

Cooke County Appraisal Review Board 2024 Protest Hearing Procedures

The Cooke County Appraisal Review Board (CCARB) must adhere to the Model Hearing Procedures (MHP) established by the Texas Comptroller of Public Accounts, found in attachment A. Additionally, specific local procedures have been formulated by the CCARB to adapt the MHP to local circumstances. It is imperative to thoroughly review and familiarize yourself with both the Model Hearing Procedures and the corresponding local guidelines.

1. Decorum

CCARB hearings are conducted in a panel format, with the flexibility of a regular or one-member panel based on the property owner's preference. The panel chair is responsible with maintaining decorum and may adjourn disruptive hearings at their discretion. Debates between the property owner or agent and the Cooke County Appraisal District (CCAD) representative(s) are strictly prohibited. All communication is directed to the CCARB panel member(s), except during questioning of witnesses or parties giving testimony.

2. Hearing Procedures

- a. Initiating a hearing requires submitting a written notice or a Property Owner's Notice of Protest (form 50-132) through various means, including the e-file protest portal, regular mail, drop-box, or in-person at the CCAD office. Failure to submit a written notice or Property Owner's Notice of Protest within the specified deadline will result in the denial of a hearing.
- b. CCARB hearings occur in person, by affidavit, or by telephone. A clear selection of the hearing type is essential when submitting the written notice or the Property Owner's Notice of Protest. If no selection is made, the hearing will be scheduled by default to an in-person hearing type. The property owner or agent will be notified 15 days prior to the hearing as mandated by the Texas Property Tax Code §41.46(a).
- c. Property owners or agents have the option to submit evidence either concurrently with the protest or at a subsequent time, but before the scheduled formal hearing. Alternatively, electronic evidence may be submitted using a portable electronic device in an acceptable format. **It is imperative to submit evidence at least 5 days before the scheduled hearing.** Documents, photographs, tables, or other items provided as evidence should be clearly labeled and easy to follow.

Property owners or agents may submit protests along with an Affidavit of Evidence, eliminating the need for a physical appearance. **The Affidavit of Evidence must be submitted at least 5 days before the scheduled hearing.**

- d. For telephone conference hearings, submission of evidence through an Affidavit of Evidence is mandatory. If no Affidavit is submitted, the evidence provided by the owner or agent will not be heard. Additionally, if a property owner or agent does not arrive within 30 minutes of scheduled hearing, the CCARB will review the Affidavit of Evidence and will deliberate on the hearing based on the available information, evidence, and testimony provided.

Modification of the hearing type is possible by submitting a written notice at least 10 days prior to the scheduled hearing.

- e. Property owners or agents may request an informal conference, involving a one-on-one discussion with an appraiser, before the formal hearing with the CCARB. The request for an informal conference must be explicitly stated in the written notice or in the Property Owner's Notice of Protest.
- f. Designating an agent or a non-agent individual for representation requires a submitted written statement or appointment of agent (AOA) form prior to the scheduled hearing. Submitting the AOA at least **5 days** before the scheduled hearing is strongly recommended to prevent any potential delays.
- g. A protest that was not filed with the Appraisal Review Board or turned over to the U.S. Postal Service or private carrier on or before the statutory deadline is considered late.

Property owners or agents who submit a protest notice after the deadline but before the CCARB approves the appraisal records in mid-July may still be eligible for a hearing and protest determination. However, this entitlement is contingent upon the property owner demonstrating good cause, as determined by the board, for the failure to file the notice within the specified timeframe. Tax Code §41.44 (b)

A late written notice, Property Owner Notice of Protest and any supporting documentation regarding the missed deadline must be submitted. The CCARB will make the determination of good cause solely based upon the property owner or agent's written statement and supporting documentation.

Circumstances, for the purpose of good cause, may include but are not limited to: active military, illness or injury requiring hospitalization, legislative or judicial function (e.g., jury duty) or other circumstances as determined by the CCARB.

Additionally, good cause, for the purpose of making this specific determination, is not a reason that includes: being on family vacation, being out of the area, being out of the state or country or failing to recognize the deadline.

These procedures are applicable to all hearing types unless stated otherwise.

3. Hearing Format

Commencement: The panel chair initiates the proceedings by identifying and announcing the property identification number and property location.

