

NOTICE OF FINAL RULEMAKING
TITLE 16. TAX APPEALS
CHAPTER 4. STATE BOARD OF EQUALIZATION

PREAMBLE

1. Articles, Parts, and Sections Affected

Rulemaking Action

Article 1	New Article
R16-4-101	New Section
R16-4-102	New Section
R16-4-103	New Section
R16-4-104	New Section
R16-4-105	New Section
R16-4-106	New Section
R16-4-107	New Section
R16-4-108	New Section
R16-4-109	New Section
R16-4-110	New Section
R16-4-111	New Section
R16-4-112	New Section
R16-4-113	New Section
R16-4-114	New Section
R16-4-115	New Section
R16-4-116	New Section
R16-4-117	New Section

2. Citations to the agency's statutory rulemaking authority to include both the authorizing statute (general) and the implementing statute (specific):

Authorizing statute: A.R.S. § 42-16154(C)

Implementing statute: A.R.S. §§ 42-16157, 42-16158, and 42-16159

3. The effective date for the rules:

As specified under A.R.S. § 41-1032(A), the rule will be effective 60 days after the rule package is filed with the Office of the Secretary of State.

a. If the agency selected a date earlier than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the earlier date and state the reason or reasons the agency selected the earlier effective date as provided in A.R.S. § 41-1032(A)(1) through (5):

Not applicable

b. If the agency selected a date later than the 60-day effective date as specified in A.R.S. § 41-1032(A), include the later date and state the reason or reasons the agency selected the later effective date as provided in A.R.S. § 41-1032(B):

Not applicable

4. Citation to all related notices published in the Register to include the Register as specified in R1-1-409(A) that pertain to the record of the final rulemaking package:

Notice of Rulemaking Docket Opening: 23 A.A.R. 3314, December 1, 2017

Notice of Proposed Rulemaking: 24 A.A.R. 619, March 23, 2018

5. The agency's contact person who can answer questions about the rulemaking:

Name: George Shook

Address: 100 N 15th Ave, Suite 130, Phoenix, AZ 85007

Telephone: (602) 364-1600

Fax: (602) 364-1616

E-mail: gshook@sboe.state.az.us

Website: www.sboe.state.az.us

6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered, to include an explanation about the rulemaking:

The State Board of Equalization (SBOE) is required under A.R.S. § 42-16154(C) to make rules of procedure for hearings before the SBOE. In 1996, the SBOE made the required rules using the emergency rulemaking procedure. Under the provisions of A.R.S. § 41-1026, the rules expired on July 30, 1996. Since then, the SBOE has functioned with procedures that have not been formally made as rules. In this rulemaking, the SBOE makes the required rules.

An exemption from EO2016-03 was provided by Mara Mellstrom, Policy Advisor in the Governor's Office, by e-mail dated February 8, 2017.

7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:

The Board did not review or rely on a study in its evaluation of or justification for any rule in this rulemaking.

8. A showing of good cause why the rulemaking is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:

Not applicable

9. A summary of the economic, small business, and consumer impact:

The economic impact of the rulemaking will be positive for the Board, petitioners, and respondents. All parties will have rules on which to rely regarding procedures before the SBOE. This will create efficiencies in functioning for the SBOE and eliminate uncertainty caused by failure to have the required procedural rules.

10. A description of any changes between the proposed rulemaking, including supplemental notices, and the final rulemaking:

The changes indicated in item 11 were made between the proposed and final rules. None of the changes is substantial under the standards at A.R.S. § 41-1025(B).

11. An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to comments:

The SBOE received four comments regarding the rulemaking. Three of the comments were from Board members: Alain Hartmann, Thomas Naifeh, and Jeff Nolan. The fourth comment was from Jodi Bain, a tax agent. Their comments, the Board’s analysis of the comments, and action taken regarding the comments follow:

COMMENT	ANALYSIS	ACTION TAKEN
R16-4-102(E): If SBOE lacks jurisdiction regarding an appeal, it should issue a decision saying so rather than dismissing the appeal. This protects the petitioner’s right to further appeal.	The jurisdiction of SBOE is clearly outlined in R16-4-102. It is incumbent on an individual wanting to make an appeal to ensure the appeal is made to an entity with jurisdiction to hear the appeal.	No change
R16-4-104: The assessor and petitioner should be subject to the same time requirements regarding submission of evidence. The petitioner is required to submit evidence in	A.R.S. § 42-16056(C) requires an assessor to provide a petitioner with “notice of the grounds of a refusal....” The assessor is not required to provide the petitioner with the	No change

