS**

*A. Basic Requirements*

Hearings must meet the basic requirements of due process. Due process of law is a Constitutional right which provides fundamental protections intending to prevent unreasonable and abusive government action. Courts have often said that the procedures necessary to due process are somewhat flexible, but the essential elements are:

- Notice of the proposed County action must be given to the parties whose interests are affected;
- The affected parties are entitled to present arguments or evidence in support of their position; and
- The decision maker must be unbiased.
- A right to cross-examine.

*B. Representation of a Party*

A party may appear on his or her own behalf or through a representative. Generally, this representative would be an attorney, although statutes governing certain proceedings specifically allow a non-attorney representative. Although a respondent has a right to be represented by counsel, there is no right to appointed counsel in administrative proceedings. The Department uses the Administrative Procedure Act (“APA”) as a guideline for hearing procedures in order to ensure due process is achieved. Under the APA, the respondent’s counsel is not limited to only advising the respondent; rather counsel must be permitted to question witnesses and make arguments on behalf of the respondent.

## CHAPTER 2. PRE-HEARING ACTIVITY

### A. *Communicating with the Parties*

Taking into consideration the prohibition on ex parte communications (one side's communications with the hearing officer occurring without the opposing side being present), the hearing officer should make communication between the parties, and between the parties and the hearing officer, as easy as possible. Copies of all documents should be given to both parties.

Occasionally, a party represented by counsel will attempt to contact the hearing officer directly. When that happens, the party should be immediately advised that contact may **only** be made through counsel. The hearing officer should advise the party's counsel of the client's attempted contact. If the communication is in writing, the hearing officer should supply all parties with a copy of the communication.

### B. *Prior to Hearing*

Notice. The appeal administrator shall notify the taxpayer and the taxpayer's attorney the name of the hearing officer and transmit a copy of the hearing officer's disqualification questionnaire and resume. The hearing officer shall provide electronic or written notice to the parties personally or by registered or certified mail or statutory overnight delivery not less than ten days before the hearing. Such written notice shall advise each party that he or she may request a list of witnesses, documents, or other written evidence to be presented at the hearing by a the other party. Such request must be made not less than ten days prior to the hearing date, and such information shall must be provided to the other requesting party not less than seven days prior to the time of the hearing. Any and that any failure to comply with this requirement shall be grounds for an automatic continuance or for exclusion of such witnesses, documents, or other written evidence.  
48-5-311(e.1)(6)(A)

Agenda. The hearing officer may prepare, and circulate to the parties in advance, a list of the issues to be addressed.

### C. *Discovery*

When a party has discovery rights, or when due process requires an opportunity to investigate the adversary's case, the hearing officer has broad discretion to determine what discovery mechanisms should be allowed.

The discovery mechanisms set out in the Georgia Code and APA (such as depositions, requests for production or inspection, and requests for admission) may be considered, but will not always be appropriate. When considering requests for discovery, a hearing officer should remember the basic policy that administrative hearings should be decidedly less complicated than judicial proceedings.

#### *D. Depositions*

Depositions may be allowed with good cause shown or upon stipulation of the parties. An example of “good cause” for ordering a deposition could be the expectation that a witness’s testimony will be so specialized or technical that the adverse party needs to know the substance in advance of hearing to prepare a rebuttal.

#### *E. Deadlines*

The hearing officer shall notify the parties in writing as to deadlines for the exchange of discovery, filing witness lists, filing fact stipulations, and submission of any briefs. Such notice shall advise each party that he or she may request a list of witnesses, documents, or other written evidence to be presented at the hearing by ~~a~~ the other party. Such request must be made not less than ten days prior to the hearing date, and such information shall ~~must~~ be provided to the ~~other~~ requesting party not less than seven days prior to the time of the hearing. If information is not shared prior to this deadline the hearing officer may establish a continuance to preserve the seven day threshold or preclude the information from being introduced. 48-5-311(e.1)(6)(A)

## **CHAPTER 3. HEARING**

### *A. Mechanics of the Hearing*

The hearing should move as rapidly as possible, consistent with the fundamentals of fairness, impartiality, and thoroughness.

1. **Hearing Location and Facilities.** The hearing should be conducted in a location convenient to the public, including those with disabilities. The witness chair should be arranged so that everyone in the room can see and hear the witnesses, and the reporter (if utilized) should be placed where an accurate record of the testimony of all witnesses and the comments of all participants can be achieved. A nearby location where persons can confer in private is also helpful.

If the hearing officer wants the appeal administrator to arrange for the hearing facility or for recording, the hearing officer should promptly notify the appeal administrator.

2. **Hours.** Hearing hours may be set at a convenient time for the hearing officer and all parties.

3. **Recesses and Promptness.** Short recesses are allowed in the discretion of the hearing officer, and should be taken whenever it might enable the hearing to progress more smoothly.

The times fixed for recess or adjournment should be flexible. For example, if a witness finishes his or her testimony five or ten minutes before the scheduled adjournment time for lunch, it might be convenient to recess; if counsel is in the midst of a complicated cross-examination at the end of the day, adjournment may be delayed so as to permit the cross-examination to conclude.

4. **Recording.** Hearings may be recorded to assure an accurate record, pursuant to Department of Revenue Regulation 560-11-13-.06.

5. **Use of Interpreters.** If a party or witness has requested the assistance of an interpreter, the hearing officer should discuss the request with the appeal administrator and make appropriate arrangements. Generally, the party requesting foreign language interpretive services would be expected to bear the expense of the interpreter. If the request is made to accommodate a disability, the hearing officer should review the Americans with Disabilities Act requirements. The hearing officer, or reporter, if any, should administer an interpreter oath such as the following:

“Do you solemnly swear or affirm that you will truthfully and accurately translate all questions put and all answers given, to the best of your ability?”

Hearing officers should give specific instructions to an interpreter, on the record, such as the following:

- The interpreter is to give word-for-word translations of only what is asked and what is answered;
- The interpreter is not to engage in discussions with the witness in order to clarify what the witness means or for any other reason; and



- The interpreter should interrupt long passages in order to translate several shorter statements rather than one long one.

The parties should also be directed to ask their questions directly to the witness (*e.g.*, "Did you go to the store?") rather than giving the interpreter directions as to what to ask (*e.g.*, "Ask him if he went to the store.").

6. Public Hearings. All hearings are a matter of public record and shall be held open to the public.

### *B. Witnesses*

Witnesses may appear in person or provide testimony by telephone.

1. Evidence by Affidavit. A party may introduce as evidence an appraiser's affidavit regarding the issue to be decided at the hearing. The affidavit is treated as oral evidence with the right to cross-examine waived unless the other party:

- Was not made aware of this evidence before the hearing, or
- Timely requested an opportunity to cross-examine the affiant.

A party representing themselves in the matter before the hearing officer may not fully understand that an affidavit from a witness is not sufficient if another party wishes to cross-examine the affiant's testimony. The affiant must be produced for cross-examination. If the affiant does not present themselves to be cross-examined, then the affidavit must be withdrawn. In some cases, a pro se party may need to be informed by the hearing officer to subpoena a witness whose affidavit, alone, will not suffice.

2. Compelling Testimony / Subpoenas.

a. Who Issues. A hearing officer may issue subpoenas upon the request of either party pursuant to Department of Revenue Regulation 560-11-13-.05(2). O.C.G.A. 50-13-13(6) provides for a hearing officer in contested cases to "sign and issue subpoenas" and enforcement is made through an application to the Superior Court.

b. When Appropriate. A subpoena may be used to compel testimony, or the production of documents, at the hearing.

c. *Extent of Subpoena Power.* Hearing officers lack subpoena enforcement power, therefore the procedure of enforcing an issued subpoena is by application to the superior court of the county where the contested case is being heard for an order requiring obedience. OCGA § 50-13-13.

3. Presumptions from Failure to Testify / Claim of Privilege.

a. *Refusal to Testify.* If a witness refuses to answer a question, or to testify at all, before taking any action, the hearing officer should first determine whether the evidence sought is relevant and non-duplicative in compliance with Department Regulation 560-11-13-.03. If the witness refuses to answer questions on cross-examination, the hearing officer can choose to strike their direct testimony.

*b. Claim of Privilege.* Rules regarding the claim of privilege shall follow the rules of evidence as applied in the trial of civil non-jury cases in the superior court as far as practicable. Commonly recognized privilege exists between a lawyer and client, husband and wife, and accountant and client.

4. Witness Exclusion. Upon motion of a party or upon the hearing officer's own motion, a prospective witness may be excluded from the hearing room while another witness is testifying. However, a party to the proceeding should never be excluded. If the party is an entity, such as an agency, the hearing officer can require the party to designate one person (other than the party's attorney) who will not be excluded. Unless the hearing officer finds that a party would be unfairly prejudiced, a witness whose presence is shown by a party to be important to the presentation of that party's case (*e.g.*, certain experts) should not be excluded.

### *C. Handling of Exhibits*

1. Marking the Exhibits. Exhibits should be marked numerically, allowing easy retrieval of the exhibits during the hearing. Additionally, the hearing officer should require each party to submit an exhibit list with the party's proposed exhibits. Sufficient copies of an exhibit should be made available at the hearing.

2. Demonstrative Exhibits. A demonstrative exhibit is not "real" evidence in the sense that it is not a document prepared during an event in question. Demonstrative exhibits are useful in analyzing or illustrating other evidence. Demonstrative evidence includes charts and drawings prepared by a witness while testifying. Before the witness is excused, the hearing officer should inquire whether the party intends to have the document received into the record as demonstrative evidence. The hearing officer has greater discretion to determine whether to admit demonstrative evidence, as opposed to "real" evidence.

The hearing officer should admit the exhibit if it is more helpful than not, taking into consideration accuracy, confusion, and unfair surprise to opposing parties. Demonstrative exhibits should be marked and admitted in the same manner as other exhibits.

3. Receipt of Exhibits. Simply marking an exhibit for identification does not make the exhibit part of the record. The exhibit must be admitted into evidence. If objections or other questions involving an exhibit have been resolved before the hearing, then the hearing officer should expressly admit the exhibit during the hearing officer's opening statement. If all objections have not been resolved, then the party proposing to add an exhibit to the record must attempt to do so at the hearing and any opponent must be given an opportunity to object at the time the exhibit is offered. The hearing officer should record whether each exhibit is "admitted" or "rejected" by writing on the exhibit list or on the exhibit itself.

When an exhibit is offered into evidence, the hearing officer should consider any objections. The hearing officer should take careful note of the material objected to and the basis of objection. A party should be permitted to respond to the objection. The hearing officer should weigh the arguments and rule on the admissibility of all challenged material. Motions to strike an exhibit may be entertained later if required by further developments at the hearing.

As an alternative to the above procedure, in cases involving large numbers of documents or other exhibits, the hearing officer may provide by prehearing order that all exhibits referred to or used in the hearing will be deemed admitted unless specific objection to admission is made by one of the parties at the hearing. If such a procedure is used, the hearing officer should also order an exchange of exhibits between the parties well in advance of the hearing so that the parties will be prepared to offer objections.

If a party has pre-filed an exhibit, but not offered it into evidence, the exhibit may be returned to the party or destroyed. It is not part of the record. The exhibit list should be notated that the exhibit was withdrawn or not offered.

4. Excluded Evidence. Excluded material should not be physically removed from the record. Instead, after it is marked "rejected," it should be attached to the record but segregated from admitted material so that there is no confusion or inadvertent consideration of rejected material. This rejected material is not considered part of the record to be considered by the agency except to rule on the correctness of its exclusion. During the hearing, the hearing officer should provide and note a reason why the evidence is being excluded from the record. The hearing officer should direct the parties to mark "rejected" on their own copies of offered exhibits as well.

5. New Exhibits. If a party brings in new, surprise exhibits that should have been exchanged before the hearing, the hearing officer should determine whether it would be fairer to exclude the evidence, or to allow the opposing party a continuance to review the evidence before proceeding.

#### *D. Opening Statements*

1. Hearing Officer's Opening Statement. The hearing officer should call the hearing to order, identify himself or herself, and give any preliminary instructions concerning decorum, procedure, and hearing hours. In addition, a basic opening statement should include the following:

- the title of the case;
- the date, time, and place of hearing;
- the persons present at the hearing or who will participate by telephone; and
- the statutes and regulations under which the hearing is being conducted

The opening should be adapted to the type of case and the circumstances. If all affected persons are represented by knowledgeable and experienced counsel, the opening statement may be brief. If members of the public are present, some counsel are unacquainted with the hearing procedure, or one or more parties are not represented by counsel, the hearing officer should briefly describe the subject of the case and the procedures to be followed.