Oaths: The panel chair introduces CCARB panel member(s), confirming their impartiality through a sworn affidavit, and attesting that no protest information has been communicated to any party outside the hearing.

Subsequently, the panel chair will place the parties and witnesses under oath, or they will affirm they are under oath from a prior hearing. At this time, any testifying witness will be asked if they hold a license or certificate from the Texas Appraiser Licensing Certification Board and if they are appearing in that capacity.

Presentation: The panel chair will inquire if the owner or agent prefers to present their case first. Once the order of presentation is established, the first party presents evidence and provides their opinion of value. The property owner or agent determines the order of presentation, which guides all subsequent proceedings.

Formal hearings are limited to a total of 20-minutes; therefore, the presentation should be presented in a clear and concise manner.

Cross-examination: Both parties will have the opportunity to cross-examine the opposing party after each has presented their evidence. While rebuttal evidence is allowed, it is confined to challenging the evidence put forth by the opposing party. This is not an opportunity to provide any new or additional evidence.

Parties may not address each other outside of cross-examination. The panel chair may ask clarifying questions at their discretion.

Closing: Each party may make a closing argument, stating the CCARB determination they seek, supported by the evidence presented.

Decision: The CCARB decision is exclusively based on presented evidence, testimony and applicable laws. The CCARB panel members deliberate and vote separately on each ground of the owner's protests.

After the CCARB's hearing decision, the owner or agent will be issued an Order Determining Protest via certified mail or email. The Order Determining Protest will be issued within 30 days following the formal hearing date. This step aims to formalize and confirm the CCARB's decision and provides guidance to the owner or agent regarding further appeal options.

4. Procedures for Telephone Hearing

Property owners requesting a hearing by telephone conference must comply with the following sections.

- h. Property owners or agents selecting a telephone formal hearing must clearly indicate their preference in the written notice or the Property Owner's Notice of Protest. Any modification to the hearing type by a property owner or agent must be requested at least 10 days prior to the scheduled formal hearing. Evidence must be attached to a sworn Affidavit of Evidence or unsworn declaration, and filed at least 5 days before the hearing.
- i. For telephone hearings, property owners or agents are required to call the number provided in the hearing notice. Property owners or agents must check-in 15 minutes before the scheduled hearing time and should be prepared to provide their name and account number.
- j. In the event of a dropped call, or unclear speech, the panel reserves the right to terminate the call. The panel chair will make two attempts to re-connect with the property owner or agent. Should a connection not be re-established within five minutes, the panel will proceed with the hearing, and the owner will lose the opportunity to participate further by telephone. In such cases, the panel will conduct the hearing either through appearance by Affidavit of Evidence and will deliberate on the hearing based on the available information, evidence, and testimony provided.
- k. The property owner or agent is responsible for ensuring a clear connection on their end. It is advised to use a landline telephone, and if a cell phone is utilized, the owner should make the call from a safe and secure location with a reliable connection to a cellular network. Additionally, the owner should minimize background noises that could interfere with the CCARB panel's ability to hear and comprehend the owner.

5. Procedures for Evidence on a Portable Electronic Device

- a. Evidence will be considered acceptable when it meets the prescribed format criteria and is saved to a USB flash drive. Acceptable formats include Microsoft Word, Excel, and/or PDF. The device used for submission must be retained as a permanent record. Alternatively, the owner or agent may choose to provide paper copies of the evidence intended for display on the portable electronic device.
- b. Upon arrival at CCAD for the scheduled formal hearing, the owner or agent is required to notify the staff of their intention to conduct an electronic presentation. They should then furnish the staff with either a copy of the evidence in an approved electronic format or a paper copy. Please be advised that additional waiting time may be necessary before the hearing can commence.
- c. The CCARB will not accept evidence presented as video and/or audio files, in memory cards, tablets, laptops, projectors, digital cameras, cell phones or any other medium that cannot be retained for the permanent record. Files on a device must be capable of being scanned for malicious software or computer viruses before acceptance.

Attachment A
Model Hearing Procedures

I. ARB Membership

[Tax Code §5.103(b)(12), (15), and (16)]

1. Administration of ARB Appointments

ARB members have no statutory role in the process for the administration of applications or requests for appointment for membership on the ARB. If an individual is contacted by an ARB member regarding requesting an appointment to the ARB, the member must direct the individual to the person designated to receive applications or requests for ARB appointment.

