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# Washington Department of Revenue Property Tax Division

## 2020 Review of the Clallam County Board of Equalization



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# Overview

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## Introduction

The Department of Revenue (Department) conducted an on-site interview with the Clerk of the Clallam County Board of Equalization (Clerk). The interview focused on the Clallam County Board of Equalization's (Board) processes and procedures.

## Purpose

The Department's primary purpose of this review is to assist the Board in their processes and procedures to ensure compliance with state statutes and regulations.

An effective review of the methods employed by the Board in administering the assessment appeal process will promote fair, timely, and uniform property tax assessments.

## Scope of review

The review is limited in scope. We reviewed administrative procedures for compliance with state statutes and regulations.

## Information reviewed

To complete our review, we gathered information about the administration of the Board through interviews, documents provided by the Clerk, and independent verification. The areas we reviewed included, but were not limited to:

- Petitions for appeal 2019 assessment year for taxes payable in 2020
- Hearing procedures
- Deliberation process
- Board orders
- Regular convened session
- Reconvening processes
- Publications, forms, literature, and website
- Board policies

## Acknowledgment

We thank the Board and Clerk for their cooperation throughout our review. We commend the Board for their willingness to look at opportunities to improve the uniformity and administration of property tax.

# Executive Summary

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## About this review

The Department conducted an on-site visit to the Board's office. We interviewed the Board's staff about the processes and procedures used in hearing appeals.

## Categories of results

The Department has completed its review and grouped the results into two categories:

- The first category, *Requirements*, is of the greatest urgency for effective administration by the Clerk and the Board. A change is required to adhere to the law.
- The second category, *Recommendations*, requires the attention of the Board. The Department believes the Board could improve their performance and service to the public by making voluntary changes in procedures.

The Department bases requirements and recommendations contained in our reports on our review of the administrative procedures employed, existing state statutes and regulations, and areas we saw opportunities to improve processes, procedures, and communication.

## Results

The Department identified five requirements and two recommendations directed toward improving the Board's methods.

The items identified may be specific to the Clerk's duties, the Board's duties, county legislative authority duties, or they may have shared components of responsibility. A summary of these items follows.

## Executive Summary, continued

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### Requirements

1. The Board is required to hold a regular convened session beginning on July 15 or within 14 days of the Clallam County Assessor (Assessor) certifying the county assessment roll to the Board.
2. The Board is required to use a preponderance of evidence as the standard of proof to decide an appeal of the Assessor's determination of non-valuation appeals.

The Board is required to reduce the standard of proof from clear, cogent, and convincing to the preponderance of evidence, when the Assessor offers a stipulated value agreement or different value.

3. The parties to an appeal are required to provide evidence to both the Board and the opposing party at least 21 business days prior to the hearing.
4. The Board is required to inform petitioners of the right to appeal the Board's denial of a petition to the Board of Tax Appeals (BTA).
5. The Board is required to hold a hearing and make a decision when the appellant has submitted a complete and timely filed petition.

A petition filed after the deadline without a showing of good cause must be dismissed.

### Recommendations

1. The Department recommends the Board list the standard of proof used to make their decision in each order.
2. The Department recommends the Board include a reasonable deadline date in their *Late Petition Letter*.

## Requirement – Regular convened session

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### Requirement

The Board is required to hold a regular convened session beginning on July 15 or within 14 days of the Clallam County Assessor (Assessor) certifying the county assessment roll to the Board.

### What the law says

Boards of equalization must meet annually for a minimum of three days but not more than 28 calendar days for the purpose of equalizing property values and hearing taxpayer appeals. Boards meet on July 15 or within 14 days of the assessor's certification of the county assessment roll to the Board, whichever is later (RCW 84.48.010 and WAC 458-14-046).

### What we found

The Board did not meet on July 15 or within 14 days of the Assessor's certification of the assessment roll to the Board. The Assessor certified the 2019 assessment roll for the 2020 tax year on September 25, 2019, requiring the Board to meet on or before October 9, 2019. The Board's first meeting for the 2019 assessment year was on October 22, 2019.

### Action needed to meet requirement

The Board is required to take the following action(s):

- Meet on July 15 or within 14 days of the Assessor's certification of the assessment roll to the Board, whichever is later.