If the parties have stipulated to facts or the admission of exhibits, this should be noted at the beginning of the hearing and should be disclosed to the hearing officer and made part of the record. A stipulation is an agreement made between opposing parties prior to a pending hearing or trial. For example, both parties might stipulate to certain facts, and therefore not have to argue those facts in court. Any materials of which the hearing officer will take official notice should also be cited.

2. Parties' Opening Statements. The parties may be required or permitted to make an opening statement. That statement is not subject to cross-examination.

Opening statements should normally be permitted unless waived by a party. The hearing officer may place a reasonable time limit on opening statements. What constitutes a reasonable time limit depends upon the complexity of the case and the number of issues involved.

Pro se parties often misunderstand the function of an opening statement. Prior to the hearing, it may be helpful to explain to the pro se party that the opening statement is merely intended as an outline of the party's case, what testimony and documents that the party expects to introduce, and what facts the party intends to prove.

#### *E. Motions During Hearing*

At the beginning of the hearing, the hearing officer should explicitly request that any preliminary motions be made and then either dispose of them or take them under advisement. Motions relating to hearing procedures, such as a motion concerning the order of presenting evidence, should be disposed of promptly.

When, a motion is made or an objection to evidence is raised, during a hearing, the hearing officer may permit oral argument in support of, and in opposition to, the motion or objection. In some circumstances, the hearing officer may also request written memoranda on disputed points. In allowing argument or requesting a briefing, however, the hearing officer should try to avoid unnecessary expense and delay.

#### *F. Development of the Record*

##### 1. Burden of Proof / Standard of Proof.

The standard of proof for the hearings shall be a preponderance of the evidence pursuant to Department of Revenue Regulation 560-11-13-.02. A preponderance of the evidence is established when one party's evidence is of greater weight or is more convincing than the evidence offered in opposition to it, in that the evidence, when taken as a whole, shows that the fact in dispute has been proven by one party to be more probable than not.

2. Order of Presentation. Generally, the party with the burden of proof goes first. The order of presentation during the hearings shall be followed pursuant to Department of Revenue Regulation 560-11-13-.02.

##### 3. Witness Testimony.

a. *Witness Order.* The party presenting its case calls witnesses, who are then sworn in by the hearing officer. The following form for administering the oath is suggested:

“Do you solemnly swear or affirm that the testimony you will give will be the truth, the whole truth, and nothing but the truth?”

Direct examination should then begin. Exhibits identified by witnesses should be offered in evidence before each witness is released for cross-examination. Cross-examination and redirect examination would then follow until the testimony of that witness is presented in full. A witness should be excused after giving testimony, subject to recall at the hearing officer's discretion. Normally, all of a party's witnesses (except rebuttal witnesses as discussed below) should be called and examined before the next party begins to call its witnesses.

The hearing officer may allow witness testimony to be taken out of order to accommodate scheduling needs. In multi-party proceedings, witnesses for a category of parties may be heard as a group or in any other convenient sequence.

b. *Cross-examination.* Cross-examination is the questioning of one party's witness by an opposing party or that party's counsel. If there are several parties, the hearing officer should determine the order of cross-examination that will effectuate a clear and accurate record. Ordinarily, priority is given to the party who will have the most extensive cross-examination or who has the greatest interest in the direct testimony to be given. Generally, a party should not be permitted to interject questions during cross-examination by another party. However, the hearing officer may permit this when clarification would be time-saving.

c. *Redirect.* Following cross-examination, redirect examination by the party who initially called the witness should be permitted, but confined to matters brought out on cross-examination. A short conference between a party and the witness may be allowed before redirect examination.

d. *Rebuttal Witnesses.* After the conclusion of the respondent's evidence, the petitioner may rebut adverse evidence. Rebuttal testimony should be limited to new issues raised in the respondent's evidence.

Evidence that could have been introduced in a party's direct case should not be introduced in rebuttal. After the petitioner presents rebuttal evidence, the hearing officer should allow the respondent to rebut factual issues raised for the first time in the petitioner's rebuttal. The hearing officer may recess the hearing briefly to permit a party to prepare to rebut new matters.

The hearing officer should not become the advocate for any party. The party should be expected to meet whatever burden on proof is placed on the party. The hearing officer should avoid any appearance of bias whatsoever.

G. Rules of Evidence. The rules of evidence for the admission of irrelevant, immaterial, or unduly repetitious evidence shall be excluded per the rules of evidence as applied in the trial of civil non-jury cases in the superior courts as far as practicable.

The hearing officer may exclude irrelevant and unduly repetitious evidence.

1. Affidavits. Use of affidavit testimony as direct evidence is permitted. If the opposing party requests cross-examination at the hearing and the affiant is not made available, then the testimony provided in the affidavit testimony is considered to be hearsay.

2. Hearsay. Hearsay evidence may be admitted if it is considered reliable and useful. A hearing officer should exclude hearsay evidence if it appears untrustworthy. It may be used to supplement or explain direct evidence but it is not sufficient by itself to support a finding unless it would be admissible over objection in a civil action. This limitation on the use of hearsay testimony can present a challenge for the hearing officer. In a typically informal administrative hearing, a party may not realize the need to state a hearsay objection. In the absence of a hearsay objection, hearsay evidence is competent evidence which may be considered.

Therefore, the hearing officer should instruct the parties about their obligation to object to each item of hearsay testimony. If hearsay objections are then made, the hearing officer must rule and state whether the testimony is admitted:

- 1) As a recognized exception to the civil hearsay rule (and thus it may be used for any purpose); or
- 2) Solely under the relaxed administrative hearing hearsay rule (and therefore considered only to supplement or explain other evidence).

3. Authentication. The authenticity of documents should be presumed unless a direct challenge is made. Generally, a duplicate is equally admissible as an original unless there is good reason to question it.

If a genuine question is raised about the authenticity of a document, or if it would be unfair under the circumstances to admit the duplicate, the party may be required to establish that an exhibit is what the party claims it to be. Often it will be possible to avoid disputes over the admission of documents if the parties can stipulate to their authenticity before the hearing.

4. Exclusion of Evidence to Limit Scope of Hearing. Rulings on the admission and exclusion of evidence are a part of a hearing officer's function. A hearing officer may appropriately limit the scope of a hearing to only those matters that are within the scope of the hearing. Similarly, evidence that is unduly repetitious or cumulative should be excluded from the record.

5. Privileges. A claim of privilege may be asserted if information is sought about the substance of confidential communications. Evidentiary rules that protect privileged communications are effective in an administrative proceeding to the same extent as in a judicial proceeding.

6. Self-Incriminating Testimony. The Fifth Amendment right against self-incrimination is applicable to administrative proceedings. Failure to assert the Fifth Amendment's protection, however, may constitute a waiver.

7. Official Notice. A hearing officer has the authority to take official notice of a generally accepted technical or scientific matter within the agency's special field, or of a fact that is judicially recognized in the courts of the state.

The hearing officer should attempt to provide written notice before the hearing or oral notice during the hearing of the facts to be officially noticed. Otherwise, written notification, allowing each party

sufficient time to object, may be accomplished after the hearing and before the closing of the record.

8. **Ruling on Objections.** Generally, if an objection to evidence is not made at the time of the hearing, it is considered waived. The hearing officer can require the proponent of the evidence to “lay a foundation” for the admissibility of the evidence by, for example, asking preliminary questions.

The following principles are useful in ruling on some common objections:

a. *Relevance or Materiality.* Relevant evidence is evidence that has some tendency to prove or disprove an issue of fact in the case. A hearing officer may exclude irrelevant or immaterial evidence in order to make a clear record or to avoid weighing irrelevant evidence when deciding a case.

b. *Cumulative or Repetitive Evidence.* The probative value of repetitive or cumulative evidence is minimal and can cause undue delay or waste of time. A hearing officer shall have the right to exclude unduly repetitious evidence pursuant to Department of Revenue Regulation 560-11-13-.03.

#### *H. Bringing the Hearing to a Close*

1. **Closing Argument.** The hearing officer may permit or require oral argument on the merits of the entire case or on specific issues. Oral arguments may be heard at the close of the hearing or before or after the filing of any post-hearing briefs, as the hearing officer directs. In most instances, the hearing officer should set time limits for closing argument. The hearing officer should set a reasonable time limit, considering the complexity of the case and the amount of evidence and testimony presented.

2. **Closing the Record.** The record may be closed at the conclusion of the oral hearing. However, if additional evidence is to be submitted after the hearing, the hearing officer should announce at the hearing, by letter or by other written communication, the date that the record will close. Based upon extraordinary circumstances, such as newly discovered evidence, the record may be reopened to extend hearing or to receive additional stipulated material.

3. At the conclusion of the hearing, the hearing officer shall notify both parties of the decision verbally and shall either send both parties the decision in writing or deliver the decision by hand to each party, with written receipt and a copy of the decision shall also be sent to the Appeal Administrator.

## CHAPTER 4. O.C.G.A.

### **48-5-299(c)**

(c) When the value of real property is reduced or is unchanged from the value on the initial annual notice of assessment or a corrected annual notice of assessment issued by the board of tax assessors and such valuation has been established as the result of an appeal decision rendered by the board of equalization, hearing officer, arbitrator, or superior court pursuant to Code Section 48-5-311 or stipulated by written agreement signed by the board of tax assessors and taxpayer or taxpayer's authorized representative, the new valuation so established by appeal decision or agreement may not be increased by the board of tax assessors during the next two successive years, unless otherwise agreed in writing by both parties, subject to the following exceptions:

(1) This subsection shall not apply to a valuation established by an appeal decision if the taxpayer or his or her authorized representative failed to attend the appeal hearing or provide the board of equalization, hearing officer, or arbitrator with some written evidence supporting the taxpayer's opinion of value;

(2) This subsection shall not apply to a valuation established by an appeal decision or agreement if the taxpayer files a return at a different valuation during the next two successive years;

(3) Unless otherwise agree in writing by the parties, if the taxpayer files an appeal pursuant to Code Section 48-5-311 during the next two successive years, the board of tax assessors, the board of equalization, hearing officer, or arbitrator may increase or decrease the value of the real property based on the evidence presented by the taxpayer during the appeal process; and

(4) The board of tax assessors may increase or decrease the value of the real property if, after a visual on-site inspection of the property, it is found that there have been substantial additions, deletions, or improvements to such property or that there are errors in the board of tax assessors' records as to the description or characterization of the property, or the board of tax assessors finds an occurrence of other material factors that substantially affect the current fair market value of such property.

### **48-5-306. Notice of changes made in taxpayer's return; contents; posting notice; new assessment description.**

(a) *Method of giving annual notice of current assessment to taxpayer.*

Each county board of tax assessors may meet at any time to receive and inspect the tax returns to be laid before it by the tax receiver or tax commissioner. The board shall examine all the returns of both real and personal property of each taxpayer, and if in the opinion of the board any taxpayer has



omitted from such taxpayer's returns any property that should be returned or has failed to return any of such taxpayer's property at its fair market value, the board shall correct the returns, assess and fix the fair market value to be placed on the property, make a note of such assessment and valuation, and attach the note to the returns. The board shall see that all taxable property within the county is assessed and returned at its fair market value and that fair market values as between the individual taxpayers are fairly and justly equalized so that each taxpayer shall pay as nearly as possible only such taxpayer's proportionate share of taxes. The board shall give annual notice to the taxpayer of the current assessment of taxable real property. When any corrections or changes, including valuation increases or decreases, or equalizations have been made by the board to personal property tax returns, the board shall give written notice to the taxpayer of any such changes made in such taxpayer's returns. The annual notice may be given personally by leaving the notice at the taxpayer's dwelling house, usual place of abode, or place of business with some person of suitable age and discretion residing or employed in the house, abode, or business, or by sending the notice through the United States mail as first-class mail to the taxpayer's last known address. The taxpayer may elect in writing to receive all such notices required under this Code section by electronic transmission if electronic transmission is made available by the county board of tax assessors. When notice is given by mail, the county board of tax assessors' return address shall appear in the upper left corner of the face of the mailing envelope and with the United States Postal Service endorsement 'Return Service Requested' and the words 'Official Tax Matter' clearly printed in boldface type in a location which meets United States Postal Service regulations.

(b) *Contents of notice.*

(1) The annual notice of current assessment required to be given by the county board of tax assessors under subsection (a) of this Code section shall be dated and shall contain the name and last known address of the taxpayer. The annual notice shall conform with the state-wide uniform assessment notice which shall be established by the commissioner by rule and regulation and shall contain:

(A) The amount of the previous assessment;

(B) The amount of the current assessment;

(C) The year for which the new assessment is applicable;

(D) A brief description of the assessed property broken down into real and personal property classifications;

(E) The fair market value of property of the taxpayer subject to taxation and the assessed value of the taxpayer's property subject to taxation after being reduced;

(F) The name, phone number, and contact information of the person in the assessors' office who is administratively responsible for the handling of the appeal and who the taxpayer may contact if the taxpayer has questions about the reasons for the assessment change or the appeals process;

(G) If available, the website address of the office of the county board of tax assessors; and

(H) A statement that all documents and records used to determine the current value are available upon request.