2. Conflicts of Interest

Each ARB member must ensure that he or she does not have any conflict of interest that results in ineligibility to serve on the ARB or that restricts or prohibits the ARB member's participation in ARB activities, such as participation in the determination of a taxpayer protest. An ARB member must promptly report any conflict of interest to the ARB chair in addition to any other individual or entity as required by law. The chair must ensure prompt notification of reported conflicts of interest to the appropriate individuals.

If an ARB member discovers before or during a protest hearing that a conflict of interest exists, the member cannot participate in a protest hearing. If the conflict exists due to the provisions of Local Government Code Chapter 171, the member must file an affidavit with the ARB secretary. The ARB member must file the affidavit as soon as the conflict is identified, even if it requires a delay in the conduct of the hearing. If the conflict arises from Tax Code §41.69, the ARB member does not have to file an affidavit but must recuse himself or herself immediately from the hearing and report the conflict to the ARB chair or secretary.

ARB members must remember that while Local Government Code Chapter 171 addresses matters of "substantial interest," Tax §41.69 applies to any protest in which an ARB member has interest (i.e., Tax Code §41.69 does not require the interest to be substantial). While a conflict of interest under Local Government Code Chapter 171 may not prohibit an ARB member from participation in a protest, Tax Code §41.69 may still prohibit participation. If an ARB member has a question as to whether he or she has a conflict of interest that might prohibit his or her involvement, the member must immediately contact the ARB chair to address the matter.

In the recusal process, the ARB member cannot hear the protest, deliberate on the protest or vote on the matter that is the subject of the protest.

3. Ex Parte and Other Prohibited Communications

ARB members must not engage in prohibited ex parte or other communications. If one or more individuals approach the ARB member and appear to engage or attempt to engage in prohibited communication, the ARB member must immediately remove himself or herself from the conversation.

II. ARB Duties

[Tax Code §5.103(b) (1), (5), and (6)]

1. Statutory Duties of an ARB

Each ARB member must ensure that he or she understands the statutory duties of the ARB and complies with all statutory requirements in performing statutory duties as an ARB member. Tax Code §41.01 addresses the duties of the ARB and the actions they are authorized to make.

2. Notices Required Under the Property Tax Code

Each ARB member must obtain and maintain familiarity with notices required under the Property Tax Code. If an ARB member believes that any required notice is not being provided or does not meet the requirements of

applicable law, the ARB member must promptly notify the ARB chair. The ARB chair must investigate each report and take appropriate action to correct all verified problems.

3. Determination of Good Cause Under Tax Code §41.44(b)

“Good cause” for filing late protests is not defined in Tax Code §41.44(b). Claims of good cause for late-filed protests must be carefully considered. The standards in making determinations of good cause under Tax Code §41.44(b) must be uniformly applied. The ARB should give due consideration to good cause claims in a manner that properly respects the rights of property owners and their agents while not undermining or contravening laws related to filing deadlines or the orderly and expeditious fulfillment of ARB duties.

III. ARB Hearings (formal hearings, not informal meetings between property owners and appraisal district staff)

[Tax Code §5.103(b)(3), (4), (7), and (14)]

1. Scheduling Hearings Generally

The ARB must schedule a hearing when a timely notice of protest is filed and, in doing so, the appraisal district can provide the ARB with clerical assistance.

A person leasing property who is contractually obligated to reimburse the property owner for taxes imposed on the property is entitled to protest before the ARB the appraised value of the property if the property owner does not file a protest relating to the property. Under Tax Code §41.413, the lessee can designate another person to act as an agent with the same authority and limitations as an agent designated under Tax Code §1.111. Designated agents have the same authority and are subject to the same limitations as agents designated by property owners.

2. Scheduling Hearings for Property Owners, Agents and Qualifying Lessees

Pursuant to Tax Code §41.66(i), the ARB must schedule hearing requests filed by property owners or their designated agents under Tax Code §1.111 for a specific time and date. The ARB can schedule more than one protest hearing at the same time and date; however, the property owner or agent can request to postpone a hearing if it is not started by an ARB panel or the full ARB within two hours of the scheduled hearing time. The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

3. Scheduling Hearings for Multiple Accounts

If requested by a property owner or designated agent, the ARB must schedule consecutive hearings on the same day on protests concerning up to 20 designated properties. The request must meet all requirements of Tax Code §41.66(j), including the required statement in boldfaced type: “request for same-day protest hearings.” A property owner or designated agent can file more than one such request in the same tax year. Also pursuant to Tax Code §41.66(j), the ARB may schedule protest hearings concerning more than 20 properties filed by the same property owner or designated agent and may use different panels to conduct the hearings based on the ARB’s customary scheduling. The ARB may follow the practices customarily used in the scheduling of hearings under Tax Code §41.66(j).