<p>advance but the respondent is not. Frequently the assessor posts evidence just a few days before a hearing.</p>	<p>evidence supporting the refusal. If the petitioner appeals to the SBOE, the assessor may submit the evidence supporting the previous refusal.</p> <p>The only new or additional evidence that may be submitted with or after a petition is filed is evidence relating to a previously raised issue. If the petitioner submits new or additional evidence to the assessor, the assessor has a right to respond to that evidence and by definition, the assessor's evidence will be submitted after that of the petitioner.</p>	
<p>What is the meaning of "communication" as used in subsection (A)(3)? This is not a current requirement.</p>	<p>"Communication" is used to have its ordinary, dictionary meaning: information communicated; the process by which information is exchanged. This is a current requirement. A.R.S. § 42-16161(B) requires a petitioner to submit to SBOE copies of communication received from the assessor.</p>	<p>No change</p>
<p>R16-4-104(A)(4): This is not a current requirement. It is burdensome and a similar requirement is not imposed on</p>	<p>This is SBOE's current practice. As stated in R16-4-110, the petitioner has the burden of proof in a hearing so</p>	<p>No change</p>

the assessor.	it is in the petitioner’s interest to ensure SBOE has copies of material previously submitted to the assessor, county board, or Department, as applicable.	
R16-4-104(A)(5): The meaning of “previously raised” is not clear. This is not a current requirement and is not imposed on the assessor. Does or does not subsection (A)(5)(b) apply only to evidence of income?	<p>An issue is raised if it is brought up by one or the other side in a legal matter. On appeal, only the issues raised before may be presented. This is basic to all legal matters to ensure the matters can be resolved. It applies to all parties to a legal matter.</p> <p>A.R.S. § 42-16052 requires an income statement be filed with the assessor when an appeal is made to the assessor. If further appeal is made to the SBOE, the petitioner may modify the previously submitted income statement only by presenting the new income statement to the assessor at least two days before the scheduled hearing before the SBOE.</p> <p>This requirement treats the issue of income the same as all other issues—only previously raised issues may be appealed to the SBOE.</p>	No change
R16-4-108: Both the assessor	They are. See R16-4-108(B)(2)	No change

<p>and petitioner should be under oath when evidence is presented.</p>	<p>and R16-4-109(A).</p>	
<p>R16-4-108: The petitioner should present evidence before the assessor presents evidence or the chairperson reads the assessors evidence into the record so the petitioner has an opportunity for rebuttal.</p>	<p>R16-4-108 indicates evidence from the petitioner will be heard before evidence from the respondent. Finally, the petitioner will have time for rebuttal.</p> <p>The problem seems to occur when one or both parties are absence from the hearing and evidence is read into the record. R16-4-107(E) was added to clarify that when evidence is read into the record, evidence from the petitioner is received orally or read before evidence from the respondent is received orally or read.</p>	<p>R16-4-107(E) was added to emphasize that whenever evidence is read into the record by the SBOE, evidence from the petitioner is first and that of the respondent is second.</p>
<p>R16-4-106 and R16-4-117: These Sections require a Board member to disclose a conflict of interest seven days before a scheduled hearing. This is unnecessarily burdensome for Board members. Disclosure at the hearing is sufficient.</p>	<p>The burden of complying with the conflict of interest statutes and the consequences of failing to do so fall on members of the Board. The Board decided it was sufficient to remind members of these requirements and let them decide when to make required disclosures.</p>	<p>R16-4-106(B) was amended to remove the seven-day requirement.</p>

12. All agencies shall list any other matters prescribed by statute applicable to the specific agency or to any specific rule or class of rules. Additionally, an agency subject to Council review under A.R.S. §§ 41-1052 and 41-1055 shall respond to the following questions:

None

a. Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:

None of the rules requires a permit.

b. Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than federal law and if so, citation to the statutory authority to exceed the requirements of federal law:

Federal law is not applicable to the subject of the rules.

c. Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:

No analysis was submitted.

13. A list of any incorporated by reference material as specified in A.R.S. § 41-1028 and its location in the rule:

None

14. Whether the rule was previously made, amended, or repealed as an emergency rule. If so, cite the notice published in the Register as specified in R1-1-409(A). Also, the agency shall state where the text was changed between the emergency and the final rulemaking packages:

No rule in the rulemaking was previously made, amended, or repealed as an emergency rule.

