

543—5.7(24) Hearings.

5.7(1) Hearings shall be held at scheduled times within the county where the local government is located or headquartered. All parties assume their own expenses except as may otherwise be specifically provided by rule or law.

5.7(2) The appeal board may conduct the hearing or may appoint a deputy (hearing officer) to conduct the hearing and report findings and recommendations to the board for its decision.

5.7(3) The hearing shall be held in a public place and shall be open to the public. The hearing shall be conducted so as to give all parties a fair opportunity to be heard.

5.7(4) The appeal board secretary shall prepare an official record of all proceedings, including testimony and exhibits. Testimony taken by a mechanical recording device may be incorporated by reference if a transcript is not made. A reasonable amount will be charged to cover the cost of providing a duplicate tape or a copy of the transcription for either party. Tapes will be retained for five years following the decision.

5.7(5) If a party entitled to a hearing fails to appear, that party shall be deemed to have waived opportunity for the hearing or to participate in the hearing unless there is show of good cause for such failure.

5.7(6) Legal counsel shall be at the discretion and expense of either party to the appeal.

5.7(7) Parties appearing before the appeal board should select one or two persons to serve as primary spokespersons for their position.

5.7(8) The appeal board shall exclude evidence which is irrelevant, immaterial or unduly repetitious.

5.7(9) Written or printed materials shall be in sufficient quantity to supply at least three copies for the appeal board and one copy for the other party to the appeal.

5.7(10) Any party requesting a certified shorthand or court reporter shall make arrangements for such attendance and expense.

5.7(11) At the outset of each hearing, the presiding appeal board officer shall indicate disposition of rulings on procedural questions and outline ground rules and time limitations to seek to give equal opportunity to both parties and basically permit:

- a.* Objectors' basic arguments.
- b.* Local government officials' basic arguments and rebuttal.
- c.* Rebuttal by objectors.
- d.* Presentation by authorized third party intervenors.
- e.* If desired, closing remarks by objectors.
- f.* If desired, closing remarks by local government officials.
- g.* Time permitting, comments by interested citizens.
- h.* Announcement as to adjournment, filing of additional briefs and the probable timing for the decision.

5.7(12) As deemed necessary, the board may examine the entire budget under appeal including cash reserves (balances), funding sources and expenditures of all types including actual or allowable transfers so those specific items under appeal may be fully examined and evaluated in perspective in arriving at a decision on the appeal.

5.7(13) The board shall listen to testimony and arguments from all those concerned, take the matters under advisement, and make a decision setting out the findings of fact and conclusions of law on which the decision is based.

5.7(14) Appeal board members or the presiding hearing officer shall be free to ask questions of anyone at any point during any hearing.

5.7(15) The parties may agree upon pertinent facts in the proceedings by stipulation in writing filed at any stage in the proceedings or orally made at the hearing.

5.7(16) Any party served notice of hearing may seek to show cause for a continuance to a date certain at or before the time set for hearing.

5.7(17) The appeal board may adjourn a hearing for good cause from time to time, upon request of either party or legal counsel representing the board, for the purpose of a fair hearing.

5.7(18) Upon filing of a request by a third party to intervene, the appeal board chairperson shall determine whether the applicant has a legitimate interest in the proceedings and can contribute materially to the interpretation and settlement of the issues. Both original parties to the appeal shall be advised of participation by a third party. If participation is denied, the written denial shall include reasons.

5.7(19) If a K-12 school budget is appealed, that portion of expenditures attributable to the area education agency shall be defended by a knowledgeable official of the area education agency.

5.7(20) At the conclusion of arguments, each party shall have opportunity to submit written briefs, or additional written briefs if they have already done so. A copy must also be delivered to the other party. The presiding officer shall determine time limits for the additional filings.

5.7(21) Prior to a final decision, the appeal board may reopen a hearing when new pertinent evidence becomes available which could not, with reasonable diligence, have been presented at the original hearing. This hearing need not be held in the county of original jurisdiction.

5.7(22) Any board member who has a possible conflict of interest in any matter resulting in a hearing shall be disqualified from serving during the hearing and from participation in the deliberations and decision resulting from the hearing.

5.7(23) A member of the appeal board does not have a conflict of interest by reason of residency within the geographical boundaries of the local government whose budget is appealed.