4. ARB Panel Assignments [Tax Code §41.66 (k)(k-1) and 41.45(d)(d1)]

Pursuant to Tax Code §41.66(k) and (k-1), if an ARB sits in panels as authorized by Tax Code §41.45(d) and (d-1), it must randomly assign protests. Except for panels established under Tax Code §6.425, the ARB, with or without clerical assistance from the appraisal district staff, may consider the property type or the protest grounds in order to assign the protest to a panel with members who have particular expertise.

Tax Code §41.45(b-4) allows a property owner to request that a single-member panel conduct the protest hearing. The property owner must submit the request not later than the 10th day before the hearing date in writing on the notice of protest or by a written submission. If the ARB does not accept the recommendations made by the single-panel member, the ARB can determine the protest or refer it for rehearing to a single-member panel composed of someone who did not hear the original protest.

Tax Code §41.66(k-1) allows a property owner or agent to request a special ARB panel to hear a complex property protest if in a county with a population of 1.2 million or more. The owner or agent must consent to a special panel reassignment and may request a postponement if they disagree with the reassignment.

Once a protest is scheduled for a specific panel, the ARB cannot reassign it to another panel without the consent of the property owner or designated agent. If the ARB reassigns a protest to another panel, the owner or designated agent may agree to the reassignment or request a postponement of the hearing. The ARB must postpone the hearing if requested in this situation. Pursuant to Tax Code §41.66(k), “[a] change of members of a panel because of a conflict of interest, illness, or inability to continue participating in hearings for the remainder of the day does not constitute reassignment of a protest to another panel.”

5. Postponements Under Tax Code §41.45(e)

A property owner who is not represented by an agent under Tax Code §1.111 is entitled to one postponement of a hearing without showing cause. The property owner must request the postponement before the hearing date in writing, including by fax, email, telephone or in person to the ARB, an ARB panel or the ARB chair. If the requested hearing postponement is scheduled to occur before the next regular meeting of the ARB, the chair or the chair’s representative may act on the request for postponement without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair’s representative, the property owner and the chief appraiser, the ARB cannot postpone the hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

Without limit, the ARB must postpone a hearing if the property owner or designated agent shows good cause, as defined in Tax Code §41.45(e-2). The property owner or designated agent must request the postponement in writing, including by fax, email, telephone or in person to the ARB, an ARB panel or the ARB chair. If the postponed hearing is rescheduled to occur before the next regular meeting of the ARB, the chair or the chair’s representative can act on the postponement request without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair’s representative, the property owner and the chief appraiser, the ARB cannot postpone the hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

Without limit, the ARB must postpone a hearing if the chief appraiser consents to the postponement. The chief appraiser must request the postponement in writing, including by fax, email, telephone or in person to the ARB, an ARB panel or the ARB chair. If the postponed hearing is rescheduled to occur before the next regular meeting of the ARB, the chair or the chair’s representative can act on the postponement request without the necessity of action by the full ARB. Unless the postponed hearing date and time are agreed to by the ARB chair or the chair’s representative, the property owner and the chief appraiser, the ARB cannot postpone a hearing to a date less than five or more than 30 days after the date scheduled for the hearing when the postponement is sought.

The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

6. Postponements Under Tax Code §41.45(e-1)

A property owner or owner’s agent who fails to appear at the hearing is entitled to a new hearing if the property owner or owner’s agent files, not later than the fourth day after the date the hearing occurred, a written statement with the ARB showing good cause, as defined in Tax Code §41.45(e-2), for the failure to appear and requesting a new hearing.

The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

7. Postponements Under Tax Code §41.45(g)

The ARB must postpone a hearing to a later date if:

- (a) the property owner or the owner’s agent is also scheduled to appear at an ARB protest hearing in another appraisal district;

(b) the other scheduled ARB protest hearing is scheduled to occur on the same date as the hearing set by this ARB;

(c) the hearing notice delivered to the property owner or the owner's agent by the other ARB bears an earlier postmark than the hearing notice delivered by this ARB or, if the postmark date is identical, the property owner or agent has not requested a postponement of the other hearing; and

(d) the property owner or the owner's agent includes with the postponement request a copy of the hearing notice delivered to the property owner or the owner's agent by the other ARB.

