

**STATE OF VERMONT
SUPREME COURT
JULY TERM, 2023**

Order Amending Administrative Order No. 47

Pursuant to the Vermont Constitution, Chapter II § 30, and Rule 43.1(l) of the Vermont Rules of Civil Procedure, it is hereby ordered that:

1. Administrative Order No. 47, as amended June 5, 2023, effective September 5, 2023, be further amended as follows (new matter underlined; deleted matter struck through):

Administrative Order No. 47

TECHNICAL STANDARDS FOR VIDEO AND AUDIO CONFERENCE REMOTE AND HYBRID PROCEEDINGS ADOPTED PURSUANT TO V.R.P.P. 43.1(e), V.R.C.P. 43.1(e), OR V.R.Cr.P. 26.2

The following Technical Standards are adopted and must be applied in all ~~video and audio conference~~ remote and hybrid proceedings under V.R.P.P. 43.1, V.R.C.P. 43.1, V.R.Cr.P. 26.2 and other ~~proceedings rules~~ incorporating provisions of those rules:

§ 1. Video Conference Remote and Hybrid Proceedings. In any remote or hybrid proceeding ~~in which the use of video conferencing is otherwise appropriate~~ under V.R.P.P. 43.1, V.R.C.P. 43.1, or V.R.Cr.P. 26.2:

(a) All participants ~~in the proceeding~~ must be able to see and hear all other participants during the proceeding. ~~The system must include a means for remote participants to see the courtroom during the proceedings.~~ Participants using video conference must be able to see other participants using video conference and participants in the courtroom. Participants in the courtroom must be able to see participants using video conference.

(b) All participants ~~in the proceeding~~ must be able to see and hear any witnesses who may testify by audio conference while they are testifying ~~in the proceeding~~. All participants must be able to see and hear any witnesses who may testify by video conference while they are testifying.

(c) All participants ~~in the proceeding~~ must be able to see, hear, read, and otherwise observe any physical evidence, documentary evidence, or media exhibits presented during the proceeding, either by video, facsimile, or other method. All documentary evidence must be readable by all participants during the proceeding by either video technology or other means.

~~(d) The video quality of the video appearance system must be adequate to allow the participants to see and hear each other.~~

~~(d e) The video conference system must allow verbatim recording of the proceeding~~ must be recorded by court-approved audio-visual or audio-recording equipment.

~~(f) In a proceeding open to the public, the video conference system must allow the public to hear and view the proceeding including any participant who appears by video conference.~~

~~(e g) In all cases in which a party appears by video conference, the system must include a means for the party The parties must be able to consult privately with counsel for full and confidential communication at any time during the proceeding and for immediate transmission of documents and papers.~~

~~§ 2. **Audio Conference Proceedings.** In any proceeding in which the use of audio conferencing is otherwise appropriate under V.R.P.P. 43.1 or V.R.C.P. 43.1:~~

~~(a) All participants in the proceeding must be able to hear all other participants and to speak at all appropriate times during the proceeding.~~

~~(b) All participants in the proceeding must be able to hear any witnesses who may testify while they are testifying in the proceeding.~~

~~(c) All parties and the judge or magistrate must have access to any documentary or other tangible evidence necessary to the examination or cross-examination of any witness by facsimile or other method.~~

~~(d) The audio conference system must allow verbatim recording of the proceeding by court-approved, audio recording equipment.~~

~~(e) In a proceeding open to the public, the audio conference system must allow the public to hear the proceeding including any participant who appears by audio conference.~~

~~(f) In all cases in which a party appears by audio conference, the system must include a means for the party to consult privately with counsel for full and confidential communication at any time during the proceeding and for immediate transmission of documents and papers.~~

Access to Public Proceedings.

~~(a) Remote Proceeding. In a remote public proceeding, upon request and absent extraordinary circumstances, the public will be provided with an opportunity to hear and view the proceeding through remote means.~~

~~(b) Hybrid Proceeding. In a hybrid public proceeding, the public will be provided with an opportunity to hear and view the proceeding in person and may be provided with an opportunity to hear and view through remote means.~~

Reporter's Notes—2023 Amendment

Administrative Order No. 47 is amended in conjunction with amendments to V.R.C.P. 43.1 and related rules given the experience of the bar, judges, court staff, and members of the public with fully remote and hybrid proceedings over the last few years.

As originally adopted, AO 47 had separate standards for video and audio conferencing. Amended § 1 now provides one set of standards applicable to both remote and hybrid proceedings. In general, participants must be able to hear all other participants during proceedings. Where participation is by video conference, participants

must also be able to see other participants. The amended rule retains the requirements that all participants must have access to documents and other types of exhibits. It also continues to require that parties be able to confidentially consult with counsel.

Section 2, formerly about audio proceedings, now addresses access to public proceedings for nonparticipants. For fully remote proceedings, new § 2(a) states that when requested the public will be provided with a means to view and hear the proceeding remotely, absent extraordinary circumstances. Remote viewing may be through a link to a video platform or through a livestream. For hybrid proceedings, new § 2(b) states that the public may hear and view the proceeding in person in the courtroom and may also be able to observe remotely. For either remote or hybrid proceedings, an inability to accommodate a request to observe remotely will not serve as grounds to continue the proceeding.

2. This order shall become effective on October 2, 2023.
3. That the Chief Justice is authorized to report this order to the General Assembly in accordance with the provisions of 12 V.S.A. §1, as amended.

Dated in Chambers at Montpelier, Vermont, this 10th day of July, 2023.



Signed by the Vermont Supreme Court

Paul L. Reiber, Chief Justice

Harold E. Eaton, Jr., Associate Justice

Karen R. Carroll, Associate Justice

William D. Cohen, Associate Justice

Nancy J. Waples, Associate Justice