



REMOTE HEARINGS VIA AUDIO VIDEO TRANSMISSION

April 6, 2020

NCAOC's Office of General Counsel (OGC) provides legal advice and guidance to court officials around the State. OGC guidance to court officials concerning the court system's response to the COVID-19 pandemic is posted below for informational purposes only. It is not intended and should not be interpreted as legal advice or guidance to parties to individual proceedings before the courts. **OGC cannot give legal advice or guidance to attorneys or members of the public and cannot respond to inquiries about this guidance from anyone who is not a court official.** Parties with questions about how their individual rights or obligations may be affected by the current changes to court operations pursuant to the emergency orders of the Chief Justice and any guidance posted here should consult an attorney for assistance.

MEMORANDUM

TO: Trial Court Administrators
District and Superior Court Trial Court Coordinators
District and Superior Court Judicial Assistants
Family Court Administrators
Clerks of Superior Court

FROM: Office of General Counsel
Court Programs Division

SUBJECT: Remote hearings via audio video transmission

While the most recent order from Chief Justice Beasley lifts some restrictions on holding hearings using audio video transmission, this has led to several questions from court managers. The intent of this memorandum is to provide guidance to court managers regarding questions that have been received regarding remote hearings. Please refer to Chief Justice Beasley's April 2nd [order](#) for a complete list of the requirements for conducting hearings using audio video technology.

1. Can juvenile hearings be held by audio video transmission?

Yes. Under Chief Justice Beasley's April 2nd order, any hearing can be held by audio video transmission if the court complies with the requirements listed in the order for remote hearings (e.g., all parties consent, maintain confidentiality).





2. Are districts required to hold hearings by audio video transmission?

No. Pursuant to the April 2nd order, most superior court and district court proceedings must be scheduled or rescheduled for a date no sooner than June 1, 2020. However, the hearing may be held sooner if the proceeding will be conducted remotely, and judicial officials are encouraged to conduct hearings remotely whenever possible to minimize the backlog that will face the courts at the end of this pandemic.

Local discussions should occur to determine the feasibility of holding hearings remotely. Additionally, judicial officials who conduct a remote proceeding pursuant to Emergency Directive 3 must safeguard the constitutional rights of those persons involved in the proceeding and preserve the integrity of the judicial process.

3. Can Zoom or Skype be used in lieu of WebEx to conduct hearings by audio video transmission?

The NCAOC supports WebEx as an online collaboration tool for the Judicial Branch. There are many features within WebEx that support effective and collaborative meetings with staff and outside partners, bringing participants together online, or in combination onsite and remotely.

WebEx is a foundational component of the NCAOC technology strategy and is the only videoconferencing / meeting technology that the Technology Services Division (TSD) supports securely over the network. WebEx is integrated within Outlook for Judicial Branch staff. If you have a WebEx account, you can schedule a meeting and include WebEx information for participants within a single invitation. The WebEx icon within Outlook is located next to the New Message section on the Home tab.

Note, you do not need a WebEx account to attend a WebEx meeting. However, if you want to host or schedule a meeting, you do need a WebEx Host account. See the instructions on [Juno](#) for setting up a WebEx account.

The NCAOC does not support Zoom or other similar technology platforms. We understand that some judicial groups may have external resources to use Zoom, but the Help Desk is unable to provide support. It is important to note that Zoom has been found to have security issues. See this [FBI](#) resource for details. NCAOC strongly suggests that districts use WebEx in lieu of other platforms given the security it provides.





4. If WebEx is the technology platform utilized by the local courts, how does a non-court employee (e.g., private attorneys, jail staff, probation staff) access WebEx?

Any NCAOC employee can set up and initiate the WebEx, and non-NCAOC employees can access the link provided by the court staff to participate in the hearing. The invitee simply clicks on the WebEx link and they will join the WebEx. There is no software needed and therefore no costs for the non-NCAOC user to access WebEx. All NCAOC employees can set up their own WebEx accounts by following the instructions provided by TSD on Juno.

5. How will a remote hearing be initiated?

This will vary by district. It is recommended that each county/district develop a local protocol as to how the hearing will be scheduled, how parties will be notified of the hearing and how the hearing will be initiated, including who will initiate it—i.e., court manager, judge, clerk.