8. Postponements Under Tax Code §41.66(h)

The ARB must postpone a hearing (one time only) if the property owner or the designated agent requests additional time to prepare for the hearing and establishes that the chief appraiser failed to comply with Tax Code §41.461. The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

9. Postponements Under Tax Code §41.66(i)

The ARB must schedule protest hearings filed by property owners or their designated agents under Tax Code §1.111 for a specific time and date. The ARB can schedule more than one protest hearing at the same time and date; however, a property owner or agent can request to postpone a hearing if it is not started by an ARB panel or the full ARB within two hours of the scheduled hearing time. The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

10. Postponements Under Tax Code §41.66(k)(k-1)

Once the ARB schedules a hearing by a specific panel, the ARB cannot reassign it to another panel without the consent of the property owner or designated agent. If the ARB reassigns a protest to another panel, a property owner or designated agent may agree to reassignment or request a hearing postponement. The ARB must postpone the hearing on that request. A change of panel members because of a conflict of interest, illness or inability to continue participating in hearings for the remainder of the day does not constitute panel reassignment.

A property owner or agent must consent to a special panel ARB hearing reassignment or request a postponement if they disagree with the reassignment. A change of special panel members because of a conflict of interest, illness or inability to continue participating in hearings for the remainder of the day does not constitute a special panel hearing reassignment.

The postponement request must contain the mailing address and email address of the person requesting the postponement. The ARB must respond in writing or by email to the postponement request not later than the 7th day after the date of receipt of the request.

IV. Conduct of ARB Hearings (formal hearings, not informal meetings between property owners and appraisal district staff)

[Tax Code §5.103(b)(2), (9), and (10)]

1. Conducting Hearings Open to the Public

This introductory statement must read at the beginning of each hearing:

We are the appraisal review [board or panel] that will hear your protest today. We are not employees of the appraisal district. We are appointed to perform an independent review of your protest. You can complete a survey regarding your experience today [provide instructions on how to fill out the survey]. The survey is voluntary. You also have the right to appeal our decision. We will provide the appeal information to you with our determination.

The ARB or ARB panel does not have to read the statement above if the owner or agent has previously appeared before the ARB or any ARB panel for the ARB for that county that same day.

ARBs should conduct most protest hearings in the following order:

- (a) Commence the hearing and announce the assigned protest number, property location, property owner and other identifying information.
- (b) Announce that, in accordance with Tax Code §41.45(h), the parties must provide all written and electronic material that has not been provided.
- (c) State that the ARB members who are considering the protest have not communicated with anyone about the protest and have signed affidavits to that effect.
- (d) Welcome the parties and remind them of the content of the hearing procedures, time limits for the hearing, and other relevant matters.
- (e) Ask if any testifying witness holds a license or certificate from the Texas Appraiser Licensing and Certification Board and if the witness is appearing in that capacity.
- (f) Inform witnesses that they must give all testimony under oath and swear-in all witnesses who plan to testify.
- (g) Ask the property owner to decide if he/she wishes to present his/her evidence and argument before or after the appraisal district.
- (h) If the property owner or agent presents his/her case first, he/she will present evidence (documents and/or testimony). If witnesses are present, the property owner or agent can examine the witnesses as part of the presentation of evidence. At the end of the presentation, the property owner or agent must state an opinion of the property's value (if applicable).
- (i) Next, the appraisal district representative may cross-examine the property owner, the agent or representative and/or witnesses.
- (j) If the property owner or agent presented his/her case first, the appraisal district representative will present evidence (documents and/or testimony) next. If witnesses are present, the appraisal district representative can examine the witnesses as part of the presentation of evidence. At the end of the presentation, the appraisal district representative must state an opinion of the property's value (if applicable).
- (k) Then, the property owner or agent can cross-examine the appraisal district representative and/or witnesses.
- (l) The parties cannot examine or cross-examine the ARB members.
- (m) The party presenting its case first can offer rebuttal evidence (additional evidence to refute evidence presented by the other party).
- (n) The other party can then offer rebuttal evidence.
- (o) The party presenting its case first must make its closing argument and state the ARB determination being sought.
- (p) The party presenting its case second must make its closing argument and state the ARB determination being sought.
- (q) The ARB or panel chair must state that the hearing is closed.
- (r) The ARB or panel must deliberate orally. No notes, text messages, or other forms of written communication are permitted.