### Why it's important

Meeting as required by statute helps ensure the property tax process is completed as directed by law, so taxpayers will receive property tax statements timely.

## Requirement – Standard of proof

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### Requirement

The Board is required to use a preponderance of evidence as the standard of proof to decide an appeal of the Assessor's determination of non-valuation appeals.

The Board is required to reduce the standard of proof from clear, cogent, and convincing to the preponderance of evidence, when the Assessor offers a stipulated value agreement or different value.

### What the law says

If a taxpayer shows by clear, cogent, and convincing evidence that a specific value within an overall assessed value is incorrect, then the standard of proof shifts to preponderance of the evidence for all contested issues related to that specific value (RCW 84.40.0301 and WAC 458-14-046).

### What we found

One of the petition files reviewed by the Department was a non-valuation appeal. The standard of proof required to overturn the Assessor's determinations for non-valuation appeals is a preponderance of evidence. The order issued by the Board states the required standard of proof to overturn the Assessor's determination is clear, cogent, and convincing.

Two of the petition files reviewed by the Department included reduced or increased values offered by the Assessor. This reduces the standard of proof to a preponderance of evidence. The orders issued by the Board states the standard of proof required to overturn the Assessor's value is clear, cogent, and convincing.

### Action needed to meet requirement

The Board is required to take the following action(s):

- Decide appeals for the Assessor's determinations, for non-valuation appeals, using a preponderance of evidence as the standard of proof.
- When the Assessor recommends a different value or her valuation method is flawed, reduce the standard of proof from clear, cogent and convincing, to a preponderance of evidence to decide the appeal.

### Why it's important

When the Assessor makes a determination for a non-valuation appeal or recommends a different assessed value, they have acknowledged their method or certified value is not correct.

## Requirement – Exchange of evidence prior to hearing

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### Requirement

The parties to an appeal are required to provide evidence to both the Board and the opposing party at least 21 business days prior to the hearing.

### What the law says

When a taxpayer provides additional evidence after the petition is filed, they must submit a copy to the assessor's office and the board at least 21 business days prior to the hearing (RCW 84.48.150 and WAC 458-14-066(4)).

### What we found

The Clerk stated he forwards copies, to the Assessor, of any additional documentary evidence petitioners provide to the Board.

Some of the hearing notices reviewed by the Department, did not use 21 business days as the required deadline for submitting additional evidence for a hearing.

### Action needed to meet requirement

The Board is required to take the following action(s):

- Discontinue the practice of forwarding evidence submitted by the parties. Petitioners must provide both the Board and the Assessor any additional evidence.
- Use a deadline of 21 business days prior to a hearing for providing additional evidence for an appeal. The count of 21 business days should not include the hearing date, weekends, or public holidays. This could be accomplished by replacing the deadline date in the letter with the following language: petitioners have 21 business days to provide additional evidence. Use of this statement decreases the chance of the Board giving incorrect written advice to petitioners.

### Why it's important

The Board should not distribute appellant evidence to the assessor; this does not support the appearance of independence between the board and assessor's office.



## Requirement – Petition denial letter

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### Requirement

The Board is required to inform petitioners of the right to appeal the Board’s denial of a petition to the Board of Tax Appeals (BTA).

### What the law says

Any taxpayer or taxing unit not satisfied by the action of any county board of equalization may appeal to the BTA by filing with the BTA, in accordance with RCW 1.12.070, a notice of appeal within thirty days after the mailing of the decision of such board of equalization. The notice shall specify the actions complained of and in like manner any county assessor may appeal to the board of tax appeals from any action of any county board of equalization (RCW 84.08.130 and WAC 458-14-170).

### What we found

The Board provided the Department with a *Petition Not Accepted* letter, used to deny an incomplete petition. This letter conveys the Board’s decision to deny the appellant’s incomplete petition, however, the reason stated for denial is *not filed with the Clallam County Board of Equalization in a timely manner*. In addition, the taxpayer was not notified of their right to request an appeal with the BTA.

The Board notified the appellant the petition was incomplete and provided the appellant with a reasonable deadline to provide the necessary information. The Board did not receive the information necessary to complete the petition on or before the required deadline. The decision letter should state the reason for the denial as incomplete.