(2)(A) In addition to the items required under paragraph (1) of this subsection, the notice shall contain a statement of the taxpayer's right to an appeal and an estimate of the current year's taxes for all levying authorities which shall be in substantially the following form:

'The amount of your ad valorem tax bill for this year will be based on the appraised and assessed values specified in this notice. You have the right to appeal these values to the county board of tax assessors. At the time of filing your appeal you must select one of the following options:

(i) An appeal to the county board of equalization with appeal to the superior court;

(ii) To arbitration without an appeal to the superior court; or (**Note: O.C.G.A. 48-5-311(f) states that decisions of an arbitrator may be appealed to superior court**)

(iii) For a parcel of nonhomestead property with a fair market value in excess of ~~\$750,000.00~~ \$500,000.00 as shown on the taxpayer's annual notice of current assessment under this Code section, or for one or more account numbers of wireless property as defined in subparagraph (e.1)(1)(B) of Code Section 48-5-311 with an aggregate fair market value in excess of ~~\$750,000.00~~ \$500,000.00 as shown on the taxpayer's annual notice of current assessment under this Code section, to a hearing officer with appeal to the superior court.

*If you wish to file an appeal, you must do so in writing no later than 45 days after the date of this notice. If you do not file an appeal by this date, your right to file an appeal will be lost. For further information on the proper method for filing an appeal, you may contact the county board of tax assessors which is located at: (insert address) and which may be contacted by telephone at: (insert telephone number).*

(A) The notice shall also contain the following statements in bold print:

'The estimate of your ad valorem tax bill for the current year is based on the previous or most applicable year's millage rate and the fair market value contained in this notice. The actual tax bill you receive may be more or less than this estimate. This estimate may not include all eligible exemptions.'

(3) The annual notice required under this Code section shall be mailed no later than July 1; provided, however, that the annual notice required under this Code section may be sent later than July 1 for the purpose of notifying property owners of corrections and mapping changes.

(c) *Posting notice on certain conditions.* In all cases where a notice is required to be given to a taxpayer under subsection (a) of this Code section, if the notice is not given to the taxpayer personally or if the notice is mailed but returned undelivered to the county board of tax assessors, then a notice shall be posted in front of the courthouse door or shall be posted on the website of the office of the county board of tax assessors for a period of 30 days. Each posted notice shall contain the name of the owner liable to taxation, if known, or, if the owner is unknown, a brief description of the property together with a statement that the assessment has been made or the return changed or

altered, as the case may be, and the notice need not contain any other information. The judge of the probate court of the county shall make a certificate as to the posting of the notice. Each certificate shall be signed by the judge and shall be recorded by the county board of tax assessors in a book kept for that purpose. A certified copy of the certificate of the judge duly authenticated by the secretary of the board shall constitute prima-facie evidence of the posting of the notice as required by law.

"(d) **Records and information availability.** Notwithstanding the provisions of Code Section 50-18-71, in the case of all public records and information of the county board of tax assessors pertaining to the appraisal and assessment of real property:

(1) The taxpayer may request, and the county board of tax assessors shall provide within ten business days, copies of such public records and information, including, but not limited to, a description of the methodology used by the board of tax assessors in setting the property's fair market value, all documents reviewed in making the assessment, the address and parcel identification number of all real property utilized as qualified comparable properties, and all factors considered in establishing the new assessment, at a uniform copying fee not to exceed 25¢ per page;

(2) No additional charges or fees may be collected from the taxpayer for reasonable search, retrieval, or other administrative costs associated with providing such public records and information; and

(3)(A) The superior courts of this state shall have jurisdiction in law and in equity to entertain actions against the board of tax assessors to enforce compliance with the provisions of this subsection.

(B) In any action brought to enforce the provisions of this subsection in which the court determines that either party acted without substantial justification either in not complying with this subsection or in instituting the litigation, the court shall, unless it finds that special circumstances exist, assess in favor of the complaining party reasonable attorney's fees and other litigation costs reasonably incurred. Whether the position of the complaining party was substantially justified shall be determined on the basis of the record as a whole which is made in the proceeding for which fees and other expenses are sought.

(e) *Description of current assessment.* The notice required by this Code section shall be accompanied by a simple, nontechnical description of the basis for the current assessment.

(f) The commissioner shall promulgate such rules and regulations as may be necessary for the administration of this Code section."

**48-5-311. Creation of county boards of equalization; duties; review of assessments; appeals.**

**(a) Definition.** As used in this Code section, the term "appeal administrator" means the clerk of the superior court.

**(a.1) Appeal administrator.**

(1) The appeal administrator is vested with administrative authority in all other matters governing the conduct and business of the boards of equalization so as to provide oversight and supervision of such boards.

(2) It shall be the duty of the appeal administrator to receive any complaint filed with respect to the official actions of any member of a county board of equalization regarding technical competency, compliance with state law and regulations, or rude or unprofessional conduct or behavior toward any member of the public and to forward such complaint to the grand jury for investigation. Following an investigation, the grand jury shall issue a written report of its findings, which shall include such evaluations, judgments, and recommendations as it deems appropriate. The findings of the report may be grounds for removal of a member of the board of equalization by the grand jury for failure to perform the duties required under this Code section.

**(a.2) Establishment of boards of equalization.**

(1) Except as otherwise provided in this subsection, there is established in each county of this state a county board of equalization to consist of three members and three alternate members appointed in the manner and for the term set forth in this Code section. In those counties having more than 10,000 parcels of real property, the county governing authority, by appropriate resolution adopted on or before November 1 of each year, may elect to have selected one additional county board of equalization for each 10,000 parcels of real property in the county or for any part of a number of parcels in the county exceeding 10,000 parcels.

(1.1) The grand jury shall be authorized to conduct a hearing following its receipt of the report of the appeal administrator under paragraph (2) of subsection (a.1) of this Code section and to remove one or more members of the board of equalization for failure to perform the duties required under this Code section.

(2) Notwithstanding any part of this subsection to the contrary, at any time the governing authority of a county makes a request to the grand jury of the county for additional alternate members of boards of equalization, the grand jury shall appoint the number of alternate members so requested to each board of equalization, such number not to exceed a maximum of 21 alternate members for each of the boards. The alternate members of the boards shall be duly qualified and authorized to serve on any of the boards of equalization of the county. The members of each board of equalization may designate a chairperson and two vice chairpersons of each such board of equalization. The appeal administrator shall have administrative authority in all matters governing the conduct and business of the boards of equalization so as to provide oversight and supervision of such boards and scheduling of appeals. Any combination of members or alternate members of any such board of equalization of the county shall be competent to exercise the power and authority of the board. Any

person designated as an alternate member of any such board of equalization of the county shall be competent to serve in such capacity as provided in this Code section upon appointment and taking of oath.

(3) Notwithstanding any provision of this subsection to the contrary, in any county of this state having a population of 400,000 or more according to the United States decennial census of 1990 or any future such census, the governing authority of the county, by appropriate resolution adopted on or before November 1 of each year, may elect to have selected one additional county board of equalization for each 10,000 parcels of real property in the county or for any part of a number of parcels in the county exceeding 10,000 parcels. In addition to the foregoing, any two members of a county board of equalization of the county may decide an appeal from an assessment, notwithstanding any other provisions of this Code section. The decision shall be in writing and signed by at least two members of the board of equalization; and, except for the number of members necessary to decide an appeal, the decision shall conform to the requirements of this Code section.

(4) The governing authorities of two or more counties may by intergovernmental agreement establish regional boards of equalization for such counties which shall operate in the same manner and be subject to all of the requirements of this Code section specified for county boards of equalization. The intergovernmental agreement shall specify the manner in which the members of the regional board shall be appointed by the grand jury of each of the counties, shall specify which appeal administrator shall have oversight over and supervision of such regional board, and shall provide for funding from each participating county for the operations of the appeal administrator as required by subparagraph (d)(4)(C.1) of this Code section. All hearings and appeals before a regional board shall be conducted in the county in which the property which is the subject of the hearing or appeal is located.

**(b) Qualifications of board of equalization members.**

(1) Each person who is, in the judgment of the appointing grand jury, qualified and competent to serve as a grand juror, who is the owner of real property located in the county where such person is appointed to serve, or, in the case of a regional board of equalization, is the owner of real property located in any county in the region where such person is appointed to serve, and who is at least a high school graduate shall be qualified, competent, and compellable to serve as a member or alternate member of the county board of equalization. No member of the governing authority of a county, municipality, or consolidated government; member of a county or independent board of education; member of the county board of tax assessors; employee of the county board of tax assessors; or county tax appraiser shall be competent to serve as a member or alternate member of the county board of equalization.

(2) (A) Each person seeking to be appointed as a member or alternate member of a county board of equalization shall, not later than immediately prior to the time of his or her appointment under subsection (c) of this Code section, file with the clerk of the superior court a uniform application form which shall be a public record. The Council of Superior Court Clerks of Georgia created under Code Section 15-6-50.2 shall design the form which indicates the applicant's education, employment background, experience, and qualifications for such appointment.

(B)(i) Within the first year after a member's initial appointment to the board of equalization, each member shall satisfactorily complete not less than 40 hours of instruction in appraisal and equalization processes and procedures, as prepared and required by the commissioner pursuant to Code Section 48-5-13.

(ii) On or after January 1, 2016, following the completion of each term of office, a member shall, within the first year of appointment to the subsequent term of office, complete satisfactorily not less than 20 hours of instruction in appraisal and equalization processes and procedures, as prepared and required by the commissioner for newly appointed members.

(iii) No person shall be eligible to hear an appeal as a member of a board of equalization unless, prior to hearing such appeal, such person shall satisfactorily complete the 20 hours of instruction in appraisal and equalization processes and procedures required under the applicable provisions of division (i) or (ii) of this subparagraph.

(iv) The failure of any member to fulfill the requirements of the applicable provisions of division (i) or (ii) of this subparagraph shall render such member ineligible to serve on the board; and the vacancy created thereby shall be filled in the same manner as other vacancies on the board are filled.

(C) (i) Any person appointed to a board of equalization shall be required to complete annually a continuing education requirement of at least eight hours of instruction in appraisal and equalization procedures, as prepared and required by the commissioner pursuant to Code Section 48-5-13.

(ii) The failure of any member to fulfill the requirements of division (i) of this subparagraph shall render such member ineligible to serve on the board; and the vacancy created thereby shall be filled in the same manner as other vacancies on the board are filled.

**(c) Appointment of board of equalization members.**

(1) Except as provided in paragraph (2) of this subsection, each member and alternate member of the county board of equalization shall be appointed for a term of three calendar years next succeeding the date of such member or such alternate member's selection. Each term shall begin on January 1.

(2) The grand jury in each county at any term of court preceding November 1 of 1991 shall select three persons who are otherwise qualified to serve as members of the county board of equalization and shall also select three persons who are otherwise qualified to serve as alternate members of the county board of equalization. The three individuals selected as alternates shall be designated as alternate one, alternate two, and alternate three, with the most recent appointee being alternate number three, the next most recent appointee being alternate number two, and the most senior appointee being alternate number one. One member and one alternate shall be appointed for terms of one year, one member and one alternate shall be appointed for two years, and one member and one alternate shall be appointed for three years. Each year thereafter, the grand jury of each county shall select one member and one alternate for three-year terms.

(3) If a vacancy occurs on the county board of equalization, the individual designated as alternate one shall then serve as a member of the board of equalization for the unexpired term. If a vacancy occurs among the alternate members, the grand jury then in session or the next grand jury shall select an individual who is otherwise qualified to serve as an alternate member of the county board of equalization for the unexpired term. The individual so selected shall become alternate member three, and the other two alternates shall be redesignated appropriately.

(4) Within five days after the names of the members and alternate members of the county board or boards of equalization have been selected, the clerk of the superior court shall cause such appointees to appear before the clerk of the superior court for the purpose of taking and executing in writing the oath of office. The clerk of the superior court may utilize any means necessary for such purpose, including, but not limited to, telephonic or other communication, regular first-class mail, or issuance of and delivery to the sheriff or deputy sheriff a precept containing the names of the persons so selected. Within ten days of receiving the precept, the sheriff or deputy sheriff shall cause the persons whose names are written on the precept to be served personally or by leaving the summons at their place of residence. The summons shall direct the persons named on the summons to appear before the clerk of the superior court on a date specified in the summons, which date shall not be later than December 15.