(s) The ARB or panel chairman must ask for a separate motion for each matter that was the subject of the protest hearing. The motion should include the exact value or issue protested. The ARB must take a vote and a designated appraisal district staff person or ARB member must record it. The parties must make separate motions and the ARB must make separate determinations for each protested issue (i.e., excessive appraisal and unequal appraisal must have separate ARB motions and determinations). Single-member panels must make a recommendation on each motion submitted under protest; however, the ARB will ultimately accept the panel's determination, make its own determination on the protest, or refer the matter for rehearing to a single-member panel composed of someone who did not hear the original protest. Special panels appointed in certain counties must make a recommendation on each motion submitted under protest; however, the ARB will ultimately accept the panel's determination or refer the matter for rehearing to another special panel composed of members who did not hear the original protest. If the ARB does not have at least three other special panel members available, the ARB may make the determination.

(t) Thank the parties for their participation and announce the ARB determination(s) and that an order determining protest will be sent by certified mail or email in counties with populations greater than 120,000 where property owners can submit a request form for electronic delivery of the notice of determination from the ARB. Provide the property owner or agent documents indicating that the members of the board hearing the protest signed the required affidavit.

If the ARB members use computer screens during ARB hearings for reviewing evidence and other information, the ARB must make computer screens available to property owners and agents at the hearings to view the same information that is presented to the ARB members by the appraisal district staff. This requirement is met if the property owner or agent can see all information displayed on at least one computer screen in the hearing location (there is no requirement that the ARB provide the property owner or agent with a separate screen).

If a chief appraiser uses audiovisual equipment at a protest hearing, the appraisal office must provide equipment of the same general type, kind and character for the use of the property owner or agent during the hearing. See section VI, Other Issues, for more information regarding audiovisual equipment requirements.

The property owner or agent and the appraisal district representative are prohibited from debating each other. The parties must direct all communications to the ARB members, except for examination or cross-examination during testimony of witnesses or parties testifying at the hearing.

For taxing unit challenges, motions to correct appraisal records, protests regarding exemptions, or other matters that may be the subject of ARB hearings, the ARB should follow the order of conducting hearings above but may make exceptions for the type of hearing.

Tax Code Section 41.68 and Comptroller Rule 9.803 require that the ARB keep records for each ARB proceeding. This includes the ARB retaining evidence offered or submitted by the parties as required by Tax Code Section 41.45 and Comptroller rules 9.803 and 9.805. The ARB secretary is responsible for ensuring proper record keeping, maintenance and retention.

2. Conducting Hearings by Telephone or Video Conference Call

Tax Code §41.45(n) allows a property owner initiating a protest to offer evidence or argument by affidavit without physically appearing. Tax Code §41.45(b-1) requires a property owner to notify the ARB by written request not later than the 10th day before the date of the hearing if the property intends to appear remotely.

To offer evidence or argument at a hearing conducted remotely, a property owner must submit a written affidavit of any evidence before the hearing begins. A property owner is responsible for providing access to a hearing conducted remotely to another person the owner invites to participate in the hearing.

Tax Code §41.45(b-2) requires the ARB to provide the telephone number for conducting the teleconference call or the URL address for conducting the videoconference (if offered in that county). The ARB must hold the hearing in a location with equipment that allows all ARB members and parties to the protest in attendance to hear and, if applicable, see the property owner's argument.

3. Conducting Hearings Closed to the Public [Tax Code §41.66(d), (d-1)]

The chief appraiser and the property owner must file a joint motion to request a closed hearing due to intent to disclose proprietary or confidential information that will assist the ARB in determining the protest.

The ARB or panel chair must convene the hearing as an open meeting and then announce the closed meeting as permitted by Tax Code §41.66(d) and (d-1). Only the parties to the protest, their witnesses and the ARB members are permitted to stay in the hearing room. The ARB must follow the same order of proceedings as for hearings open to the public.

