



General Board Hearing Procedures
Chapter 5 of the Rules for Tax Appeals (RTA) (Regulations 5510-5576)

1. Chapter 5 of the RTA applies to oral Board hearings and decisions for appeals filed under chapters 2, 3, 4, and 6 (Taxpayers Bill of Rights Reimbursement Claims).
2. Chapter 5 improves the Board practices by clarifying taxpayers' rights to request oral Board hearings, allowing taxpayers to contact their Board Members at any time, providing for the publication of dissenting and concurring opinions, and explaining when confidentiality is waived. (Regulations 5522, 5523.8, 5540, and 5573.)
3. Overview of chapter 5's provisions for oral Board hearings and deciding appeals:
 - A. A request for an oral Board hearing is received and acknowledged.
 - B. The oral Board hearing is scheduled and noticed
 - C. The Hearing Summary is distributed and PAN issued.
 - D. The oral Board hearing is conducted and the appeal is decided.
4. Article 1 defines terms used in the RTA, including *extreme hardship* and *reasonable cause*, and explains how to construe "must," "may," "may not," "will," and "should." Article 2, subarticle 1 explains that the Board holds monthly meetings and posts its meeting calendar on the Internet. (Regulations 5511- 5521.5.)
5. Article 2, subarticle 2 gives taxpayers the right to request an oral Board hearing, requires requests for business tax appeals to be filed within 30 days after D&Rs are issued, and explains that the Board may always hold an oral Board hearing and requests for discretionary hearings are liberally granted. It requires the Board to mail each party a hearing notice and requires each party to respond within 15 days. If a timely response is not received from the parties who requested an oral Board hearing, their appeal will be submitted for decision based upon the written record. Subarticle 2 allows appeals to be dismissed based upon a taxpayer's request, the Department's concession, or a stipulation and contains provisions for granting deferrals and postponements. It also allows the Board Members, the Appeals Division, and the parties to request consolidation (Regulations 5522-5522.8.)
6. Article 2, subarticle 3 explains that taxpayers may be represented by any authorized person who is at least eighteen years of age and not suspended or disbarred from practice before the FTB. Subarticle 3 explains that the Board is subject to the Quentin L. Kopp Conflict of Interest Act of 1990 (Gov. Code, § 15626; and Regulations 7001-7011), which requires contribution disclosures. It explains that the Board, a Board Member, or the Appeals Division may request additional briefing after Hearing Summaries are distributed for business tax and property tax appeals. Subarticle 3 explains that the Board allocates 35 minutes for a hearing, the parties may request additional time, and the Board Chair may grant or deny requests and may limit the time allocated to a party or grant a party additional time during a contempt proceedings, the Board may administer oaths, and the Board will consider any relevant evidence, including hearsay testimony, but may refuse *irrelevant, untrustworthy, or unduly repetitious* evidence. Subarticle 3 explains that the Board may allow parties to submit evidence at their hearings, but encourages



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advance submission. Subarticle 3 also authorizes *communications with Board Members*. (Regulations 5523, 5523.2, and 5523.4-5523.8.)

7. Article 3 provides notice that the Bagley-Keene Open Meeting Act requires the Board to issue a Public Agenda Notice (PAN) at least 10 days prior to each Board meeting and post it on the Internet. (Regulation 5530.)
8. Article 4 explains that Board meetings are conducted under the Bagley-Keene Open Meeting Act, Government Code section 15625 (prohibiting incompatible activities), the Quentin L. Kopp Conflict of Interest Act (requiring contribution disclosure), and the Political Reform Act (requiring financial conflict disclosure); and the Board Chair may remove *disruptive people* from a meeting. (Regulation 5540.)
9. Article 5 explains that a quorum of three Board Members must be present for a vote, disqualified Board Members cannot be counted, and the Deputy Controller may not be counted for constitutional functions. Article 5 explains that the Board may order the Appeals Division to prepare a Summary Decision, Memorandum Opinion, or Formal Opinion and submit it to the Board as a non-appearance matter. Article 5 explains that the Board may vote to adopt a Memorandum Opinion (property tax or business tax appeals) or a Summary Decision or Formal Opinion (appeals from the FTB), and adopted Memorandum Opinions and Formal Opinions may be cited as precedent. Article 5 allows dissenting or concurring opinions to be included when a Formal or Memorandum Opinion is adopted. (Regulations 5550 and 5551.)
10. Article 6 requires the Board to give parties notice of decisions and explains that decisions on business tax appeals are final 30 days after notice is mailed, unless a party files a petition for rehearing or the Board Chair holds a decision in abeyance. Article 6 requires business tax petitions for rehearing to establish one of the listed grounds for a rehearing. (Regulations 5560 and 5561.)
11. Article 7 explains that PANs for, minutes and transcripts of, and documents incorporated into the record of oral Board hearings are disclosable public records. It explains that appellants waive their rights to confidentiality by filing appeals from the FTB and their waivers apply to all of the information provided to the Board. It explains that a business taxpayer's waiver of confidentiality is effective when the first PAN is issued for the taxpayer's oral hearing and applies to the Hearing Summary prepared for the hearing and information disclosed during the hearing. It explains that a property tax petitioner's waiver of confidentiality is effective when the first PAN is issued for its oral hearing and applies to its petition, briefs, supporting documents, Hearing Summary, and information disclosed during its hearing. Article 7 explains that the waivers do not apply to information used for identity theft. Article 7 also allows persons or entities, except state assesses and appellants appealing actions of the FTB, to request that a portion of their hearings be conducted during a closed session to protect trade secrets or other confidential information from disclosure. (Regulations 5572-5574.)