15. The full text of the rules follows:

TITLE 16. TAX APPEALS

CHAPTER 4. STATE BOARD OF EQUALIZATION

**ARTICLE 1. ~~EMERGENCY EXPIRED~~ PROCEDURES BEFORE THE STATE BOARD OF
EQUALIZATION**

Section

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<u>R16-4-114.</u>		<u>Ex Parte Communications</u>
<u>R16-4-115.</u>		<u>Board Decision</u>
<u>R16-4-116.</u>		<u>Review or Rehearing of the SBOE Decision</u>
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**ARTICLE 1. ~~EMERGENCY EXPIRED~~ PROCEDURES BEFORE THE STATE BOARD OF
EQUALIZATION**

R16-4-101. ~~Emergency Expired~~ Definitions

“Assessor” means the county assessor of the county in which the property at issue in an appeal is located.

“County board” has the meaning specified at A.R.S. § 42-16101.

“Department” means the Arizona Department of Revenue.

“Motion” means a written or oral request to the SBOE for an order or ruling regarding an appeal.

“On-the-record” means a hearing conducted by reviewing submitted materials rather than taking oral testimony.

“Petitioner” means a taxpayer or other person, as defined at A.R.S. § 1-215, qualified to file an appeal and appear before the SBOE and, if applicable, an authorized representative of the petitioner.

“Respondent” means a person or entity qualified to answer an appeal filed by a petitioner.

“SBOE” means:

The State Board of Equalization,

A member of the SBOE,

A panel of members of the SBOE, or

A hearing officer employed by the SBOE under A.R.S. § 41-16155 to hear appeals.

R16-4-102. ~~Emergency Expired~~ Jurisdiction of the SBOE

A. The SBOE hears appeals from a taxpayer regarding the valuation or legal classification of real and certain personal property made by the assessor only if one of the following conditions is met:

1. A petition previously filed was denied in whole or in part by both the assessor and county board;

or

2. A petition previously filed was denied in whole or in part by the assessor and there is no county board.

B. The SBOE hears an appeal from a taxpayer regarding the following:

1. A.R.S. § 42-15105. Valuation or classification by the assessor of new construction, changes to, or changes in use of real property;

2. A.R.S. § 42-16053. Rejection by the assessor of a petition for failure to include substantial information;

3. A.R.S. § 42-16056. Denial by the assessor of a petition for review of an improper valuation or classification;

4. A.R.S. § 42-16158. Valuation or classification of property by the Department;
 5. A.R.S. § 42-16252: Review of a Notice of Proposed Correction issued by the assessor or Department regarding a property valuation or classification;
 6. A.R.S. § 42-16254: Review of Notice of Claim regarding an error in valuation or classification by the assessor or Department or error in tax rate imposed by the assessor; and
 7. A.R.S. § 42-19052: Valuation or classification by the assessor of personal property.
- C.** The SBOE hears an appeal from an assessor under A.R.S. § 42-16159 regarding an equalization order issued by the Department.
- D.** The SBOE hears an appeal from the Department under A.R.S. § 42-16157 regarding a proposed valuation or classification or change in a valuation or classification made by the assessor.
- E.** If the SBOE lacks jurisdiction regarding an appeal, the SBOE shall dismiss the appeal on its own motion.

R16-4-103. ~~Emergency Expired~~ Representation before the SBOE

The following individuals may appear before the SBOE:

1. An individual representing:
 - a. The individual's interest,
 - b. An estate or trust of which the individual is the legal representative,
 - c. A partnership of which the individual is a partner, or
 - d. A corporation of which the individual is an officer or an authorized representative;
2. An attorney licensed to practice law in Arizona;
3. A property tax agent, as defined at A.R.S. § 32-3651, who has been designated under A.R.S. § 42-16001;
4. An authorized representative from the assessor's office;
5. An authorized representative from the Department; and
6. Other individuals allowed under Arizona Supreme Court Rule 31(d)(13).

