



REMOTE JUVENILE HEARINGS AND CONFIDENTIALITY OF EXHIBITS

July 2, 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: District Court Judges
Family Court Staff
Clerks of Superior Court

FROM: Office of General Counsel
Court Programs

DATE: July 2, 2020

SUBJECT: Remote Juvenile Hearings and Confidentiality of Exhibits

The intent of this memorandum is to provide information regarding hearing juvenile proceedings remotely (by audio/video transmission) via WebEx. This includes but is not limited to abuse, neglect, dependency, termination of parental rights, delinquency, and undisciplined cases. This memorandum also provides parameters for sharing confidential documents prior to and during the remote hearing.

1. Can juvenile hearings that are confidential be held remotely?

Yes.

2. Can Zoom or Skype be used in lieu of WebEx to conduct juvenile hearings remotely?



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 of both 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. 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 host 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. NCAOC strongly suggests that districts use WebEx in lieu of other platforms given the security it provides.

3. Who should schedule the WebEx juvenile hearing?

It is recommended that the clerk schedule the WebEx hearing. This is because the clerk is the recordkeeper, and the WebEx recording of the hearing will be saved under the account of the person who schedules the hearing. [See Rule of Recordkeeping 19.](#)

4. How does a non-court employee (e.g., parties, private attorneys, DSS, court counselors) access the WebEx hearing?

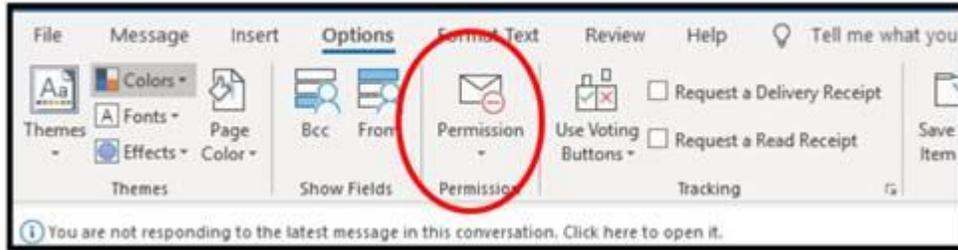
Once the clerk schedules a WebEx hearing, non-court employees can access the link provided by the clerk or other court staff to participate in the hearing; no WebEx account is needed to participate in a court hearing. The invitee simply clicks on the WebEx link and follows the steps to join the WebEx by audio and video. There is no software needed and therefore no costs for the non-court user to access WebEx.

5. Can confidential juvenile records be shared on the screen during a WebEx hearing?
Sharing documents via WebEx is permitted, but any individuals who are not authorized to view or examine confidential juvenile records must be removed from the WebEx meeting before any documents are shared. There could also be a need for redacting PII (Personal Identifying Information) from a document before publishing to the parties on the WebEx. Clerks have the discretionary authority to redact the following types of PII pursuant to G.S. 132-1.10(f1), but are not required to do so: social security number; employer taxpayer identification number; driver's license number; state identification number; passport number; checking account, savings account, credit card, or debit card number; or personal identification (PIN) code or passwords.
6. How can parties share documentary evidence with the court electronically?

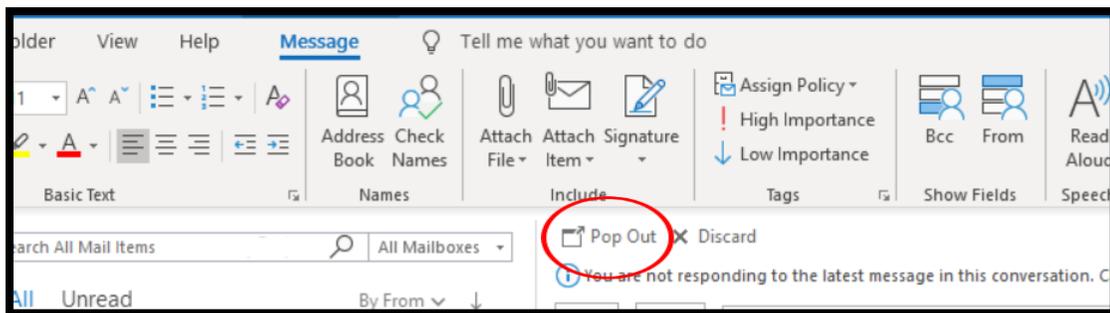


As an option for parties to transmit confidential documents to the clerk, the elected clerk can request that TSD set up an email account specifically for the juvenile division (e.g., Wake.Juvenile@nccourts.org) with access to be given only to the juvenile clerk(s). When this request is made, the clerk should request that the account is set up to send emails via encryption. This division-specific Outlook email account cannot be used to e-file original documents with the court but may provide an option for sharing documents that need to be viewed during a remote hearing. If counties use this option, parties sending email to this account must be instructed to encrypt any emails containing confidential information before transmission.

For emails sent by the clerk from the email account established by TSD, the emails will be automatically encrypted if the clerk requested the email account be set up to encrypt. If a clerk or other court staff sends a confidential document from their Judicial Branch email account, the email must be manually encrypted using the encryption feature in Outlook. To encrypt an email, from the Options ribbon, select Permission. From the Permission dropdown, select Encrypt-Only.



If the Options ribbon is not visible, you may need to maximize your email message or use the “pop out” feature on your email reply.



Alternatively, you can type <secure> somewhere in the subject line; other information can be in the subject line too. This does not replace filing a hard copy with the clerk of superior court.

7. Can the clerk or family court staff send confidential documents electronically?

A confidential document filed with the court should not be scanned in order to be attached to an email because clerks do not currently have a secure method to transfer scanned images from the scanner to their workstations and many clerks do not have secure network storage that can be used for confidential scanned documents. A solution is being explored by TSD, but it is not available at this time. If a document is received electronically (i.e., via email), the



document could be sent electronically via an encrypted email since there would be no need to scan it as the document already exists in electronic form. Instead, the document can be “dragged” from one email to another. Confidential documents should not be saved to a network drive unless it has been secured and access is limited to juvenile clerks and the high clerk.

8. How can documents be emailed in order to meet juvenile and Health Insurance Portability and Accountability Act (HIPAA) privacy standards?

The General Assembly has not specified any technology standards for protecting juvenile information. Section 14 of the NCAOC Acceptable Use Policy requires that confidential information be encrypted in transit. HIPAA does not apply to courts because courts do not meet the definition of “covered entities.”

9. Can Liquid Files be used to transmit court documents securely by clerks?

Confidential court documents sent electronically should be sent via an encrypted email. Liquid Files is used to transmit very large files that cannot be attached to an email because of the size of the file. With the encrypted email functionality in Outlook, the only reason to use Liquid Files is if the file is too large to attach to the encrypted email. This feature may be useful if a large video is being transmitted electronically.

If you have any questions related to WebEx technology, please contact the NCAOC Help Desk at 919 890-2407.

