

Proposed Change to the Board of Equalization Administrative Rules - 6/23/09

D. Final Decision

1. Unless an applicant files a written application for reconsideration pursuant to D.2(a), ~~(b), or (bc)~~, the Board shall approve the proposed findings and/or recommendations of the hearing officer by a majority vote of the quorum.
2. Upon receipt of the written application for reconsideration pursuant to D.1, ~~setting forth facts to support the application, the application will be placed on the Board's agenda for consideration. The application for reconsideration should not exceed two pages. The applicant must articulate the reasons why reconsideration should be granted. Reconsideration will be granted~~ The Board may substitute any proposed findings before it with its own findings, only if one of the following is met:
 - a. The Board determines by an affirmative vote of at least five (5) members of the Board that the application establishes a prima facie showing of (1) lack of due process, or (2) fraud, misrepresentation or other misconduct, by staff of the Board. In such case, the Board at its discretion shall:
 - i. Review the matter on the record upon at least twenty-four (24) hours notice to all parties; or
 - ii. Hear the matter de novo after notice to all parties; or,
 - b. The Board determines by an affirmative vote of at least five (5) members of the Board that the application establishes a violation of a substantive issue of law arising under state constitutional or statutory authority, involving exemption, equality and uniformity, or other substantive rights created under Title 59, Chapter 2 of the Utah Code. In such case, the Board shall hear the matter as an appeal on the record upon at least twenty-four (24) hours notice to all parties;:
 - c. The Board is convinced, by an affirmative vote of at least five (5) members of the Board that the application establishes sufficient reason, not covered in D.2(a) or (b), to be heard by the entire Board. The Board may choose to either review the matter on the record or hear the appeal de novo after sufficient notice to all parties.
3. If reconsideration is granted and the matter is heard, the Board may substitute any of the hearing officer's proposed findings with its own findings by an affirmative vote of at least five (5) members of the Board.