R16-4-104. ~~Emergency Expired~~ Filing a Petition; Filing Deadlines

- A.** To initiate an appeal under R16-4-102(B), a taxpayer shall submit a petition to the SBOE.
1. The petitioner shall use the correct petition form when initiating an appeal. The SBOE shall not accept a letter in place of the correct petition form;
 2. If the petition is made under A.R.S. § 42-15105 and is submitted to the SBOE by an authorized representative of the taxpayer, the authorized representative shall attach to the correct petition form a copy of the current AZDOR Form 82130AA;

3. The petitioner shall attach to the correct petition form a copy of all communication to or from the assessor, county board, and Department, as applicable, regarding valuation or legal classification of the property at issue.
4. Evidence previously submitted to the assessor, county board, or Department is not forwarded to the SBOE. Therefore, in addition to the attachments required under subsection (A)(3), the petitioner shall submit to the SBOE, by U.S. postal service or in person, the following copies of any evidence the petitioner wants the SBOE to consider:
 - a. For property that is owner-occupied legal class 3 or another legal classification with a full-cash-value less than \$3million: one copy to the SBOE;
 - b. For property not described under subsection (A)(4)(a) and not valued by the Department: three copies to the SBOE ; and
 - c. For property valued or classified by the Department under A.R.S. § 42-16158: four copies to the SBOE and one copy to the Department at least five days before the scheduled hearing. For a petition made under A.R.S. § 42-16158, the Department shall provide one copy of evidence regarding the property valuation or classification to the petitioner at least five days before the scheduled hearing.
5. The SBOE shall consider only an issue previously raised with the assessor, county board, or Department, as applicable. The SBOE shall admit new or additional evidence only if:
 - a. The evidence relates to an issue previously raised with the assessor, county board, or Department, as applicable; and
 - b. A copy of the new or additional evidence has been provided to the assessor or Department, as applicable, at least two days before the scheduled hearing.
6. Except as provided in subsection (A)(7), the petitioner shall submit the correct petition form and attachments required under subsections (A)(3) to the SBOE using the U.S. postal service, in person, or by e-mail upon notification by the SBOE. The petitioner may check the SBOE web site to determine the maximum size file accepted in a single e-mail transmission. If necessary, the petitioner may submit the attachments required under subsection (A)(3) by multiple e-mail transmissions;
7. For the following appeals, the petitioner shall submit the correct petition form and attachments required under subsection (A)(3) to the SBOE using only the U.S. postal service or in person:
 - a. Petition for Review a Notice of Proposed Correction under A.R.S. § 42-16252,
 - b. Petition for Review of a Notice of Claim under A.R.S. § 42-16254; and
 - c. Any petition previously rejected by the assessor;

8. A petitioner that wants multiple appeals heard together as one case or on the same agenda shall make a written request to the SBOE when the materials required under this Section for all of the appeals are filed. The petitioner shall ensure the written request clearly identifies all property at issue in the appeals.
 9. The petitioner shall comply with all statutory requirements, including the time within which to file a petition.
- B.** To initiate an appeal under R16-4-102 (C) or (D), the Department or assessor shall submit a petition and proof of service of the appeal on the respondent to the SBOE before the date of the scheduled hearing.
- C.** The time period within which to file a petition is stated in statute and differs depending on the kind of petition. It is the petitioner's responsibility to ensure a petition is timely filed.
1. The SBOE shall compute the period for filing a petition according to A.R.S. § 1-243.
 2. The SBOE shall consider a petition timely filed if the petition is properly directed to the SBOE office and:
 - a. Is received in the SBOE office before the end of the time period;
 - b. Is postmarked on or before the end of the time period; or
 - c. Contains an electronic date that is on or before the end of the time period.
- D.** The SBOE shall respect a designation of confidentiality previously found by the assessor, county board, or Department, as applicable.

R16-4-105. ~~Emergency-Expired~~ Motions

- A.** A party shall:
1. Serve a copy of any motion on all other parties. The party shall ensure a motion includes the factual and legal grounds supporting the motion and the requested action; and
 2. Unless the motion is made at the time of a scheduled hearing, submit proof of service on the other parties to the SBOE.
- B.** A party may file a response stating any objection to the motion served under subsection (A).
- C.** The SBOE, in its discretion, shall:
1. Decide whether to allow oral argument regarding a motion; and
 2. Decide whether to rule on a motion before or during a scheduled hearing. If the SBOE rules on a motion before a scheduled hearing, the SBOE shall serve the written ruling on all parties.

R16-4-106. ~~Emergency-Expired~~ Hearing

- A. As required under A.R.S. § 42-16163, the SBOE shall mail notice of an appeal hearing to all parties at least 14 days before the hearing. The SBOE shall include in the notice the date, time, and location of the hearing.
- B. Before a scheduled hearing, all members of the Board shall make known, as defined at A.R.S. § 38-502, whether the member has a substantial interest, as defined at A.R.S. § 38-502, in the matter to be heard by the SBOE. As required by A.R.S. § 38-509, the SBOE shall maintain the disclosure documents and make them available for public inspection.
- C. When the SBOE determines it is in the interest of the parties and the state, the SBOE shall allow one or all parties to participate in a hearing telephonically.