(5) Each member and alternate member of the county board of equalization, on the date prescribed for appearance before the clerk of the superior court and before entering on the discharge of such member and alternate member's duties, shall take and execute in writing before the clerk of the superior court the following oath:

"I, \_\_\_\_\_, agree to serve as a member of the board of equalization of the County of \_\_\_\_\_ and will decide any issue put before me without favor or affection to any party and without prejudice for or against any party. I will follow and apply the laws of this state. I also agree not to discuss any case or any issue with any person other than members of the board of equalization except at any appeal hearing. I shall faithfully and impartially discharge my duties in accordance with the Constitution and laws of this state, to the best of my skill and knowledge. So help me God.

Signature of member or alternate member"

In addition to the oath of office prescribed in this paragraph, the presiding or chief judge of the superior court or the appeal administrator shall charge each member and alternate member of the county board of equalization with the law and duties relating to such office.

**(d) Duties and powers of board of equalization members.**

(1) The county board of equalization shall hear and determine appeals from assessments and denials of homestead exemptions as provided in subsection (e) of this Code section.

(2) If, in the course of determining an appeal, the county board of equalization finds reason to believe that the property involved in an appeal or the class of property in which is included the property involved in an appeal is not uniformly assessed with other property included in the digest, the board shall request the respective parties to the appeal to present relevant information with respect to that question. If the board determines that uniformity is not present, the board may order the county board of tax assessors to take such action as is necessary to obtain uniformity, except that, when a question of county-wide uniformity is considered by the board, the board may recommend a partial or total county-wide revaluation only upon a determination by a majority of all the members of the board that the clear and convincing weight of the evidence requires such action. The board of equalization may act pursuant to this paragraph whether or not the appellant has raised the issue of uniformity.

(3) The board shall establish procedures which comply strictly with the regulations promulgated by the commissioner pursuant to subparagraph (e)(1)(D) of this Code section for the conducting of appeals before the board. The procedures shall be entered into the minutes of the board, and a copy of the procedures shall be made available to any individual upon request.

(4)(A) The appeal administrator shall have oversight over and supervision of all boards of equalization of the county and hearing officers. This oversight and supervision shall include, but not be limited to, requiring appointment of members of county boards of equalization by the grand jury; giving the notice of the appointment of members and alternates of the county board of equalization by the county grand jury as required by Code Section 15-12-81; collecting the names of possible appointees; collecting information from possible appointees as to their qualifications; presenting the names of the possible appointees to the county grand jury; processing the appointments as required by paragraph (4) of subsection (c) of this Code section, including administering the oath of office to the newly appointed members and alternates of the county board of equalization as required by paragraph (5) of such subsection; instructing the newly appointed members and alternates as to the training they must receive and the operations of the county board of equalization; presenting to the grand jury of the county the names of possible appointees to fill vacancies as provided in paragraph (3) of such subsection; maintaining a roster of board members and alternates, maintaining a record showing that the board members and alternates completed training, keeping attendance records of board members and alternates for the purpose of payment for service, and maintaining the uniform application forms and keeping a record of the appointment dates of board members and alternates and their terms in office; and informing the county board of equalization that it must establish by regulation procedures for conducting appeals before the board as required by paragraph (3) of this subsection. Oversight and supervision shall also include the scheduling of board hearings, assistance in scheduling hearings before hearing officers, and giving notice of the date, time, and place of hearings to the taxpayers and the county board of tax assessors and giving notice of the decisions of the county board of equalization or hearing officer to the taxpayer and county board of tax assessors as required by division (e)(6)(D)(i) of this Code section.

(B) The county governing authority shall provide any resources to the appeal administrator that are required to be provided by paragraph (7) of subsection (e) of this Code section.



(C) The county governing authority shall provide to the appeal administrator facilities and secretarial and clerical help for appeals pursuant to subsection (e.1) of this Code section.

(C.1) The operations of the appeal administrator under this Code section shall, for budgeting purposes, constitute a distinct budget unit within the county budget that is separate from the operations of the clerk of the superior court. The appeal administrator budget unit shall contain a separate line item for the compensation of the appeal administrator for the performance of duties required under this Code section as well as separate line items for resources, facilities, and personnel as specified under subparagraphs (B) and (C) of this paragraph.

(D) The appeal administrator shall maintain any county records of all notices to the taxpayer and the taxpayer's attorney, of certified receipts of returned or unclaimed mail, and from the hearings before the board of equalization and before hearing officers for 12 months after the deadline to file any appeal to the superior court expires. If an appeal is not filed to the superior court, the appeal administrator is authorized to properly destroy any records from the hearings before the county board of equalization or hearing officers but shall maintain records of all notices to the taxpayer and the taxpayer's attorney and certified receipts of returned or unclaimed mail for 12 months. If an appeal to the superior court is filed, the appeal administrator shall file such appeal and records in the civil action that is considered open by the clerk of superior court for such appeal, and such records shall become part of the record on appeal in accordance with paragraph (2) of subsection (g) of this Code section.

**(e) Appeal.**

(1) (A) Any taxpayer or property owner as of the last date for filing an appeal may elect to file an appeal from an assessment by the county board of tax assessors to:

(i) The county board of equalization as to matters of taxability, uniformity of assessment, and value, and, for residents, as to denials of homestead exemptions pursuant to paragraph (2) of this subsection;

(ii) An arbitrator as to matters of value pursuant to subsection (f) of this Code section;

(iii) A hearing officer as to matters of value and uniformity of assessment for a parcel of nonhomestead real property with a fair market value in excess of ~~\$750,000.00~~ \$500,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, and any contiguous nonhomestead real property owned by the same taxpayer, pursuant to subsection (e.1) of this Code section; or

(iv) A hearing officer as to matters of values or uniformity of assessment of one or more account numbers of wireless property as defined in subparagraph (e.1)(1)(B) of this Code section with an aggregate fair market value in excess of ~~\$750,000.00~~ \$500,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, pursuant to subsection (e.1) of this Code section.

(A.1) The commissioner shall establish by rule and regulation a uniform appeal form that the taxpayer may use. Such uniform appeal form shall require the initial assertion of a valuation of the property by the taxpayer.

(B) In addition to the grounds enumerated in subparagraph (A) of this paragraph, any taxpayer having property that is located within a municipality, the boundaries of which municipality extend into more than one county, may also appeal from an assessment on such property by the county board of tax assessors to the county board of equalization, to a hearing officer, or to arbitration as to matters of uniformity of assessment of such property with other properties located within such municipality, and any uniformity adjustments to the assessment that may result from such appeal shall only apply for municipal ad valorem tax purposes.

(B.1) The taxpayer or his or her agent or representative may submit in support of his or her appeal an appraisal given, signed, and certified as such by a real property appraiser as classified by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board which was performed not later than nine months prior to the date of assessment. The board of tax assessors shall consider the appraisal upon request. Within 45 days of the receipt of the taxpayer's appraisal, the board of tax assessors shall notify the taxpayer or his or her agent or representative of acceptance of the appraisal or shall notify the taxpayer or his or her agent or representative of the reasons for rejection.

(B.2) The taxpayer or his or her agent or representative may submit in support of his or her appeal the most current report of the sales ratio study for the county conducted pursuant to Code Section 48-5-274. The board of tax assessors shall consider such sales ratio study upon request of the taxpayer or his or her agent or representative.

(B.3) Any assertion of value by the taxpayer on the uniform appeal form made to the board of tax assessors shall be subject to later amendment or revision by the taxpayer by submission of written evidence to the board of tax assessors.

(B.4) If more than one property of a taxpayer is under appeal, the board of equalization, arbitrator, or hearing officer, as the case may be, shall, upon request of the taxpayer, consolidate all such appeals in one hearing and shall announce separate decisions as to each parcel or item of property. Any appeal from such a consolidated hearing to the superior court as provided in subsection (g) of this Code section shall constitute a single civil action and, unless the taxpayer specifically so indicates in the taxpayer's notice of appeal, shall apply to all such parcels or items of property.

(B.5) Within ten days of a final determination of value under this Code section and the expiration of the 30 day appeal period provided by subsection (g) of this Code section, or, as otherwise provided by law, with no further option to appeal, the county board of tax assessors shall forward such final determination of value to the tax commissioner.

(C) Appeals to the county board of equalization shall be conducted in the manner provided in paragraph (2) of this subsection. Appeals to a hearing officer shall be conducted in the manner specified in subsection (e.1) of this Code section. Appeals to an arbitrator shall be conducted in the manner specified in subsection (f) of this Code section. **Such appeal proceedings shall be conducted**

between the hours of 8:00 A.M. and 7:00 P.M. on a business day. Following the notification of the taxpayer of the date and time of such taxpayer's scheduled hearing, the taxpayer shall be authorized to exercise a one-time option of changing the date and time of the taxpayer's scheduled hearing to a day and time acceptable to the taxpayer and the county board of tax assessors. The appeal administrator shall grant additional extensions to the taxpayer or the county board of tax assessors for good cause shown, or by agreement of the parties.

(D) The commissioner, by regulation, shall adopt uniform procedures and standards which shall be followed by county boards of equalization, hearing officers, and arbitrators in determining appeals. Such rules shall be updated and revised periodically and reviewed no less frequently than every five years. The commissioner shall publish and update annually a manual for use by county boards of equalization, arbitrators, and hearing officers.

(2) (A) An appeal shall be effected by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, by mailing to, or by filing with the county board of tax assessors a notice of appeal within 45 days from the date of mailing the notice pursuant to Code Section 48-5-306. A written objection to an assessment of real property received by a county board of tax assessors stating the location of the real property and the identification number, if any, contained in the tax notice shall be deemed a notice of appeal by the taxpayer under the grounds listed in paragraph (1) of this subsection. A written objection to an assessment of personal property received by a county board of tax assessors giving the account number, if any, contained in the tax notice and stating that the objection is to an assessment of personal property shall be deemed a notice of appeal by the taxpayer under the grounds listed in paragraph (1) of this subsection. The county board of tax assessors shall review the valuation or denial in question, and, if any changes or corrections are made in the valuation or decision in question, the board shall send a notice of the changes or corrections to the taxpayer pursuant to Code Section 48-5-306. Such notice shall also explain the taxpayer's right to appeal to the county board of equalization as provided in subparagraph (C) of this paragraph if the taxpayer is dissatisfied with the changes or corrections made by the county board of tax assessors.

(B) If no changes or corrections are made in the valuation or decision, the county board of tax assessors shall send written notice thereof to the taxpayer, to any authorized agent or representative of the taxpayer to whom the taxpayer has requested that such notice be sent, and to the county board of equalization which notice shall also constitute the taxpayer's appeal to the county board of equalization without the necessity of the taxpayer's filing any additional notice of appeal to the county board of tax assessors or to the county board of equalization. The county board of tax assessors shall also send or deliver all necessary papers to the county board of equalization. If, however, the taxpayer and the county board of tax assessors execute a signed agreement as to valuation, the appeal shall terminate as of the date of such signed agreement.

(C) If changes or corrections are made by the county board of tax assessors, the board shall notify the taxpayer in writing of such changes. The commissioner shall develop and make available to county boards of tax assessors a suitable form which shall be used in such notification to the taxpayer. The notice shall be sent by regular mail properly addressed to the address or addresses the

taxpayer provided to the county board of tax assessors and to any authorized agent or representative of the taxpayer to whom the taxpayer has requested that such notice be sent. If the taxpayer is dissatisfied with such changes or corrections, the taxpayer shall, within 30 days of the date of mailing of the change notice, notify the county board of tax assessors to continue the taxpayer's appeal to the county board of equalization by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, or by mailing to or filing with the county board of tax assessors a written notice of continuance. The county board of tax assessors shall send or deliver the notice of appeal and all necessary papers to the county board of equalization.

(D) The written notice to the taxpayer required by this paragraph shall contain a statement of the grounds for rejection of any position the taxpayer has asserted with regard to the valuation of the property. No addition to or amendment of such grounds as to such position shall be permitted before the county board of equalization.

(3) (A) In each year, the county board of tax assessors shall review the appeal and notify the taxpayer (i) if there are no changes or corrections in the valuation or decision, or (ii) of any corrections or changes within 180 days after receipt of the taxpayer's notice of appeal. If the county board of tax assessors fails to respond to the taxpayer within such 180 day period, the property valuation asserted by the taxpayer on the property tax return or the taxpayer's notice of appeal shall become the assessed fair market value for the taxpayer's property for the tax year under appeal. If no such assertion of value was submitted by the taxpayer, the appeal shall be forwarded to the county board of equalization.

