

IN THE SUPREME COURT OF THE STATE OF ARIZONA

In the Matter of:)	
)	
ARIZONA CODE OF JUDICIAL)	Administrative Order
ADMINISTRATION § 1-602:)	No. 2013 – <u>38</u>
DIGITAL RECORDING OF COURT)	(Affecting Administrative
PROCEEDINGS)	Order No. 2006-49)
_____)	

An amendment to the above-captioned section of the Arizona Code of Judicial Administration having come before the Arizona Judicial Council on March 28, 2013, and having been approved and recommended for adoption,

Therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that Arizona Code of Judicial Administration § 1-602 is amended as indicated on the attached document. All other provisions of § 1-602, as originally adopted, remain unchanged and in effect.

Dated this 10th day of April, 2013.

REBECCA WHITE BERCH
Chief Justice

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 1: Judicial Branch Administration
Chapter 6: Records
Section 1-602: Digital Recording of Court Proceedings

A. Definitions. In this section, unless otherwise specified, the following definitions apply:

“Backward compatible” means that software can use files and data created with an older version of the same software program. Hardware is backward compatible if it can run the same software as the previous model.

“Confidence monitoring” means listening to the electronic verbatim recording as it is being made from the storage medium in real time by use of headphones or other device to ensure the system is operating properly.

“Migration” means the process of upgrading to new technologies while preserving accessibility to existing records. It also means the process of moving electronic data from one storage device or media to another.

“Refresh” means the copying of a recording or a whole storage medium for the purpose of preserving or enhancing the quality of the recording.

“System check” means a test recording made to confirm that all components of the recording and playback system are functioning properly.

B. Purpose. Digital recording in the courtroom, whether audio or video, shall meet the required standards listed below when created as the official record of a court proceeding. In addition to setting minimum standards for digital recordings, this section also contains storage requirements for electronically-maintained court reporters’ notes and recommendations intended to guide electronic recording operations. This section is not intended to mandate digital recording in the court.

C. Technical Requirements.

1. Equipment.

- a. Courts shall comply with the accessibility, migration, storage, and retention requirements contained in ACJA §§ 1-504(~~EF~~)&(FG) and ~~506(D)(45)(b)~~ when procuring and using digital recording equipment.
- b. The recording system shall use equipment having industry standard connections.
- c. Peripheral devices used for transcription (e.g. foot pedals) shall connect with the system using standard interfaces.

- d. Toggling mute buttons shall not be used on microphones. Microphones that mute only when a button is depressed are allowed. Microphones that visually indicate when they are on and off are recommended to increase the likelihood that confidential communications are not recorded unintentionally.
 - e. The recording system shall employ be capable of confidence monitoring. ~~to confirm, at a minimum, that the channels are receiving a signal.~~
2. Annotation.
- a. The recording system shall include an interface that allows the user to create an index of the event proceeding being recorded, for use in identifying a desired portion of the hearing.
 - b. The index ~~shall allow for the ability to~~ may link between, the verbatim audio record of a hearing proceeding ~~and~~ with another internal court management system.
 - c. The recording system shall provide a search function to allow searching of a recording's annotations.
3. Playback.
- a. The recording system shall allow for channel isolation to aid in the identification of different parties for transcription purposes.
 - b. The recording system shall include tools to allow users to clip portions of a proceeding to accommodate partial record requests on CD.
 - c. The recording system shall allow for playback of recordings in the courtroom while simultaneously recording courtroom events.
 - d. The recording system shall produce an audio or video record that can be placed on a standard CD-R with no licensing restrictions for playback, including no licensing restrictions on playback software.
 - e. The system shall provide the ability to save files to an industry standard format such as AVI, MPG, or WAV playable by non-proprietary readers.
4. Storage and Backup of Recordings. Recordings shall have a file size/compression rate to allow, ~~at a minimum,~~ approximately six hours of recording to fit on a single CD or other non-rewriteable optical media.

D. Operational Requirements.

- 1. Procurement.

- a. The court shall obtain a minimum one year warranty on all recording systems and related equipment as part of the installation services.
 - b. The court shall obtain a minimum of both staff training and train-the-trainer training as part of the installation services.
2. Operation of Equipment.
- a. Staff operating the recording system shall be adequately trained to proficiently operate the system.
 - b. A system check shall be made sufficiently in advance of court proceedings to assure to guarantee proper operation of electronic recording equipment each day, prior to court beginning. The system check shall, at a minimum, consist of a test recording that confirms all components of the recording and playback system are functioning properly. The court shall establish a procedure for employees to follow in the event of an equipment malfunction. A system check shall also be performed prior to conducting the initial proceeding following any loss of power or recording system shutdown.
 - c. Courts shall establish policies addressing when recording systems are to be turned on and off consistent with judicial necessity.
 - d. Courts shall assign one or more staff members to act as the point-of-contact for operational and repair issues. The point-of-contact staff person shall be trained in operating the equipment, as specified in subsection ~~(DE)~~(32), and in procedures to be followed in resolving operational issues, including contacting vendors.
3. Security. The court shall establish procedures to limit access to recordings of sealed and confidential matters, such as use of appropriate labeling or segregating recordings of non-public hearings.
4. Official vs. Unofficial Recordings.
- a. When no certified court reporter is present in a court proceeding, the electronic recording shall be the official record, except as provided by Supreme Court Rule 123(d)(4), and any transcript thereof shall be prepared in accordance with Section 5 below.
 - ~~a~~b. When a certified reporter records a proceeding in superior court that is simultaneously recorded by electronic recording equipment, the court reporter's record shall be the official record.
 - ~~b~~c. When a certified reporter records a proceeding in a limited jurisdiction court that is simultaneously recorded by electronic recording equipment, the judicial

officer shall determine which recording is the official record, and the judicial officer's decision shall be noted on the record.