R16-4-107. ~~Emergency Expired~~ On-the-record Hearing; Failure to Appear

- A. The SBOE shall conduct a hearing entirely on-the-record only if all parties to the hearing agree.
- B. If all parties agree to an on-the-record hearing, the SBOE shall review the evidence submitted by the parties, read the evidence into the record, and render a decision based on the submitted evidence.
- C. If the parties do not agree regarding an on-the-record hearing, the SBOE shall:
 - 1. Review the evidence submitted by the parties and read the evidence into the record;
 - 2. Take oral testimony from or on behalf of the party opposing the on-the-record hearing; and
 - 3. Render a decision based on both the submitted evidence and oral testimony.
- D. If a party fails to appear at a scheduled hearing, the SBOE shall conduct the hearing as described in subsection (C).
- E. Consistent with R16-4-108(B), under both subsections (B) and (C), the SBOE shall ensure the petitioner's evidence is entered in the record before the respondent's evidence is entered in the record.

R16-4-108. ~~Emergency Expired~~ Hearing Procedure

- A. Unless otherwise provided by law, all SBOE hearings are open to the public.
- B. The SBOE shall ordinarily proceed as follows at a hearing:
 - 1. Identification for the record of the proceeding, the property at issue, and those participating in the proceeding;
 - 2. Administration of oath or affirmation to all parties and witnesses who will offer testimony;
 - 3. Opening statements by all parties, if requested by the SBOE;
 - 4. Presentation of testimony and evidence by the petitioner and witnesses;
 - 5. Presentation of testimony and evidence by the respondent and witnesses;
 - 6. Final arguments, if requested by the SBOE;
 - 7. Petitioner's rebuttal; and

8. Board deliberation and decision.

- C. The SBOE may direct a party to submit additional information in the party's possession or control. The SBOE shall allow the party a reasonable time in which to submit the additional information.
- D. The SBOE may recess or continue a hearing for good cause.
- E. The SBOE shall conduct all deliberation verbally in the presence of all parties.

R16-4-109. ~~Emergency Expired~~ Rules of Evidence

- A. The SBOE shall accept oral evidence only when presented under oath or affirmation.
- B. The SBOE is not required to follow rules of evidence usually used in a court proceeding.
- C. The SBOE shall admit any evidence the SBOE determines is relevant to the proceeding. The SBOE shall be liberal in admitting evidence and consider objections to the admission in assigning weight to the evidence.
- D. All parties may call and examine witnesses, cross-examine witnesses, and introduce written evidence relevant to the proceeding.
- E. The SBOE may call and examine a witness and may examine a witness called by a party.
- F. The SBOE shall admit into evidence a copy of an original document if there is a showing of authenticity.

R16-4-110. ~~Emergency Expired~~ Proof

Unless otherwise provided by law:

1. The standard of proof in a hearing before the SBOE is a preponderance of the evidence;
2. The petitioner has the burden of proof; and
3. The proponent of a motion shall establish the grounds to support the motion.

R16-4-111. ~~Emergency Expired~~ Subpoenas

- A. The SBOE may issue subpoenas for the attendance of a witness or production of books, records, documents, or other evidence that is not confidential or privileged.
- B. The SBOE may issue a subpoena at its discretion or upon written request by a party. A party shall include the following in a written request for a subpoena:
 1. Identification of the property, including parcel number if applicable, at issue;
 2. A list or description of all records sought;
 3. A statement showing proper foundation for the request;
 4. The name and address of the custodian of the records sought or all persons to be subpoenaed;

5. The date, time, and place to appear or to produce the records; and
6. The name, address, and telephone number of the party requesting the subpoena.

C. If the SBOE issues a subpoena upon the request of a party, the requesting party shall:

1. Ensure the subpoena is served no later than five business days before the time specified in the subpoena for attendance of a witness or production of records;
2. Ensure the person serving the subpoena provides proof of service to the SBOE; and
3. Pay the cost to serve the subpoena.