The ARB secretary must keep a separate tape recording or written summary of testimony for the closed meeting in accordance with Comptroller Rule 9.803, generally. The proprietary or confidential evidence presented at the hearing giving rise to the closed hearing is confidential according to Tax Code §22.27. The ARB must mark as “confidential” and maintain it as confidential in the ARB records for proper handling. At the conclusion of the hearing, the ARB panel must confirm with the parties that all proprietary and confidential information has been appropriately identified by the ARB. The ARB members must maintain the confidentiality of the information and disclose only as provided by law.

After deliberation, the ARB must reconvene in open meeting and vote or take final action on the protest deliberated in the closed meeting. The ARB and parties cannot mention of the proprietary or confidential information during the open meeting.

4. Right to Examine and Cross-examine Witnesses or Other Parties

Tax Code §41.66(b) states that “each party to a hearing is entitled to offer evidence, examine or cross-examine witnesses or other parties, and present arguments on the matters subject to the hearing.” The ARB cannot prohibit this entitlement in any way; however, it may enforce time limits and dictate the order of ARB hearings for witness examination and cross-examination. To the extent possible, the ARB should advise the parties in advance of any time limitations that the ARB intends to impose regarding the presentation of evidence.

5. Party’s Right to Appear by an Agent

A person leasing property who is contractually obligated to reimburse the property owner for taxes imposed on the property can file a protest if the property owner does not and to designate, under Tax Code §41.413, another person to act as his/her agent with the same authority and limitations as an agent designated under Tax Code §1.111.

V. Evidence Considerations

[Tax Code §5.103(8), (11), and (13)]

1. A Party’s Right to Offer Evidence and Argument

The ARB cannot prohibit a party’s right to offer evidence and argument but may enforce time limits and dictate the order of ARB hearings. To the extent possible, the ARB should advise the parties in advance of any time limitations the ARB intends to impose regarding the presentation of evidence and argument. The ARB should, schedule permitting, provide as much time as possible to each party to a hearing to fully present evidence and offer argument.

2. Prohibition of Consideration of Information Not Provided at the ARB Hearing [Tax Code §41.66(e)]

In a protest hearing, the ARB cannot consider any appraisal district information on a protest that was not presented to the ARB during the protest hearing. In order for the ARB to consider any appraisal district record (e.g., appraisal roll history, appraisal cards), one of the parties must present it as evidence (i.e., the chief appraiser, appraisal district representative, property owner, agent or witness) at the protest hearing.

3. Exclusion of Evidence Required by Tax Code §41.67(d), (e)

If it is established during a protest hearing that the protesting party previously requested information under Tax Code §41.461 and that the opposing party did not deliver the information to the protesting party at least 14 days before the scheduled or postponed hearing, the opposing party cannot use or offer the requested information not

made available in any form as evidence in the hearing. The ARB must exclude evidence under Tax Code §41.67(d) only if evidence presented at the hearing establishes that:

- (a) the information sought to be excluded as evidence was not delivered at least 14 days before the hearing; and
- (b) the information sought to be excluded as evidence was previously requested by the protesting party.

Tax Code §41.67(e) prohibits the chief appraiser from offering evidence at a hearing in support of a modification or denial of an exemption or application unless:

- (a) the chief appraiser provided the reasoning for the modification or denial to the property owner in writing no later than the 14th day before the hearing date; and
- (b) evidence establishes that the additional reason was not known by the chief appraiser at the time the chief appraiser delivered the original notice of modification or denial.

VI. Other Issues

[Tax Code §5.103(17)]

1. Compliance with the Law, Integrity, and Impartiality

ARB members must comply with the law and always act in a manner that promotes public confidence in the integrity and impartiality of the ARB.

2. Patience and Courtesy

ARB members must be patient, dignified and courteous to parties appearing before the ARB.

3. Bias or Prejudice

ARB members must perform their ARB duties without bias or prejudice.

4. Confidential Information

ARB members must not disclose or use confidential information acquired in the performance of ARB duties for any purpose unrelated to ARB duties.

5. Required Contents that Vary by ARB

The ARB's adopted hearing procedures must comply with Comptroller Rule 9.805 concerning ARB evidence exchange and retention and audiovisual equipment requirements. The rule requires that ARB procedures include specific items that may vary by ARB. The rule addresses:

- (a) the manner and form, including security requirements, in which a person must provide the other party with evidentiary materials the person intends to offer or submit to the ARB for consideration at the hearing on a small, portable, electronic device;
- (b) how to retain the evidence as part of the ARB's hearing record; and
- (c) the audiovisual equipment provided by an appraisal district, if any, for use by a property owner or the property owner's agent.

