

State of California
BOARD OF EQUALIZATION
PROPERTY TAX RULES

Division 1. State Board of Equalization-Property Tax
Chapter 3. Local Equalization
Article 1. Hearing by County Board

Rule 308.5. Disqualification of a Board Member or Hearing Officer.

Authority: Section 15606.

Reference: Sections 1624.4 and 1641.2, Revenue and Taxation Code.

(a) In those counties having assessment appeals boards or hearing officers, the party affected or the party's agent, or the assessor, may file with the clerk a written statement objecting to the hearing of a matter before a member of the board or a hearing officer. The statement shall set forth the facts constituting the ground of the disqualification of the member or hearing officer and shall be signed by the party affected or the party's agent, or by the assessor, and shall be filed with the clerk at the earliest practicable opportunity after discovery of the facts constituting the ground of the member's or hearing officer's disqualification, and in any event before the commencement of the hearing of any issue of fact in the proceeding before such member or hearing officer. Copies of the statement shall be served by the presenting party on each party to the proceeding and on the board member or hearing officer alleged to be disqualified. Within 10 days after filing of the statement or 10 days after service of it on him or her, whichever is later, the board member or hearing officer may file with the clerk a written answer:

(1) Consenting to the proceeding being heard by another member or hearing officer, in which event the clerk shall appoint a replacement member or hearing officer, or

(2) Denying his or her disqualification, which answer may admit or deny any or all of the facts alleged in the statement and set forth any additional facts relevant to his or her disqualifications.

The clerk shall forthwith transmit a copy of such answer to each party.

Every statement and answer shall be verified by oath in the manner prescribed by section 446 of the Code of Civil Procedure.

(b) The question of the member's or hearing officer's disqualification shall be heard and determined by a board member, other than the member subject to the disqualification challenge, agreed upon by the parties who have appeared in the proceeding, or, in the event of their failing to agree, by a member assigned to act by the clerk. Within five days after the expiration of the time allowed by this regulation for the member to answer, the clerk shall assign a member to hear and determine the matter of the disqualification.

Once the member has been selected pursuant to subsection (b), that member shall determine the qualification of the challenged member or hearing officer.

(c) In a county whose board of supervisors has adopted a resolution implementing the provisions of sections 1640.1 and 1641.1 of the Revenue and Taxation Code, the board may elect to schedule the application before the board in lieu of following the procedures prescribed above.

History: Adopted May 6, 1970, effective June 6, 1970.
Amended June 13, 1974, effective June 14, 1974.
Amended October 6, 1999, effective April 22, 2000.