### Action needed to meet requirement

The Board is required to take the following action(s):

- State *incomplete* as the reason for denying an incomplete petition.
- When denying petitions as incomplete or untimely, the notification must include appeal rights.

### Why it’s important

Proper documentation of complete and timely filed appeals assures both the assessor and the taxpayer due process within the property tax appeals process.

Notification of appeal rights assures both the assessor and taxpayer due process within the property tax appeals process.

## Requirement – Retention of petition forms

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### Requirement

The Board is required to hold a hearing and make a decision when the appellant has submitted a complete and timely filed petition.

A petition filed after the deadline without a showing of good cause must be dismissed.

### What the law says

A taxpayer may appeal an assessed valuation placed on such property by the county assessor for any reason authorized by statute. The appeal must be made with a complete and timely filed petition, on the form prescribed (RCW 84.40.038).

A taxpayer must file a timely petition for a specific assessment year to preserve their right to appeal (WAC 458-14-056).

### What we found

One of the petition files the Department reviewed included a letter, dated July 1, 2019, that informs the appellant they did not submit their petition timely for the 2018 assessment year. The letter also includes a statement that, per the appellant's request, the Board retained the petition to appeal the 2019 assessment year.

The only method for appealing the Assessor's value or determination is a complete and timely filed petition for each assessment year the taxpayer wishes to appeal.

### Action needed to meet requirement

The Board is required to take the following action(s):

- Require appellants to submit a separate petition form for each assessment year they wish to appeal.
- When a petition is not filed timely, the Board must deny the appeal. A new petition must be submitted if the appellant wishes to appeal another assessment year.

### Why it's important

Proper documentation of complete and timely filed appeals assures both the taxpayer and the assessor due process.

## Recommendation – Board Orders

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### Recommendation

The Department recommends the Board list the standard of proof used to make their decision in each order.

### What we found

The orders reviewed by the Department all state the Assessor’s determination is presumed correct and can only be overcome by clear, cogent, and convincing evidence, per RCW 84.40.0301(1). There are some circumstances when the Board must make their decision using a preponderance of evidence as the standard of proof (see the *Requirement – Standard of proof*, on page 7 of this report).

The orders reviewed do not include the actual standard of proof used for the Board’s decisions.

### Action recommended

The Department recommends the Board take the following action(s):

- Add the standard of proof used for their decision in each order.

### Why it’s important

To ensure transparency in the property tax appeals process.

## Recommendation – Timely filed petition

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### Recommendation

The Department recommends the Board include a reasonable deadline date in their *Late Petition Letter*.

### What we found

The Board does not have a deadline date listed on the *Late Petition Letter*, provided to the Department, informing appellants they submitted their petition late.

One of the petition files the Department reviewed includes a letter of denial for an untimely filed petition. The denial letter stated April 30 as the deadline for consideration of a waiver for good cause. April 30 is the deadline for a reconvene request. That date may not be a reasonable deadline to request a waiver for good cause, depending on the date the appellant submits the petition in relation to the original filing deadline.

### Action recommended

The Department recommends the Board take the following action(s):

- Add a reasonable deadline date to the *Late Petition Letter* for a petitioner's reply, requesting a waiver of the filing deadline for good cause. The Department recommends requiring a reply within 15 to 30 days.
- When denying a request for a good cause waiver include language in the letter that states the Board is denying the request for a good cause waiver. This statement clarifies the denial is for a good cause waiver. Being specific is important because the Board's decisions for good cause waiver requests cannot be appealed to the BTA.

### Why it's important

Proper documentation of complete and timely filed appeals assures both the assessor and the taxpayer due process.

## Next Steps

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### **Prioritizing Requirements and Recommendations**

Once the Clerk and Board receive a final copy of this review, the Department will (if requested) consult with them to prioritize the items listed in the report.

### **Follow-up**

The Department will follow up in six months to review the changes implemented. This will give the Board an opportunity to provide information to the Department about any issues encountered during the implementation process.

### **Questions**

For questions about specific requirements or recommendations in our report, please contact the Property Tax Division at (360) 534-1400.

For additional information contact:

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