(B) In any county in which the number of appeals exceeds a number equal to or greater than 3 percent of the total number of parcels in the county or the sum of the current assessed value of the parcels under appeal is equal to or greater than 3 percent of the gross tax digest of the county, the county board of tax assessors ~~shall~~ may be granted an additional 180 day period to make its determination and notify the taxpayer. The However, as a condition to receiving such an extension, the county board of tax assessors shall, at least 30 days before the expiration of the 180 day period provided under subparagraph (A) of this paragraph, notify each affected taxpayer of the additional 180 day review period provided in this subparagraph by mail or electronic communication, including posting notice on the website of the county board of tax assessors if such a website is available. Such additional period shall commence immediately following the last day of the 180 days provided for under subparagraph (A) of this paragraph. If the county board of tax assessors fails to review the appeal and notify the taxpayer of either no changes or of any corrections or changes not later than the last day of such additional 180 day period, then the most recent property tax valuation asserted by the taxpayer on the property tax return or on appeal shall prevail and shall be deemed the value established on such appeal unless a time extension is granted under subparagraph (C) of this paragraph. If no such assertion of value was submitted by the taxpayer, the appeal shall be forwarded to the county board of equalization.

(C) Upon a sufficient showing of good cause by reason of unforeseen circumstances proven to the commissioner at least 30 days prior to the expiration of the additional 180 day period provided for under subparagraph (B) of this paragraph, the commissioner shall be authorized, in the commissioner's sole discretion, to provide for a time extension beyond the end of such additional

180 day period. The duration of any such time extension shall be specified in writing by the commissioner and, at least 30 days prior to the expiration of the extension provided for under subparagraph (B) of this paragraph, shall be sent to each affected taxpayer and shall also be posted on the website of the county board of tax assessors if such a website is available. If the county board of tax assessors fails to make its review and notify the taxpayer and the taxpayer's attorney not later than 30 days before the last day of such time extension, the most recent property tax valuation asserted by the taxpayer on the property tax return or on the taxpayer's notice of appeal shall prevail and shall be deemed the value established on such appeal. If no such assertion of value was submitted by the taxpayer, the appeal shall be forwarded to the county board of equalization. In addition, the commissioner shall be authorized to require additional training or require such other remediation as the commissioner may deem appropriate for failure to meet the deadline imposed by the commissioner under this subparagraph.

(4) The determination by the county board of tax assessors of questions of factual characteristics of the property under appeal, as opposed to questions of value, shall be prima-facie correct in any appeal to the county board of equalization. However, the board of tax assessors shall have the burden of proving its opinions of value and the validity of its proposed assessment by a preponderance of evidence.

(5) The county board of equalization shall determine all questions presented to it on the basis of the best information available to the board.

(6) (A) Within 15 days of the receipt of the notice of appeal, the county board of equalization shall set a date for a hearing on the questions presented and shall so notify the taxpayer and the county board of tax assessors in writing. Such notice shall be sent by first-class mail to the taxpayer and to any authorized agent or representative of the taxpayer to whom the taxpayer has requested that such notice be sent. Such notice shall be transmitted by e-mail to the county board of tax assessors if such board has adopted a written policy consenting to electronic service, and, if it has not, then such notice shall be sent to such board by first-class mail or intergovernmental mail. Such written notice shall advise each party that he or she may request a list of witnesses, documents, or other written evidence to be presented at the hearing by the other party, ~~which~~. Such request must be made not less than ten days prior to the hearing date, and such information shall be provided to the requesting party not less than seven days prior to, which shall be provided to the requesting party not less than seven days prior to the time of the hearing. Any failure to comply with this requirement shall be grounds for an automatic continuance or for exclusion of such witness, documents, or other written evidence. A taxpayer may appear before the board of equalization concerning any appeal in person, by his or her authorized agent or representative, or both. The taxpayer shall specify in writing to the board of equalization the name of any such agent or representative prior to any appearance by the agent or representative before the board.

(B) Within 30 days of the date of notification to the taxpayer of the hearing required in this paragraph but not earlier than 20 days from the date of such notification to the taxpayer, the county board of equalization shall hold such hearing to determine the questions presented.

(C) If more than one property of a taxpayer is under appeal, the board of equalization shall, upon request of the taxpayer, consolidate all such appeals in one hearing and announce separate decisions as to each parcel or item of property. Any appeal from such a consolidated board of equalization hearing to the superior court as provided in this subsection shall constitute a single civil action, and, unless the taxpayer specifically so indicates in his or her notice of appeal, shall apply to all such parcels or items of property.

(D) (i) The board of equalization shall announce its decision on each appeal at the conclusion of the hearing held in accordance with subparagraph (B) of this paragraph before proceeding with another hearing. The decision of the county board of equalization shall be in writing, shall be signed by each member of the board, shall specifically decide each question presented by the appeal, shall specify the reason or reasons for each such decision as to the specific issues of taxability, uniformity of assessment, value, or denial of homestead exemptions depending upon the specific issue or issues raised by the taxpayer in the course of such taxpayer's appeal, shall state that with respect to the appeal no member of the board is disqualified from acting by virtue of subsection (j) of this Code section, and shall certify the date on which notice of the decision is given to the parties. Notice of the decision shall be delivered by hand to each party, with written receipt, or given to each party by sending a copy of the decision by registered or certified mail or statutory overnight delivery to the appellant and by filing the original copy of the decision with the county board of tax assessors. Each of the three members of the county board of equalization must be present and must participate in the deliberations on any appeal. A majority vote shall be required in any matter. All three members of the board shall sign the decision indicating their vote.

(ii) Except as otherwise provided in subparagraph (g)(4)(B) of this Code section, the county board of tax assessors shall use the valuation of the county board of equalization in compiling the tax digest for the county for the year in question and shall indicate such valuation as the previous year's value on the property tax notice of assessment of such taxpayer for the immediately following year rather than substituting the valuation which was changed by the county board of equalization.

(iii) (I) If the county's tax bills are issued before an appeal has been finally determined, the county board of tax assessors shall specify to the county tax commissioner the lesser of the valuation in the last year for which taxes were finally determined to be due on the property or 85 percent of the current year's value, unless the property in issue is homestead property and has been issued a building permit and structural improvements have occurred, or structural improvements have been made without a building permit, in which case, it shall specify 85 percent of the current year's valuation as set by the county board of tax assessors. Depending on the circumstances of the property, this amount shall be the basis for a temporary tax bill to be issued; provided, however, that a nonhomestead owner of a single property valued at \$2 million or more may elect to pay the temporary tax bill which specifies 85 percent of the current year's valuation; or, such owner may elect to pay the amount of the difference between the 85 percent tax bill based on the current year's valuation and the tax bill based on the valuation from the last year for which taxes were finally determined to be due on the property in conjunction with the amount of the tax bill based on valuation from the last year for which taxes were finally determined to be due on the property, to the tax commissioner's office. Only the amount which represents the difference between the tax bill



based on the current year's valuation and the tax bill based on the valuation from the last year for which taxes were finally determined to be due will be held in an escrow account by the tax commissioner's office. Once the appeal is concluded, the escrowed funds shall be released by the tax commissioner's office to the prevailing party. The taxpayer may elect to pay the temporary tax bill in the amount of 100 percent of the current year's valuation if no substantial property improvement has occurred. The county tax commissioner shall have the authority to adjust such tax bill to reflect the 100 percent value as requested by the taxpayer. Such tax bill shall be accompanied by a notice to the taxpayer that the bill is a temporary tax bill pending the outcome of the appeal process. Such notice shall also indicate that upon resolution of the appeal, there may be additional taxes due or a refund issued.

(II) For the purposes of this Code section, any final value that causes a reduction in taxes and creates a refund that is owed to the taxpayer shall be paid by the tax commissioner to the taxpayer, entity, or transferee who paid the taxes with interest, as provided in subsection (m) of this Code section.

(III) For the purposes of this Code section, any final value that causes an increase in taxes and creates an additional billing shall be paid to the tax commissioner as any other tax due along with interest, as provided in subsection (m) of this Code section.

(7) The appeal administrator shall furnish the county board of equalization necessary facilities and administrative help. The appeal administrator shall see that the records and information of the county board of tax assessors are transmitted to the county board of equalization. The county board of equalization shall consider in the performance of its duties the information furnished by the county board of tax assessors and the taxpayer.

(8) If at any time during the appeal process to the county board of equalization ~~and after certification by the county board of tax assessors to the county board of equalization~~, the county board of tax assessors and the taxpayer mutually agree in writing on the fair market value, then the county board of tax assessors, or the county board of equalization, as the case may be, shall enter the agreed amount in all appropriate records as the fair market value of the property under appeal, and the appeal shall be concluded. The provisions in subsection (c) of Code Section 48-5-299 shall apply to the agreed-upon valuation unless otherwise waived by both parties.

(9) Notwithstanding any other provision of law to the contrary, on any real property tax appeal made under this Code section on and after January 1, 2016, the assessed value being appealed may be lowered by the deciding body based upon the evidence presented but cannot be increased from the amount assessed by the county board of tax assessors. This paragraph shall not apply to any appeal where the taxpayer files an appeal during a time when subsection (c) of Code Section 48-5-299 is in effect for the assessment being appealed.

**(e.1) Appeals to hearing officer.**

(1) (A) For any dispute involving the value or uniformity of a parcel of nonhomestead real property with a fair market value in excess of ~~\$750,000.00~~ \$500,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, at the option of the taxpayer, an appeal

may be submitted to a hearing officer in accordance with this subsection. If such taxpayer owns nonhomestead real property contiguous to such qualified nonhomestead real property, at the option of the taxpayer, such contiguous property may be consolidated with the qualified property for purposes of the hearing under this subsection.

(B) (i) As used in this subparagraph, the term "wireless property" means tangible personal property or equipment used directly for the provision of wireless services by a provider of wireless services which is attached to or is located underneath a wireless cell tower or at a network data center location but which is not permanently affixed to such tower or data center so as to constitute a fixture.

(ii) For any dispute involving the values or uniformity of one or more account numbers of wireless property as defined in this subparagraph with an aggregate fair market value in excess of ~~\$750,000.00~~ \$500,000.00 as shown on the taxpayer's annual notice of current assessment under Code Section 48-5-306, at the option of the taxpayer, an appeal may be submitted to a hearing officer in accordance with this subsection.

(2) **Individuals desiring to serve as hearing officers and who are either state certified general real property appraisers or state certified residential real property appraisers as classified by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board for real property appeals or are designated appraisers by a nationally recognized appraiser's organization for wireless property appeals shall complete and submit an application, a list of counties the hearing officer is willing to serve, disqualification questionnaire, and resume and be approved by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board to serve as a hearing officer. Such board shall annually publish a list of qualified and approved hearing officers for Georgia.**

(3) **The appeal administrator shall furnish any hearing officer so selected the necessary facilities.**

(4) An appeal shall be effected by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, or by filing with the county board of tax assessors a notice of appeal to a hearing officer within 45 days from the date of mailing the notice of assessment pursuant to Code Section 48-5-306. A written objection to an assessment of real property or wireless property received by a county board of tax assessors stating the taxpayer's election to appeal to a hearing officer and showing the location of the real property or wireless property contained in the assessment notice shall be deemed a notice of appeal by the taxpayer.

(5) The county board of tax assessors may for no more than 90 days review the taxpayer's written appeal, and if changes or corrections are made by the county board of tax assessors, the board shall notify the taxpayer in writing of such changes. Within 30 days of the county board of tax assessors' mailing of such notice, the taxpayer may notify the county board of tax assessors in writing that the changes or corrections made by the county board of tax assessors are not acceptable, in which case, the county board of tax assessors shall, within 30 days of the date of mailing of such taxpayer's notification, send or deliver all necessary papers documentation to the appeal administrator, in paper or electronic format as agreed upon by the county board of tax assessors and appeal administrator, and mail a copy to the taxpayer or, alternatively, forward the appeal to the board of equalization if



so elected by the taxpayer and such election is included in the taxpayer's notification that the changes are not acceptable. If, after review, the county board of tax assessors determines that no changes or corrections are warranted, the county board of tax assessors shall notify the taxpayer of such decision. The taxpayer may elect to forward the appeal to the board of equalization by notifying the county board of tax assessors within 30 days of the mailing of the county board of tax assessor's notice of no changes or corrections. Upon the expiration of 30 days following the mailing of the county board of tax assessors' notice of no changes or corrections, the county board of tax assessors shall certify the notice of appeal and send or deliver all necessary ~~papers~~ documentation to the appeal administrator, in paper or electronic format as agreed upon by the county board of tax assessors and appeal administrator, for the appeal to the hearing officer, or board of equalization if elected by the taxpayer, and mail a copy to the taxpayer. If the county board of tax assessors fails to respond in writing, either with changes or no changes, to the taxpayer within 180 days after receiving the taxpayer's notice of appeal, the property valuation asserted by the taxpayer on the property tax return or the taxpayer's notice of appeal shall become the assessed fair market value for the taxpayer's property for the tax year under appeal.