5. Transcription.

- a. Official transcripts of court proceedings prepared from electronic recordings shall comply with the Arizona Manual of Transcript Procedures and shall be produced by either a certified reporter, a court employee or a transcriber under contract with a court.
- b. The court shall establish procedures to ensure that authorized transcribers notify the court when they encounter poor-quality recordings, and that these reports are investigated and any problems remedied.
- c. Courts shall assign an individual to act as a transcript coordinator to ensure timely ~~production~~ provision of electronic recordings of proceedings to authorized transcribers, as defined in Supreme Court Rule 30, when of transcripts required for appellate proceedings. ~~This~~ The person coordinator and authorized transcribers should be familiar with the rules and practices involved in transmitting the verbatim record to the appellate court.

6. Records Management.

- a. Courts shall identify equipment and establish procedures necessary for archiving and managing electronic records of court proceedings, for ensuring the timely production of transcripts required for appellate proceedings, and for providing public access to the records in compliance with Rule 123, Rules of the Supreme Court and ACJA §§ 1-504 and 1-506.
- b. Courts shall preserve electronic notes of proceedings generated by court reporters in a generic format that will permit them to be interpreted by other reporters in the event the author is not available to prepare a transcript. For example, the translated version of the notes may be stored in a “.pdf” format accompanied by an electronic copy of the author's personal dictionary.
- c. Courts shall conduct an annual review of the readability of ~~all~~ digital recordings and migrate recordings to a non-proprietary format as necessary to ensure access throughout the applicable retention period.
- d. Courts shall ensure continued accessibility via a planned migration path so devices, media, and technologies used to store and retrieve official verbatim recordings are not allowed to become obsolete and are promptly replaced or upgraded.
- e. Courts shall ensure that any new equipment or software replacing that used in an existing digital recording system is backward compatible and shall obtain a vendor certification that the system will convert 100 percent of the audio or

audio/video and index data to the new system so access to existing official records is never impeded.

- f. Courts shall periodically refresh audio files in order to ensure their accessibility for as long as the applicable records retention schedule requires. These procedures may require recopying of files to new media.

7. Storage and Backup of Recordings.

- a. Backup shall be performed at least daily, and periodically reviewed for continuing viability as required by subsection (ED)(6).
- b. Retention of electronic recordings shall be in compliance with applicable records retention schedules.

E. Recommended Practices. This subsection identifies best practices in procuring and operating digital recording systems.

1. Procurement. The court should procure only from vendors who possess necessary state contractor licenses required to perform the work of installing the electronic recording systems in courtrooms.

2. Operation of Equipment.

- a. An alternative recording system should be available for use in the case of primary equipment failure.
- b. To the extent possible, courts should have properly trained personnel dedicated to the operation of electronic recording equipment. Training should be tailored to the specific needs of the recording system and court operations. Training should include but not be limited to the following:

- Storing and copying of records including partial records.
- Special handling of sealed or confidential hearings.
- Creation and retrieval of annotation files.
- Troubleshooting of equipment and recording quality as appropriate for the system, vendor, and the resources of the courts.
- Creating backups of files.
- Playing back a recording.
- Confidence monitoring while a recording is being made.
- Adjusting microphone volume.
- Microphone operations, including muting techniques.

- ~~3. Transcription. When implementing electronic recording technology, consideration should be given to probable transcript volume.~~

43. **Public Access Fees.** Courts may charge reasonable fees for copies of audio or video recordings of court proceedings, consistent with the requirements of Rule 123, Rules of the Supreme Court. The court may waive or defer such fees as it deems appropriate or where law requires such waiver or deferral.

54. **Storage and Backup of Recordings.**

- a. Where possible, an additional backup should be made for offsite storage purposes.
- b. Simultaneous storage to multiple devices is recommended, for example, recording to the local computer in the courtroom and simultaneously storing to a remote server. Simultaneous storage is not a substitute for the requirement for daily backup described in subsection (D)(7).
- c. Each recording should be annotated with the case number or numbers of the individual sessions included in the recording to allow the desired point in the recording to be referenced by a case management system or electronic docket.
- d. Caution should be exercised when labeling recordings stored on a CD or DVD to ensure the labeling method employed will not expose the disc to damaging ink or adhesive-borne solvents and will not impair the disc's balance during playback. The label should identify the hearing date, location, and hearing officer.

F. Periodic Review. Due to the changing nature of technology, these standards shall be reviewed ~~once a year~~ periodically by the Commission on Technology to identify areas requiring updating or revision.