R16-4-112. ~~Emergency-Expired~~ Records of a Hearing

- A.** The SBOE shall make a recording of every hearing. If a person makes a request, the SBOE shall place a copy of a hearing recording on its web site. If the person wants a copy of the hearing recording in another format, the SBOE may charge the cost of providing the copy in the other format.
- B.** A party to a proceeding may, at the party's expense, record the proceeding using a recording device or court reporter.
- C.** Subject to the limits imposed at A.R.S. § 39-121.03, a person may submit a written request to examine or be furnished a copy of a public record in the custody of the SBOE. As allowed under A.R.S. § 39-121.01, the SBOE may charge a fee for providing a copy of a public record.
- D.** While examining a public record, a person shall not remove the public record from the SBOE office.

R16-4-113. ~~Emergency-Expired~~ Withdrawal

- A.** The petitioner may withdraw an appeal by providing written notice to the SBOE at least 48 hours before the scheduled start of the hearing.
- B.** If the petitioner submits a written notice of withdrawal to the SBOE fewer than 48 hours before the scheduled start of a hearing, the SBOE shall accept the notice of withdrawal at the hearing.
- C.** The petitioner may withdraw an appeal by providing written or oral notice to the SBOE at the hearing.

R16-4-114. Ex Parte Communications

A party shall not communicate, either directly or indirectly, with the SBOE about a substantive issue in a pending appeal unless:

1. All parties are present,
2. It is during a scheduled hearing where an absent party fails to appear after proper notice, or
3. It is by written motion with a copy to all parties.

R16-4-115. Board Decision

- A.** The SBOE shall issue a written decision at the end of a hearing or, as authorized under A.R.S. § 42-16164, after continuing the hearing for additional deliberation.
- B.** The SBOE shall include the following in its decision:
1. Docket number of the appeal;
 2. Parcel number or other identification of the property at issue;
 3. Separately stated findings of fact and conclusions of law;
 4. The decision regarding the property valuation or classification;
 5. Other matters before the SBOE related to the appeal; and
 6. The right of an aggrieved party to appeal the SBOE's decision under A.R.S. § 42-16203 or 42-16254(G).
- C.** The SBOE shall mail a copy of the written decision to all parties and to the Department.
- D.** The SBOE's decision is final 60 days after it is mailed under subsection (C) unless an appeal is taken under A.R.S. § 42-16203 or 42-16254(G).

R16-4-116. Review of a SBOE Decision

- A.** As provided under A.R.S. § 42-16164(A), the chairman of the SBOE may review a SBOE decision to ensure the decision is consistent with due process for all parties. In conducting the review, the chairman shall assess whether:
1. The findings of fact, conclusions of law, and decision are supported by the evidence or are contrary to law;
 2. The hearing involved irregularity, abuse of discretion, or misconduct by a party;
 3. The hearing involved accident or surprise that could not have been prevented by ordinary prudence;
 4. Newly discovered material evidence exists that could not, with reasonable diligence, have been discovered and produced at the hearing;
 5. Error in the admission or rejection of evidence or other errors of law occurred at the hearing or during the progress of the proceedings; or
 6. The decision was the result of passion, bias, or prejudice.
- B.** The chairman shall complete the review provided under A.R.S. § 42-16164(A) within 30 days after the decision is issued under R16-4-115.
- C.** If the chairman determines the SBOE decision is inconsistent with due process for all parties, the SBOE shall:

1. Provide written notice of this determination to all parties including the grounds listed in subsection (A) on which the determination is based;
 2. Stay enforcement of the SBOE's decision issued under R16-4-115 pending further review of the decision; and
 3. Within 30 days after providing the notice under subsection (C)(1), take additional testimony or review newly discovered material evidence, amend findings of fact or conclusions of law or make new findings or conclusions, and issue a new decision.
- D.** Under A.R.S. § 42-16169, the written decision issued under subsection (C)(3) becomes final 60 days after it is mailed to all parties and the Department.

R16-4-117. Board Member Participation in Matters before the SBOE

- A.** A member of the SBOE shall comply fully with A.R.S. Title 38, Chapter 3, Article 8, regarding conflicts of interest. This requires, among other things:
1. Timely submitting the disclosure required under R16-4-106(B) before every hearing scheduled before the SBOE;
 2. Refraining from participating in any manner in a SBOE decision regarding property in which the member or the member's relative has a substantial interest; and
 3. Refraining from participating in any manner in a SBOE decision regarding a petition submitted to the SBOE by an entity in which the member or the member's relative has a substantial interest.
- B.** Remedies and penalties for violating A.R.S. Title 38, Chapter 3, Article 8 are specified at A.R.S. §§ 38-506 and 38-510.