(6) (A) The appeal administrator shall randomly select from such list a hearing officer who shall have experience or expertise in hearing or appraising the type of property that is the subject of appeal to hear the appeal, unless the taxpayer and the county board of tax assessors mutually agree upon a hearing officer from such list. The appeal administrator shall notify the taxpayer and the taxpayer's attorney in compliance with subsection (o) of this Code section of the name of the hearing officer and transmit a copy of the hearing officer's disqualification questionnaire and resume provided for under paragraph (2) of this subsection. If no hearing officer is appointed or if no hearing is scheduled within 180 days after the county board of tax assessors receives the taxpayer's notice of appeal, the property valuation asserted by the taxpayer on the property tax return or the taxpayer's notice of appeal shall become the assessed fair market value for the taxpayer's property for the tax year under appeal, and subsection (c) of Code Section 48-5-299 shall apply. The hearing officer, in conjunction with all parties to the appeal, shall set a time and place to hear evidence and testimony from both parties. The hearing shall take place in the county where the property is located, or such other place as mutually agreed to by the parties and the hearing officer. The hearing officer shall provide electronic or written notice to the parties personally or by registered or certified mail or statutory overnight delivery not less than ten days before the hearing. Such written notice shall advise each party that he or she may request a list of witnesses, documents, or other written evidence to be presented at the hearing by ~~a~~ the other party. Such request must be made not less than ten days prior to the hearing date, and such information shall ~~must~~ be provided to the ~~other~~ requesting party not less than seven days prior to the time of the hearing. Any ~~and that any~~ failure to comply with this requirement shall be grounds for an automatic continuance or for exclusion of such witnesses, documents, or other written evidence.

(B) If the appeal administrator, after a diligent search, cannot find a qualified hearing officer who is willing to serve, the appeal administrator shall transfer the certification of the appeal to the county or regional board of equalization and notify the taxpayer and the taxpayer's attorney in compliance with subsection (o) of this Code section and the county board of tax assessors of the transmittal of such appeal.

(7) The hearing officer shall swear in all witnesses, perform the powers, duties, and authority of a county or regional board of equalization, and determine the fair market value of the real property or wireless property based upon the testimony and evidence presented during the hearing. Any issues other than fair market value and uniformity raised in the appeal shall be preserved for appeal to the superior court. The board of tax assessors shall have the burden of proving its opinion of value and the validity of its proposed assessment by a preponderance of evidence. At the conclusion of the hearing, the hearing officer shall notify both parties of the decision verbally and shall either send both parties the decision in writing or deliver the decision by hand to each party, with written receipt.

(8) The taxpayer or the board of tax assessors may appeal the decision of the hearing officer to the superior court as provided in subsection (g) of this Code section.

(9) If, at any time during the appeal under this subsection, the taxpayer and the county board of tax assessors execute a signed written agreement on the fair market value and any other issues raised: the appeal shall terminate as of the date of such signed agreement; the fair market value as set forth in such agreement shall become final; and subsection (c) of Code Section 48-5-299 shall apply.

(9.1) The provisions contained in this subsection may be waived at any time by written consent of the taxpayer and the county board of tax assessors.

(10) Each hearing officer shall be compensated by the county for time expended in considering hearing appeals. The compensation shall be paid at a rate of not less than ~~\$75.00~~ \$100.00 per hour for the first hour and not less than \$25.00 per hour for each hour thereafter as determined by the county governing authority or as may be agreed upon by the parties with the consent of the county governing authority. Compensation pursuant to this paragraph shall be paid from the county treasury or, if the parties agree to pay compensation exceeding the minimum compensation set by this Code section, by a combination of the parties as agreed on by the parties. The hearing officer shall receive such compensation upon certification by the hearing officer of the hours expended in hearing of appeals. The attendance at any training required by the commissioner shall be part of the qualifications of the hearing officer, and any nominal cost of such training shall be paid by the hearing officer.

(11) The commissioner shall promulgate rules and regulations for the proper administration of this subsection, including, but not limited to, qualifications; training, including an eight-hour course on Georgia property law, Georgia evidence law, preponderance of evidence, burden of proof, credibility of the witnesses, and weight of evidence; disqualification questionnaire; selection; removal; an annual continuing education requirement of at least four hours of instruction in recent legislation, current case law, and updates on appraisal and equalization procedures, as prepared and required by the commissioner; and any other matters necessary to the proper administration of this subsection. The failure of any hearing officer to fulfill the requirements of this paragraph shall render such officer ineligible to serve. Such rules and regulations shall also include a uniform appeal form which shall require the initial assertion of a valuation of the property by the taxpayer. Any such assertion of value shall be subject to later revision by the taxpayer based upon written evidence. The commissioner shall seek input from all interested parties prior to such promulgation.

(12) If the county's tax bills are issued before the hearing officer has rendered his or her decision on property which is on appeal, a temporary tax bill shall be issued in the same manner as otherwise required under division (e)(6)(D)(iii) of this Code section.

(13) Upon determination of the final value, the temporary tax bill shall be adjusted as required under division (e)(6)(D)(iii) of this Code section.

**(f) Nonbinding arbitration.**

(1) As used in this subsection, the term "certified appraisal" means an appraisal or appraisal report given, signed, and certified as such by a real property appraiser as classified by the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board.

(2) At the option of the taxpayer, an appeal shall be submitted to nonbinding arbitration in accordance with this subsection.

(3) (A) Following an election by the taxpayer to use the arbitration provisions of this subsection, an arbitration appeal shall be effected by the taxpayer by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, or by filing a written notice of arbitration appeal with the county board of tax assessors. The notice of arbitration appeal shall specifically state the grounds for arbitration. The notice shall be filed within 45 days from the date of mailing the notice pursuant to Code Section 48-5-306. Within ten days of receipt of a taxpayer's notice of arbitration appeal, the board of tax assessors shall send to the taxpayer an acknowledgment of receipt of the appeal and a notice that the taxpayer shall, within 45 days of the date of transmittal of the acknowledgment of receipt of the appeal, provide to the county board of tax assessors for consideration a copy of a certified appraisal. Failure of the taxpayer to provide such certified appraisal within such 45 days shall terminate the appeal unless the taxpayer within such 45 day period elects to have the appeal immediately forwarded to the board of equalization. Prior to appointment of the arbitrator and within 45 days of the acknowledgment of the receipt of the appeal, the taxpayer shall provide a copy of the certified appraisal as specified in this paragraph to the county board of tax assessors for consideration. Within 45 days of receiving the taxpayer's certified appraisal, the county board of tax assessors shall either accept the taxpayer's appraisal, in which case that value shall become final, or the county board of tax assessors shall reject the taxpayer's appraisal by sending within ten days of the date of such rejection a written notification by certified mail of such rejection to the taxpayer and the taxpayer's attorney of record in compliance with subsection (o) of this Code section, in which case the county board of tax assessors shall certify within 45 days the appeal to the appeal administrator of the county in which the property is located along with any other ~~papers~~ documentation specified by the person seeking arbitration under this subsection, including, but not limited to, the staff information from the file used by the county board of tax assessors. In the event the taxpayer is not notified of a rejection of the taxpayer's appraisal within such ten-day period, the taxpayer's appraisal value shall become final. In the event that the county board of tax assessors neither accepts nor rejects the value set out in the certified appraisal within 45 days after the receipt of the certified appraisal, then the certified appraisal shall become the final value. All papers and information certified to the appeal administrator shall become a part of the record on arbitration. At the time of certification of the appeal, the county

board of tax assessors shall serve the taxpayer and the taxpayer's attorney of record in compliance with subsection (o) of this Code section, if any, or employee with a copy of the certification along with any other papers specified by the person seeking arbitration along with the civil action file number assigned to the appeal, if any. Within 15 days of filing the certification to the appeal administrator, the presiding or chief judge of the superior court of the circuit in which the property is located shall issue an order authorizing the arbitration.

(B) At any point, the county board of tax assessors and the taxpayer may execute a signed, written agreement establishing the fair market value without entering into or completing the arbitration process. The fair market value as set forth in such agreement shall become the final value.

(C) The arbitration shall be conducted pursuant to the following procedure:

(i) The county board of tax assessors shall, at the time the appeal is certified to the appeal administrator under subparagraph (A) of this paragraph, provide to the taxpayer a notice of a meeting time and place to decide upon an arbitrator, to occur within 60 days after the date of sending the rejection of the taxpayer's certified appraisal. Following the notification of the taxpayer of the date and time of the meeting, the taxpayer shall be authorized to exercise a one-time option of changing the date and time of the meeting to a date and time acceptable to the taxpayer and the county board of tax assessors. If the parties agree, the matter shall be submitted to a single arbitrator chosen by the parties. If the parties cannot agree on the single arbitrator, the arbitrator may be chosen by the presiding or chief judge of the superior court of the circuit in which the property is located within 30 days after the filing of a petition by either party;

(ii) In order to be qualified to serve as an arbitrator, a person shall be classified as a state certified general real property appraiser or state certified residential real property appraiser pursuant to the rules and regulations of the Georgia Real Estate Commission and the Georgia Real Estate Appraisers Board and shall have experience or expertise in appraising the type of property that is the subject of the arbitration;

(iii) The arbitrator, within 30 days after his or her appointment, shall set a time and place to hear evidence and testimony from both parties. The arbitrator shall provide written notice to the parties personally or by registered or certified mail or statutory overnight delivery not less than ~~ten~~ 21 days before the hearing. Such written notice shall advise each party that he or she may request a list of witnesses, documents, or other written evidence to be presented at the hearing by a the other party. Such request must be made not less than ten days prior to the hearing date, and such information shall must be provided to the other requesting party not less than seven days prior to the time of the hearing. Any and that any failure to comply with this requirement, unless waived by mutual written agreement of such parties, shall be grounds for a an automatic continuance or for exclusion of such witnesses, documents, or other written evidence. The arbitrator, in consultation with the parties, may adjourn or postpone the hearing. Following notification of the taxpayer of the date and time of the hearing, the taxpayer shall be authorized to exercise a one-time option of changing the date and time of the hearing to a date and time acceptable to the taxpayer and the county board of tax assessors. The presiding or chief judge of the superior court of the circuit in which the property is located may direct the arbitrator to proceed promptly with the hearing and the determination of the

appeal upon application of any party. The hearing shall occur in the county in which the property is located or such other place as may be agreed upon in writing by the parties;

(iv) At the hearing, the parties shall be entitled to be heard, to present documents, testimony, and other matters, and to cross-examine witnesses. The arbitrator may hear and determine the controversy upon the documents, testimony, and other matters produced notwithstanding the failure of a party duly notified to appear;

(v) The arbitrator shall maintain a record of all pleadings, documents, testimony, and other matters introduced at the hearing. The arbitrator or any party to the proceeding may have the proceedings transcribed by a court reporter;

(vi) The provisions of this paragraph may be waived at any time by written consent of the taxpayer and the board of tax assessors;

(vii) At the conclusion of the hearing, the arbitrator shall render a decision regarding the fair market value of the property subject to nonbinding arbitration;

(viii) In order to determine the fair market value, the arbitrator may consider the final value for the property submitted by the county board of tax assessors at the hearing and the final value submitted by the taxpayer at the hearing. The taxpayer shall be responsible for the cost of any appraisal by the taxpayer's appraiser;

(ix) The arbitrator shall consider the final value submitted by the county board of tax assessors, the final value submitted by the taxpayer, and evidence supporting the values submitted by the county board of tax assessors and the taxpayer. The arbitrator shall determine the fair market value of the property under appeal. The arbitrator shall notify both parties of the decision verbally and shall either send both parties the decision in writing or deliver the decision by hand to each party, with written receipt;

(x) If the taxpayer's value is closest to the fair market value determined by the arbitrator, the county shall be responsible for the fees and costs of such arbitrator. If the value of the board of tax assessors is closest to the fair market value determined by the arbitrator, the taxpayer shall be responsible for the fees and costs of such arbitrator; and

(xi) The board of tax assessors shall have the burden of proving its opinion of value and the validity of its proposed assessment by a preponderance of evidence.

(4) If the county's tax bills are issued before an arbitrator has rendered his or her decision on property which is on appeal, a temporary tax bill shall be issued in the same manner as otherwise required under division (e)(6)(D)(iii) of this Code section.

(5) Upon determination of the final value, the temporary tax bill shall be adjusted as required under division (e)(6)(D)(iii) of this Code section.

