

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In the Matter of:	)	
	)	
ARIZONA CODE OF JUDICIAL	)	Administrative Order
ADMINISTRATION § 5-208:	)	<u>No. 2009 - 128</u>
OPERATIONAL STANDARDS FOR	)	
INTERACTIVE AUDIOVISUAL	)	
PROCEEDINGS IN CRIMINAL CASES	)	
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The above-captioned provision having come before the Arizona Judicial Council on December 16, 2009, and having been approved and recommended for adoption,

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

IT IS ORDERED that the above-captioned provision, attached hereto, is adopted as a section of the Arizona Code of Judicial Administration, effective January 1, 2010.

Dated this 23rd day of December, 2009.

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REBECCA WHITE BERCH  
Chief Justice

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**  
**Part 5: Court Operations**  
**Chapter 2: Programs and Standards**  
**Section 5-208: Operational Standards for Interactive Audiovisual Proceedings in Criminal Cases**

**A. Purpose.** An interactive audiovisual proceeding in a criminal case pursuant to Rule 1.6 of the Rules of Criminal Procedure shall make the appearance of a defendant from a remote location as similar to an in-person courtroom appearance as reasonably possible. The operational standards and certification requirements set out in subsections (B) and (C) are promulgated to promote the dignity, solemnity, and fairness of an interactive audiovisual appearance from a remote custodial facility within the State of Arizona. The remote appearance of a defendant from a location other than a custodial facility within the State of Arizona is governed by subsection (D).

**B. Operational Standards.**

1. Training. Judicial officers and staff who participate in interactive audiovisual proceedings shall receive appropriate training as directed by the presiding judge of their county or a designee in operating and optimizing the use of the court's interactive audiovisual system.
2. Remote site. The room or area used at the remote custodial facility shall provide proper decorum for the proceeding and be free of extraneous activity and sounds during the proceeding. The remote room or area shall be furnished with seating and a work surface for defendant and defense counsel.
3. Site review. Not less than annually, court staff shall conduct a review of any remote location used for interactive audiovisual proceedings to establish that the setting and visual appearance of the remote location promote fairness and appropriate court decorum.
4. Court reporters. In proceedings where remote court reporters are utilized, the judicial officer shall consider whether the court reporter can clearly hear those persons who are speaking, and whether the complexity of the proceeding requires that the remote court reporter have a video link to the proceeding. The judicial officer shall assure that the remote court reporter has an accessible microphone that permits the reporter to participate in the proceeding when necessary.
5. Documents. A defendant who appears from a remote location shall be provided in a timely manner with hard copies of any documents that must be furnished by the court to the defendant pursuant to the Rules of Criminal Procedure or other law.
6. Confidential communications. Prior to the start of proceedings, and if defendant is represented by an attorney who is not present at the remote custodial site, the court shall inform the defendant of the available means of confidential communications with defense counsel.

7. Judicial authority and discretion. A judicial officer conducting an interactive audiovisual proceeding shall retain authority over all aspects of the proceeding, including authority to rule on objections based on this code section that are made during the proceeding. The judicial officer conducting a proceeding through an interactive audiovisual system shall have discretion to discontinue any proceeding if conditions arise that detract from the fairness of the proceeding, or if any matter occurs during the proceeding that would warrant conducting the proceeding with the defendant's personal appearance in the courtroom.
8. System operation. Any interactive audiovisual system used by a court, including all endpoints of that system, shall at a minimum operate as follows:
  - a. Participants at any remote location shall be able to clearly see and hear participants in the courtroom. Participants in the courtroom shall be able to clearly see and hear participants at any remote location.
  - b. The interactive audiovisual system shall provide sufficient picture clarity to see the facial features of participants when they are speaking.
  - c. Cameras and microphones shall be suitable for the configuration of the rooms in which proceedings take place. Projection screens, monitors, and speakers shall be placed, and shall be of sufficient size, number, or capacity to enable participants and spectators (including family, victims, the media, and members of the public) to clearly see and hear participants in the courtroom and at the remote location. High definition monitors are recommended over conventional monitors.
  - d. If necessary to assure the confidentiality of communications between a remote defendant and defense counsel in the courtroom, a device that allows the recording and audio systems in the courtroom to be turned off, except for the link between defendant and defense counsel, shall be utilized.
  - e. Court staff shall perform a system check each day sufficiently in advance of court proceedings to assure proper operation of the interactive audiovisual system. The court shall establish a procedure for staff to follow in the event of a system malfunction. A check of the audio function shall be performed prior to conducting the initial proceeding following any loss of power or system shutdown.

**C. Local Court Certification.** Every court using an interactive audiovisual system shall designate a representative to complete a form by January 15, 2010 for an existing system, or prior to the initial use of a newly added system, that certifies that the interactive audiovisual system utilized in that court for criminal proceedings meets the operational standards set forth in subsection (B) at all endpoints. The court shall use a certification form promulgated by the Administrative Office of the Courts for this purpose. Exceptions to the standards, including any that relate to jail security requirements, shall be noted on the written certification. A court shall recertify its system annually and promptly recertify its interactive

audiovisual system after a system has been replaced; after the location of an endpoint has been changed, substantially altered, or has been added; or if other circumstances are known to the court that would reasonably require recertification. The signed certificate from each court shall be submitted to the presiding judge of the county, who shall maintain the most recent certificate.

**D. Appearance from a Location Other Than a Custodial Facility within the State of Arizona.** The appearance of a defendant by an interactive audiovisual system from a custodial facility outside the State of Arizona or from a non-custodial location within or outside Arizona, if otherwise permitted, does not require that the particular standards set out in subsection (B) be fulfilled, as long as the judicial officer conducting the proceeding is satisfied that the defendant and the attorney at the remote location can clearly see and hear participants in the courtroom, and that those in the courtroom can clearly see and hear the participants at the remote location. The certification set forth in subsection (C) does not apply to appearances under subsection (D).