

Kansas Office of Administrative Hearings
Policy on Electronic and Photographic Media Coverage

PURPOSE:

In accordance with K.S.A. 77-523, hearings held pursuant to the Kansas Administrative Procedures Act (KAPA) are open to observation, unless it is determined by the Administrative Law Judge/Presiding Officer (ALJ/PO) the hearing, in whole or in part, must be closed. With the increasing use of electronic devices the Office of Administrative Hearings' (OAH) legitimate concerns for security, participant distraction and decorum have been challenged. Policies created to address these concerns must be flexible enough to accommodate the changes and the importance of electronic devices for court observers, journalists, and participants, while also protecting the integrity of administrative hearing proceedings conducted by OAH.

PROCESS/PROCEDURES:

Permissible Use of Electronic Device.

- (1) During an administrative hearing conducted at OAH a person may possess but not use any of the following electronic devices unless the possession is prohibited by the ALJ/PO:
 - (A) A cell phone,
 - (B) A laptop or tablet computer, with or without video or audio capabilities,
 - (C) A digital or tape audio recorder,
 - (D) A personal digital assistant (PDA), with or without video or audio recording capabilities,
 - (E) A still or video camera, and
 - (F) Any other electronic device that can broadcast, record, or take photographs.
- (2) All cell phones must be turned off in the courtroom or hearing room (courtroom). During court proceedings, all electronic devices must be put away and out of sight, unless use of the devices is authorized by the ALLJ/PO under this rule. A person may use a cell phone or other electronic device in the OAH facility to make or receive phone calls, e-mails, and/or text messages only, but not in a courtroom.

Prohibited Use of Electronic Device.

- (1) It is the policy of OAH that broadcasting, televising, videotaping, photographing or the use of any electronic devices to capture images in any courtroom during hearings or recesses between hearings is prohibited.
- (2) A person is prohibited from using a cell phone or any other electronic device in an OAH facility to:
 - (A) Take pictures,
 - (B) Take videos,
 - (C) Make sound recordings,

- (D) Broadcast sound, and
 - (E) Broadcast still or moving images (video).
- (3) Violating this rule may result in the device being confiscated.

Permission Required for Exception to Rule.

(1) The ALJ/PO may make an exception to this rule. The news and educational media and others—such as a publisher, editor, reporter, or other person employed by a newspaper, magazine, news wire service, television station, or radio station who gathers, receives, or processes information for communication to the public, or an online journal in the regular business of newsgathering and disseminating news or information to the public—must request specific permission in advance to use an electronic device to record and transmit public OAH administrative proceedings, including real-time coverage. If permission is granted, use of the permitted electronic device must be in accordance with the following applicable conditions and procedures and such other conditions and procedures as may be required by the presiding judge or justice.

(A) The privilege to photograph, record, or provide real-time coverage of OAH administrative proceedings may be exercised only by those obtaining prior permission of the ALJ/PO. Video, photography, audio reproductions, and other electronic communications may be used only for the purpose of education or news dissemination.

(B) The ALJ/PO must be given at least one week's notice of any request to bring cameras, recording equipment, or other electronic communication devices into the courtroom.

(C) A request to photograph or record an OAH administrative proceeding must be directed to the Court Clerk.

(D) The Court Clerk will work with the OAH Director, the ALJ/PO, the media, and others making a request under this rule.

(E) The privilege granted by this rule does not limit or restrict the ALJ/PO's power, authority, or responsibility to control the proceedings before the ALJ/PO. The ALJ/PO's authority to disallow possession of electronic devices at a proceeding or during the testimony of a particular witness extends to any person engaging in the privilege authorized by this rule.

(F) The ALJ/PO may ban cameras, audio recorders, and other electronic devices from the entire floor on which an administrative proceeding is conducted.

(G) The ALJ/PO will designate the location in the courtroom for the audio, video equipment, and operators. Equipment and operators shall be restricted to areas of the courtroom or hearing room that are open to the public. The equipment and operators, shall not impede the view of persons seated in the public area of the courtroom or hearing room. Operators must occupy only the area authorized by the ALJ/PO and may not move about the courtroom or hearing room for picture-taking purposes during the proceeding.

(H) Media equipment must not be placed within or removed from the courtroom except prior to commencement or after adjournment of proceedings each day, or during a recess. Such equipment must not be operated in any manner that disrupts

proceedings.

(I) One television camera, operated by one person, and one still photographer, using not more than two cameras, are authorized in any proceeding. If a still camera is not manufactured for silent operation, use of a quieting device is recommended. The ALJ/PO may restrict operation of cameras or electronic devices which emit distracting sounds during court proceedings.

(J) Only audio, visual, or electronic communications equipment that does not produce distracting light or sound may be used to cover administrative hearing proceedings. An artificial lighting device may not be used in connection with any audio or visual equipment. A modification in the lighting of a courtroom may be made only with the approval of the OAH Director. Approval of other authorities may be required.

(K) Audio pickup and audio recording of a conference between an attorney and client, or among co-counsel, counsel and opposing counsel, or among attorneys and the ALJ/PO are prohibited regardless of where conducted. Photographing such a conference is not prohibited.

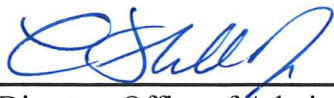
(L) Focusing on and/or photographing materials on counsel tables or in designated areas is prohibited.

(M) Focusing on and/or photographing evidence displayed electronically within the courtroom is prohibited.

(N) The ALJ/PO must prohibit the audio recording and photographing of a participant in a court proceeding if the participant so requests.

(O) Any recording made by OAH shall be made a part of the official court record. No video, photograph, audio reproduction, or other electronic communication of an administrative proceeding will affect the official court record of the proceeding for purposes of appeal or otherwise.

(P) An interview for broadcast or other electronic transmission must be performed outside of the OAH facility. If a hearing is being conducted at a location other than the OAH facility then access to the areas inside the facility, which are not the courtroom or immediately adjacent to it, will depend on the rules of the particular building or location. Photographing or other recording through a window or open door of a courtroom is prohibited.



Director, Office of Administrative Hearings



Date