**(g) Appeals to the superior court.**

(1) The taxpayer or the county board of tax assessors may appeal decisions of the county board of equalization, hearing officer, or arbitrator, as applicable, to the superior court of the county in which the property lies. By mutual written agreement, the taxpayer and the county board of tax assessors may waive an appeal to the county board of equalization and initiate an appeal under this subsection. A county board of tax assessors shall not appeal a decision of the county board of equalization, arbitrator, or hearing officer, as applicable, changing an assessment by 20 percent or less unless the board of tax assessors gives the county governing authority a written notice of its intention to appeal, and, within ten days of receipt of the notice, the county governing authority by majority vote does not prohibit the appeal. In the case of a joint city-county board of tax assessors, such notice shall be given to the city and county governing authorities, either of which may prohibit the appeal by majority vote within the allowed period of time.

(2) An appeal by the taxpayer as provided in paragraph (1) of this subsection shall be effected by e-mailing, if the county board of tax assessors has adopted a written policy consenting to electronic service, or by mailing to or filing with the county board of tax assessors a written notice of appeal. An appeal by the county board of tax assessors shall be effected by giving notice to the taxpayer. The notice to the taxpayer shall be dated and shall contain the name and the last known address of the taxpayer. The notice of appeal shall specifically state the grounds for appeal. The notice shall be mailed or filed within 30 days from the date on which the decision of the county board of equalization, hearing officer, or arbitrator is delivered pursuant to subparagraph (e)(6)(D), paragraph (7) of subsection (e.1), or division (f)(3)(C)(ix) of this Code section. Within 45 days of receipt of a taxpayer's notice of appeal and before certification of the appeal to the superior court, the county board of tax assessors shall send to the taxpayer notice that a settlement conference, in which the county board of tax assessors and the taxpayer shall confer in good faith, will be held at a specified date and time which shall be no later than 30 days from the notice of the settlement conference, and notice of the amount of the filing fee, if any, required by the clerk of the superior court. The taxpayer may exercise a one-time option to reschedule the settlement conference to a different date and time acceptable to the taxpayer, ~~but in no event later than 30 days from the date of the notice.~~ during normal business hours. After a settlement conference has convened, the parties may agree to continue the settlement conference to a later date. If at the end of the 45 day review period the county board of tax assessors elects not to hold a settlement conference, then the appeal shall terminate and the taxpayer's stated value shall be entered in the records of the board of tax assessors as the fair market value for the year under appeal and the provisions of subsection (c) of Code Section 48-5-299 shall apply to such value. If the taxpayer chooses not to participate in the settlement conference, he or she may not seek and shall not be awarded fees and costs at such time when the appeal is settled in superior court. If at the conclusion of the settlement conference the parties reach an agreement, the settlement value shall be entered in the records of the county board of tax assessors as the fair market value for the tax year under appeal and the provisions of subsection (c) of Code Section 48-5-299 shall apply to such value. If at the conclusion of the settlement conference the parties cannot ~~agree on a fair market value~~ reach an agreement, then written notice shall be provided to the taxpayer that the filing fees must be paid by the taxpayer to the clerk of the superior court within ~~ten~~ 20 days of the date of the conference, with a copy of the

check delivered to the county board of tax assessors. Notwithstanding any other provision of law to the contrary, the amount of the filing fee for an appeal under this subsection shall be \$25.00. An appeal under this subsection shall not be subject to any other fees or additional costs otherwise required under any provision of Title 15 or under any other provision of law. Immediately following payment of such \$25.00 filing fee by the taxpayer to the clerk of the superior court, the clerk shall remit the proceeds thereof to the governing authority of the county which shall deposit the proceeds into the general fund of the county. Within 30 days of receipt of proof of payment to the clerk of the superior court, the county board of tax assessors shall certify to the clerk of the superior court the notice of appeal and any other papers specified by the person appealing including, but not limited to, the staff information from the file used by the county board of tax assessors, the county board of equalization, the hearing officer, or the arbitrator. All papers and information certified to the clerk shall become a part of the record on appeal to the superior court. At the time of certification of the appeal, the county board of tax assessors shall serve the taxpayer and his or her attorney of record, if any, with a copy of the notice of appeal and with the civil action file number assigned to the appeal. Such service shall be effected in accordance with subsection (b) of Code Section 9-11-5. No discovery, motions, or other pleadings may be filed by the county board of tax assessors in the appeal until such service has been made.

(3) The appeal shall constitute a de novo action. The board of tax assessors shall have the burden of proving its opinions of value and the validity of its proposed assessment by a preponderance of evidence. Upon a failure of the board of tax assessors to meet such burden of proof, the court may, upon motion or sua sponte, authorize the finding that the value asserted by the board of tax assessors is unreasonable and authorize the determination of the final value of the property.

(4) (A) The appeal shall be placed on the court's next available jury or bench trial calendar, at the taxpayer's election, following the filing of the appeal unless continued by the court. If only questions of law are presented in the appeal, the appeal shall be heard as soon as practicable before the court sitting without a jury. Each hearing before the court sitting without a jury at the taxpayer's election shall be held within 30 days following the date on which the appeal is filed with the clerk of the superior court.

(B) (i) The county board of tax assessors shall use the valuation of the county board of equalization, the hearing officer, or the arbitrator, as applicable, in compiling the tax digest for the county.

(ii) (I) If the final determination of value on appeal is less than the valuation thus used, the tax commissioner shall be authorized to adjust the taxpayer's tax bill to reflect the final value for the year in question.

(II) If the final determination of value on appeal causes a reduction in taxes and creates a refund that is owed to the taxpayer, it shall be paid by the tax commissioner to the taxpayer, entity, or transferee who paid the taxes with interest, as provided in subsection (m) of this Code section.

(III) If the final determination of value on appeal is 85 percent or less of the valuation set by the county board of equalization, hearing officer, or arbitrator as to any real property, the taxpayer, in



addition to the interest provided for in subsection (m) of this Code section, shall recover costs of litigation and reasonable attorney's fees incurred in the action. Any appeal of an award of attorney's fees by the county shall be specifically approved by the governing authority of the county.

(iii) If the final determination of value on appeal is greater than the valuation set by the county board of equalization, hearing officer, or arbitrator, as applicable, causes an increase in taxes, and creates an additional billing, it shall be paid to the tax commissioner as any other tax due along with interest, as provided in subsection (m) of this Code section.

**(g.1)** The provisions in subsection (c) of Code Section 48-5-299 shall apply to the valuation, unless otherwise waived in writing by both parties, as to:

(1) The valuation established or announced by any county board of equalization, arbitrator, hearing officer, or superior court; and

(2) Any written agreement or settlement of valuation reached by the county board of tax assessors and the taxpayer as permitted by this Code section.

**(h) Recording of interviews or hearings.**

(1) In the course of any assessment, appeal, or arbitration, or any related proceeding, the taxpayer shall be entitled to:

(A) Have an interview with an officer or employee who is authorized to discuss tax assessments of the board of tax assessors relating to the valuation of the taxpayer's property subject to such assessment, appeal, arbitration, or related proceeding, and the taxpayer may record the interview at the taxpayer's expense and with equipment provided by the taxpayer, and no such officer or employee of the board of tax assessors may refuse to participate in an interview relating to such valuation for reason of the taxpayer's choice to record such interview; and

(B) Record, at the taxpayer's expense and with equipment provided by the taxpayer, all proceedings before the board of equalization or any hearing officer.

(2) The interview referenced in subparagraph (A) of paragraph (1) of this subsection shall be granted to the taxpayer within 30 calendar days from the postmark date of the taxpayer's written request for the interview, and the interview shall be conducted in the office of the board of assessors. The time and date for the interview, within such 30 calendar day period, shall be mutually agreed upon between the taxpayer and the taxing authority. The taxing authority may extend the time period for the interview an additional 30 days upon written notification to the taxpayer.

(3) The superior courts of this state shall have jurisdiction to enforce the provisions of this subsection directly and without the issue being first brought to any administrative procedure or hearing. The taxpayer shall be awarded damages in the amount of \$100.00 per occurrence where the taxpayer requested the interview, in compliance with this subsection, and the board of assessors failed to timely comply; and the taxpayer shall be entitled to recover reasonable attorney's fees and expenses of litigation incurred in any action brought to compel such interview.



**(i) Alternate members of boards of equalization.**

(1) Alternate members of the county board of equalization in the order in which selected shall serve:

(A) As members of the county board of equalization in the event there is a permanent vacancy on the board created by the death, ineligibility, removal from the county, or incapacitating illness of a member or by any other circumstances. An alternate member who fills a permanent vacancy shall be considered a member of the board for the remainder of the unexpired term; or

(B) In any appeal for which an alternate member is selected for service by the appeal administrator.

(2) A hearing panel shall consist of no more than three members at any time, one of whom shall serve as the presiding member for the purpose of the hearing.

**(j) Disqualification.**

(1) No member of the county board of equalization and no hearing officer shall serve with respect to any appeal concerning which he or she would be subject to a challenge for cause if he or she were a member of a panel of jurors in a civil case involving the same subject matter.

(2) The parties to an appeal to the county board of equalization or to a hearing officer shall file in writing with the appeal, in the case of the person appealing, or, in the case of the county board of tax assessors, with the certificate transmitting the appeal, questions relating to the disqualification of members of the county board of equalization or hearing officer. Each question shall be phrased so that it can be answered by an affirmative or negative response. The members of the county board of equalization or hearing officer shall, in writing under oath within two days of their receipt of the appeal, answer the questions and any question which may be adopted pursuant to subparagraph (e)(1)(D) of this Code section. Answers of the county board of equalization or hearing officers shall be part of the decision of the board or hearing officer and shall be served on each party by first-class mail. Determination of disqualification shall be made by the judge of the superior court upon the request of any party when the request is made within two days of the response of the board or hearing officer to the questions. The time prescribed under subparagraph (e)(6)(A) of this Code section shall be tolled pending the determination by the judge of the superior court.

**(k) Compensation of board of equalization members.**

(1) Each member of the county board of equalization shall be compensated by the county per diem for time expended in considering appeals. The compensation shall be paid at a rate of not less than \$25.00 per day and shall be determined by the county governing authority. The attendance at required approved appraisal courses shall be part of the official duties of a member of the board, and he or she shall be paid for each day in attendance at such courses and shall be allowed reasonable expenses necessarily incurred in connection with such courses. Compensation pursuant to this paragraph shall be paid from the county treasury upon certification by the member of the days expended in consideration of appeals or attending approved appraisal courses.

(2) Each member of the county board of equalization who participates in online training provided by the department shall be compensated by the county at the rate of \$25.00 per day for each eight hours of completed training. A member shall certify under oath and file an affidavit with the appeal administrator stating the number of hours required to complete such training and the number of hours which were actually completed. The appeal administrator shall review the affidavit and, following approval thereof, shall notify the county governing authority. The Council of Superior Court Clerks of Georgia shall develop and make available an appropriate form for such purpose. Compensation pursuant to this paragraph shall be paid from the county treasury following approval of the appeal administrator of the affidavit filed under this paragraph.

**(l) Military service.** In the event of the absence of an individual from such individual's residence because of duty in the armed forces, the filing requirements set forth in paragraph (3) of subsection (f) of this Code section shall be tolled for a period of 90 days. During this period, any member of the immediate family of the individual, or a friend of the individual, may notify the tax receiver or the tax commissioner of the individual's absence due to military service and submit written notice of representation for the limited purpose of the appeal. Upon receipt of this notice, the tax receiver or the tax commissioner shall initiate the appeal.

**(m) Interest.**

(1) For the purposes of this Code section, any final value that causes a reduction in taxes and creates a refund that is owed to the taxpayer shall be paid by the tax commissioner to the taxpayer, entity, or transferee who paid the taxes within 60 days from the date of the final determination of value. Such refund shall include interest at the same rate specified in Code Section 48-2-35 which shall accrue from the due date of the taxable year in question or the date paid, whichever is later, through the date on which the final determination of value was made. In no event shall the amount of such interest exceed \$150.00 for homestead property or \$5,000.00 for nonhomestead property. Any refund paid after the sixtieth day shall accrue interest from the sixty-first day until paid with interest at the same rate specified in Code Section 48-2-35. The interest accrued after the sixtieth day and forward shall not be subject to the limits imposed by this subsection. The tax commissioner shall pay the tax refund and any interest for the refund from current collections in the same proportion for each of the levying authorities for whom the taxes were collected.