VII. Evidence Exchange and Retention and Audiovisual Equipment Requirements

[Administrative Code §9.805]

1. Exchange of evidence. Before or immediately after an appraisal review board hearing begins, the appraisal district and the property owner or the owner's agent shall each provide the other party with a duplicated set of the evidentiary materials the person intends to offer or submit to the appraisal review board for consideration at the hearing. One set of these materials is to be exchanged with and retained by the other party, and another set of these materials is to be provided to and retained by the appraisal review board as evidence for its

records as required under §9.803 of this title (relating to Requirements for Appraisal Review Board Records). The duplicated material sets shall be produced in either paper or electronic form.

2. Evidentiary materials on a portable electronic device. Evidentiary materials produced on a portable electronic device shall be saved in a file format type and downloaded to a small, portable, electronic device. The file format type and small, portable, electronic device must be considered generally accepted technology and must be suitable for retention by the recipient. For security purposes, the electronic files on devices produced pursuant to this section shall be capable of being scanned or reviewed for the presence of any malicious software or computer viruses before acceptance by or exposure to the recipient's computer system.
3. Electronic file format types and devices. The appraisal review board shall determine the types of file formats and devices which meet the requirements of subsection (b) of this section and specify the types of file formats and devices in the appraisal review board hearing procedures. Examples of file format types that may be considered acceptable include but are not limited to the Adobe portable document format (PDF); Microsoft Word, typically used for text documents; Microsoft Excel, typically used for spreadsheets and tables; Microsoft PowerPoint, typically used for presentations or slideshows; and JPEG (.jpg or .jpeg) for photographs. Examples of the general types of small, portable, electronic devices suitable for retention by the recipient that may be considered acceptable include but are not limited to USB flash drives (i.e., thumb or jump drives, USB or memory sticks), and compact discs (i.e., CDs, DVDs) with various characteristics. The appraisal district and the property owner or the owner's agent may agree to exchange evidence in a manner other than provided in appraisal review board hearing procedures so long as a copy of the evidence may be retained in the records of the appraisal review board and satisfies the requirements of subsection (a) of this section.
4. Audiovisual equipment requirements. If the appraisal district uses audiovisual equipment at appraisal review board hearings, the appraisal district shall make available this same equipment or audiovisual equipment of the same general type, kind, and character for use at the hearing by the property owner or the owner's agent. The equipment made available shall be capable of reading and accepting the same types of file formats and devices the appraisal review board has determined are generally accepted under subsection (c) of this section. In the alternative, property owners and their agents may bring their own audiovisual equipment for their presentation of evidentiary materials at appraisal review board hearings. If the operation of audiovisual equipment at the hearing requires access to and connection with the Internet for the presentation, the parties must provide their own Internet connection and access through their own service provider. The property owner and the owner's agent may not access the appraisal district office's network or Internet connection nor any of the appraisal district office's technology or equipment other than that made available under this section and described in the appraisal review board hearing procedures. The appraisal district and the property owner or the owner's agent may use audiovisual equipment with specifications that are different from those in the hearing procedures if the parties agree to do so in writing or verbally agree as shown in the audio recording of the hearing.
5. Appraisal Review Board hearing procedures. The following information regarding the exchange and presentation of evidence at appraisal review board hearings shall be provided in the appraisal review board hearing procedures:
 - a. identification of the file format types considered acceptable under subsection (c) of this section;
 - b. description of the types of small, portable, electronic devices suitable for retention by the recipient considered acceptable under subsection (c) of this section;
 - c. notice that property owners and their agents may bring their own audiovisual equipment for their presentation at appraisal review board hearings but must provide their own Internet access, if needed, through their own service provider;
 - d. whether the appraisal district uses audiovisual equipment at appraisal review board hearings;
 - e. if the appraisal district uses audiovisual equipment at appraisal review board hearings, a description of the type, kind, and character of audiovisual equipment the appraisal district makes available for use by property owners or their agents and which meets the requirements of subsection (d) of this section; and
 - f. notice that property owners and their agents may not access the appraisal district office's network or Internet connection nor any of the appraisal district office's technology or equipment other than that made available under this section and described in the hearing procedures.