(2) For the purposes of this Code section, any final value that causes an increase in taxes and creates an additional billing shall be paid to the tax commissioner as any other tax due. After the tax bill notice has been mailed out, the taxpayer shall be afforded 60 days from the date of the postmark to make full payment of the adjusted bill. Once the 60 day payment period has expired, the bill shall be considered past due and interest shall accrue from the original billing due date as specified in Code Section 48-2-40 without limit until the bill is paid in full. Once past due, all other fees, penalties, and late and collection notices shall apply as prescribed in this chapter for the collection of delinquent taxes.

**(n) Service of notice.** A notice of appeal to a board of tax assessors under subsection (e), (e.1), (f), or (g) of this Code section shall be deemed filed as of the date of the United States Postal Service postmark, receipt of delivery by statutory overnight delivery, or, if the board of tax assessors has

adopted a written policy consenting to electronic service, by transmitting a copy to the board of tax assessors via e-mail in portable document format using all e-mail addresses provided by the board of tax assessors. Service by mail, statutory overnight delivery, or electronic transmittal is complete upon such service. Proof of service may be made within 45 days of receipt of the annual notice of current assessment under Code Section 48-5-306 to the taxpayer by certificate of the taxpayer, the taxpayer's attorney, or the taxpayer's employee by written admission or by affidavit. Failure to make proof of service shall not affect the validity of service.

(o) When a taxpayer authorizes an agent, representative, or attorney in writing to act on the taxpayer's behalf, and a copy of such written authorization is provided to the county board of tax assessors, all notices required to be provided to the taxpayer under this Code section, including those regarding hearing times, dates, certifications, notice of changes or corrections, or other official actions, shall be provided to the taxpayer and the authorized agent, representative, or attorney. Upon agreement by the county board of tax assessors and the taxpayer's agent, representative, or attorney, notices required by this Code section to be sent to the taxpayer or the taxpayer's agent, representative, or attorney may be sent by e-mail. The failure to comply with this subsection with respect to a notice required under this Code section shall result in the tolling of any deadline imposed on the taxpayer under this Code section with respect to that notice.

## **CHAPTER 5. RULES AND REGULATIONS**

### **COUNTY HEARING OFFICERS**

#### ***560-11-13-.01 Applicability of Rules.***

- (1) The rules in this Chapter shall apply to and govern ad valorem tax assessment appeal hearings held by a county hearing officer, pursuant to O.C.G.A. § 48-5-311.
- (2) The actions, decisions and orders of a county hearing officer are subject to the appeals procedures as provided in this section and O.C.G.A. § 48-5-311.
- (3) The county hearing officer is empowered to exercise the same degree of authority and perform the same actions as hearing officers under O.C.G.A. § 50-13-13.

#### ***560-11-13-.02 Nature of the Proceeding; Hearing Procedure; Burden of Proof.***

The hearings held under these Regulations shall only be as formal as is necessary to preserve order and be compatible with the principles of justice.

- (1) Parties shall have the right to be represented by legal counsel. Documents or other written evidence to be presented at the hearing by a party must be provided to the other party not less than seven (7) days prior to the time of the hearing and that any failure to comply with this requirement shall be grounds for an automatic continuance or for exclusion of such documents or other written evidence. The decision to continue a proceeding or exclude documents or records shall be within in the discretion of the hearing officer.
- (2) The parties shall also have the right to respond and present evidence on all issues involved and to cross-examine all witnesses.
- (3) The standard of proof on all issues in the hearing shall be a preponderance of the evidence. A preponderance of the evidence is established when one party's evidence is of greater weight or is more convincing than the evidence offered in opposition to it, in that, the evidence, when taken as a whole, shows that the fact in dispute has been proven by one party to be more probable than not.
- (4) When a hearing is being held regarding a county's board of tax assessors' tax assessment, the county board of tax assessors shall have the burden of proof in regards to fair market value and the validity of proposed assessment, not taxability.
  - (a) If a hearing is being held regarding a property tax exemption, then the party seeking the property tax exemption shall have the burden of proving entitlement.
- (5) The county board of tax assessors shall present its case first, unless a taxpayer elects to present first and the hearing officer, in his or her discretion, allows it.

***560-11-13-.03 Evidence; Official Notice.***

(1) The rules of evidence in hearings covered by this Chapter shall be substantially as follows:

(a) Irrelevant, immaterial, or unduly repetitious evidence shall be excluded;

1. The rules of evidence as applied in the trial of civil non-jury cases in the superior courts shall be followed as far as practicable.

2. Evidence not admissible under superior court rules may be admitted when necessary to discover facts not reasonably understood from the previously admitted evidence.

3. Except where precluded by statute, if the evidence presented it is of a type commonly relied upon by reasonably prudent persons, a hearing officer has discretion as to whether to admit the evidence or not.

(b) Documentary evidence may be received in the form of copies or excerpts if the original is not readily available;

1. Upon request, parties shall be given an opportunity to compare the copy with the original or have it established as documentary evidence according to the rules of evidence applicable to the superior courts of Georgia;

(c) A party may conduct such cross-examination as required for a full and true disclosure of the facts;

(d) Official notice may be taken of judicially recognizable facts and generally recognized technical facts or records within the agency's specialized knowledge.

1. The parties shall be notified of any material so noticed and shall be afforded the opportunity to contest such material at the hearing.

***560-11-13-.04 Continuances and Postponements.***

(1) Matters set for hearing may be continued or postponed within the sound discretion of the county hearing officer upon timely motion by either party.

(2) The county hearing officer may on his own motion continue or postpone the hearing.

***560-11-13-.05 Subpoena Forms; Service.***

(1) Either party may obtain subpoena forms from the Clerk of Superior Court by making a timely request.

(2) Service, proof of service and enforcement of subpoenas shall be as provided by Georgia law and shall be the responsibility of the party requesting the subpoena.

***560-11-13-.06 Transcripts of Hearing.***

(1) Any party may request that the hearing be conducted before a court reporter, or recorded in audio and/or video.

(2) The request shall be in writing and include an agreement by the requesting party that he or she shall pay the costs incurred by the request or that he or she shall procure at his or her own cost and on his or her own initiative, the court reporting or recording services for the hearing.

(3) Regardless of who makes the arrangements or requests the transcript, or tape or video record be made, the original transcript, or tape or video record of the proceedings shall be submitted to the county hearing officer prior to the close of the hearing record if the transcript, or tape or video is to be made part of the record.

***560-11-13-.07 Case Presentment.***

In accordance with the Georgia Administrative Procedure Act, a party shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts.

***560-11-13-.08 Ruling; Decision.***

(1) The decision of the county hearing officer shall clearly state the ruling regarding the property's value and uniformity, where applicable.

(2) The decision of the county hearing officers shall be rendered pursuant to O.C.G.A. § 48-5-311 (e.1)(7).

(3) When a taxpayer authorizes an agent, representative, or attorney in writing to act on the taxpayer's behalf, the decision of the county hearing officer shall be provided to such agent, representative, or attorney pursuant to O.C.G.A. § 48-5-311(o).

***560-11-13-.09 Hearing Location.***

A hearing conducted by a county hearing officer under this Chapter, shall be held in the county where the property is located unless all parties agree to hold the hearing at a mutually agreed upon location.

***560-11-13-.10 Swearing In Witnesses.***

(1) Before a witness is allowed to testify at a hearing, the witness must first be sworn-in by swearing or affirming to tell the truth.

(a) The county hearing officer shall be responsible for swearing in all witnesses and must administer the following oath:

"Do you swear or affirm to tell the truth, the whole truth, and nothing but the truth, so help you God?"

***560-11-13-.11 Hearing Officer Procedural Form.***

A county hearing officer shall follow the procedures as outlined in Hearing Officer Procedure Form-1 when conducting an administrative hearing under this Chapter.

***560-11-13-.12 Hearing Officers and the Administrative Procedures Act.***

The Administrative Procedures Act is not applicable, but where referenced in this Chapter, the Administrative Procedures Act was used as a guideline for the Regulations in order to ensure due process.



State of Georgia

## Department of Revenue

1800 Century  
Boulevard Atlanta,  
Georgia 30345

### Hearing Officer Procedural Form-1 Revised November, 2016

1. At the start of the hearing, the Hearing Officer should clearly explain the procedures to be followed throughout the hearing.
2. The opening statement should include the:
  - (a) identification of the Hearing Officer;
  - (b) identification of the parties;
  - (c) names of the participants and witnesses of the hearing; (d) date;
  - (e) place of hearing;
  - (f) determinations being appealed; and
  - (g) issues to be considered at the hearing.
3. The Hearing Officer shall:
  - (a) described and clearly mark all exhibits;
  - (b) allow parties to review the exhibits and offer objections;
  - (c) authenticate offered exhibits (to the extent possible) where questionable or challenged;
  - (d) receive all competent, relevant and reasonably available exhibits;
  - (e) give an explanation for the denial of any of the proposed exhibits; and
  - (f) rule on the admissibility of any documents read into the record as proposed exhibits.
4. Parties and Witnesses should be called and sworn, and the evidence developed, in a logical and efficient manner. The party who has the burden of proof should present their case first.
5. The evidence from each witness should be developed in a logical order. Each witness should be cross-examined by the opposing party after the witness has been questioned on direct.
6. The Hearing Officer must provide parties and representatives with a timely opportunity to question their own witnesses and to cross-examine the other party's witnesses.



7. Throughout the hearing, the Hearing Officer should use language that is clear and understandable, avoiding unnecessary legal phrases and technical language.
8. Each question by the Hearing Officer should express only one point.
9. The Hearing Officer should attempt to clarify statements which include conclusions, opinions, and ambiguous or unclear testimony. When the witness responds with an opinion or conclusion, the Hearing Officer should make a reasonable effort to develop the factual basis for the opinion or conclusion. When the testimony is not entirely clear or was ambiguous, the Hearing Officer should question the witness(es) in a conscientious attempt to get specific, clear responses.
10. The Hearing Officer must afford a timely opportunity to cross-examine, properly control cross-examination, and provide appropriate assistance where necessary.
11. The Hearing Officer should control the undue extension or repetition of testimony so as to keep the hearing moving expeditiously. If a party is presenting repetitious testimony or evidence, the Hearing Officer should diplomatically inform the party that repetitious and prolonged testimony is not necessary and adds nothing to the hearing.
12. The Hearing Officer should not ask or permit improper leading questions on material issues during direct examination. A leading question is one which suggests the answer. Exceptions are made when a party's representative asks background questions relating to name, address, etc.
13. The Hearing Officer should, in as tactful a manner as possible, effectively respond to interruption of testimony and/or disruptive individuals at the hearing and refrain from inappropriate interruptions himself/herself.
14. In instances where an interpreter is necessary, the Hearing Officer should swear in the interpreter so as to affirm that the interpreter will truthfully interpret the questions and answers supplied. The Hearing Officer shall require that the interpretation be word for word to the extent possible as it would be spoken in the foreign language.
15. After the hearing has begun, the Hearing Officer should use good judgment as to allowing continuances. The Hearing Officer shall only grant those continuances requested by either party which are necessary, and should deny unwarranted continuances that unreasonably delay the disposition of the case.
16. The Hearing Officer should properly conclude the hearing by ascertaining whether the parties have anything to add. The Hearing officer should provide the parties ample opportunity to present all of the information pertinent to their case, keeping in mind the need to prevent unnecessary repetition of evidence and testimony.

17. The Hearing Officer must conduct the hearing within the scope of the issues raised by the notice of hearing, and within the issues as finally developed at the hearing, giving proper notice of new issues.
18. The Hearing Officer should not interfere with the development of the case by making gratuitous comments or observations. The Hearing Officer shall conduct a hearing that is both fair in appearance and in substance.
19. The Hearing Officer shall conduct the hearing in a fair and impartial manner.
20. The Hearing Officer shall attempt to obtain the reasonably available, competent evidence necessary to resolve the issue(s) in the case.
21. The Hearing Officer is a fact-finder. It is the responsibility of the Hearing Officer to develop all the evidence that is reasonably available and to make a decision according to the dictates of the State law. "Reasonably available" means that evidence or testimony which is available at hearing and which is critical to the issues to be decided.
22. At the conclusion of the hearing, the Hearing Officer shall notify both parties of the decision verbally and shall either send both parties and their personal representatives the decision in writing or deliver the decision by hand to each party, with written receipt, within five (5) days of the hearing.
23. The statutory issues involved should be clearly and simply stated in the decision.
24. Accepting the Hearing Officer's judgment of credibility, unless it is manifestly without basis, the findings of fact must be supported by substantial evidence in the hearing record.
25. The Hearing Officer shall make all of the findings of fact necessary to resolve the issues and support the conclusions of law included in the decision.
26. The decision should contain the conclusions of law required to resolve the issue(s) in the case.
27. The decision shall state reasons and rationale that are logical.
28. The decision should be worded so that it is understandable to most claimants and employers and it should have a professional appearance.