

**AMENDMENTS TO THE RULES OF SUPERINTENDENCE
FOR THE COURTS OF OHIO**

The following amendments to the Supreme Court Rules of Superintendence for the Courts of Ohio (Sup.R. 11 and 12) were adopted by the Supreme Court of Ohio. The history of these amendments is as follows:

March 1, 2024	Initial publication for public comment
March 13, 2025	Final adoption by conference
April 1, 2025	Effective date of amendments

Key to Proposed Amendments:

1. Unaltered language appears in regular type. Example: text
2. Language that has been deleted appears in strikethrough. Example: ~~text~~
3. New language that has been added appears in underline. Example: text

RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO

RULE 11. Recording of Proceedings.

(A) ~~Recording devices.~~ methods

Proceedings before any court ~~and discovery proceedings~~ may be recorded by methods including, but not limited to, stenographic means, phonographic means, photographic means, audio electronic recording devices, or audio/video recording systems. The administrative judge may order the use of any method of recording authorized by this rule.

(B) ~~Appeal.~~

~~Transcripts of proceedings in electronic media shall be prepared in accordance with Rule 9(A) of the Rules of Appellate Procedure.~~

(~~C~~) ~~Custody.~~

~~Electronically recorded transcripts~~ Electronic recordings of proceedings shall be maintained ~~and transcribed~~ in the manner directed by the trial court.

(C) Transcript

Electronic recordings of proceedings shall be transcribed in the manner directed by the trial court and in accordance with the Ohio Rules of Appellate Procedure.

(D) ~~Inspection of electronically recorded transcripts~~ electronic recordings of proceedings.

A party may request a copy of an ~~electronically recorded transcript~~ electronic recording of proceedings ~~a proceeding~~, or a portion of the ~~transcript recording~~. The court may permit a party to listen to or view ~~or hear~~ the ~~transcript of proceedings on file with~~ recording maintained by the court.

(~~E~~) ~~Reference to electronically recorded transcripts of proceedings.~~

~~Reference to a particular portion of an electronically recorded transcript of proceedings shall be to the event, the number of the reel of tape on which it was recorded and the elapsed time counter reading.~~

(~~F~~)(E) ~~Expense of electronically recorded transcripts~~ electronic recordings of proceedings.

The expense of copies of ~~electronically recorded transcripts~~ electronic recordings of proceedings or a portion of the recording ~~such portions as are considered necessary by a party~~ shall be borne by the requesting party or as provided by law. The expense of listening to or viewing ~~or hearing~~ an ~~electronically recorded transcript~~ electronic recording of

proceedings under division (D) of this rule shall be borne by the requesting party. ~~All other expenses of electronically recorded transcripts of proceedings shall be costs in the action.~~

Commentary (April 1, 2025)

Rule 11 is updated and simplified to reflect changes in court technology and to harmonize its provisions with the amendments to App.R. 9 that ensued over the years since this rule was enacted. In particular, App.R. 9 has evolved to require typed and printed transcripts in all cases. See 2011 Staff Notes to App.R. 9 ("Under App.R. 9(A), trial courts may choose to record proceedings through...an audio-recording device, and/or a video-recording device...Regardless of the method of recording the proceedings, a transcript is required for the record on appeal; a videotaped recording of the trial court proceedings is no longer adequate.")

Commentary (July 1, 1997)

Rule 11 is analogous to former C.P. Sup. R. 10 and M.C. Sup. R. 8.

The rule authorizes the use of any one of several media in recording proceedings before a court.

In this comment and in the comment to Rule 12, the terms, "record," "transcript of proceedings," "transcribe," and "transcription" are used. As a preliminary consideration, the manner in which those terms are used in these comments is set forth.

The definition of "record" is the same as that contained in App. R. 9(A):

The original papers and exhibits thereto filed in the trial court, the transcript of proceedings, if any, including exhibits, and a certified copy of the docket and journal entries prepared by the clerk of the trial court shall constitute the record on appeal in all cases. * * *

The transcript of proceedings is the part of the record that reflects the events in the trial not represented by original papers. Essentially, it is the testimony of witnesses and the oral participation of counsel and of the trial judge, as recorded by the court reporter, and required for the purposes of appeal. The transcript of proceedings is the end product of whatever medium is used to record the proceedings. In traditional practice, the stenographic notes constituted a transcript of proceedings in that oral testimony was transcribed into stenographic notes. Of course, a second transcription into written form was necessary to put the proceedings into a form that could be readily used by all.

When the verb, transcribe, is used in these comments, it means preserving oral testimony by conversion to another medium. The other medium may be stenographic notes, videotape, motion picture sound track, or audio tape. It may also mean the conversion from one recorded medium to another.

When the noun, transcription, is used, it means the copy, either in the original medium or in the conversion medium.

Rule 11(A) Recording Devices

Recordation represents the best method of providing an accurate base for the creation of a transcript of proceedings required for an appeal under App. R. 9(A). In civil matters, there is no obligation to record the proceedings before the court. However, the court must provide a means of recording the proceedings in a civil matter upon the request of a party. R.C. 2301.20 requires the court of common pleas to provide a reporter on request of a party or their attorney. That provision applies to the municipal court by virtue of R.C. 1901.21(A).

Rule 11(A) authorizes stenographic means, which refers to shorthand in one of its forms. Phonographic means refers to the use of a stenotype. Photographic means refers to sound motion pictures, the recording on photographic film. Audio-electronic recording devices refers to the several systems for recording sound on magnetic tape, magnetic discs, or an impression disc or belt. A video recording system is one which records sound and picture on videotape.

Rule 11(A) directs that the choice of method of recording of proceedings is vested in the administrative judge rather than in the individual judge in a multi-judge court.

Rule 11(B) Appeal

A major source of delay in the appellate process is the transcribing from stenographic notes to written record. One of the advantages of recording proceedings on videotape is that there is an instant record prepared. The preparation of briefs can begin at the conclusion of the trial without a lengthy wait for the transcribing of the reporter's notes. Videotape has an advantage over the other electronic media in that it is easier to identify overlapping voices than it is in a pure audio recording.

On appeal, the record is composed of the original papers (pleadings, motions, depositions, exhibits, etc.), the transcript of proceedings, if any, including exhibits, and a certified copy of the docket and journal entries. The parties to the appeal have control over the extent of the transcript of proceedings under App. R. 9(B). The appellant selects the portions of the transcript that are necessary to the appeal. The appellee may require additional inclusions, if necessary to the resolution of the assignments of error. When the appellant intends to urge that a finding or conclusion is unsupported by the evidence or is contrary to the weight of the evidence, the appellant must include a transcript of all evidence relevant to the finding or conclusion. Even where it is claimed that a verdict is against the manifest weight of the evidence, it is not automatic that all evidence is relevant to that issue. For example, where a verdict finds no liability, evidence as to damages is not relevant to the issue of the verdict being against the manifest weight of the evidence. Appellants have followed a common practice of ordering the entire transcription of the proceedings for inclusion in the record on appeal, thus aggravating the problem of delay. The record on videotape negates the problem.

Rule 11(E) requires that the reference in a brief to a particular portion of a videotape recorded transcript of proceedings be to the event, the reel of videotape, and the elapsed time counter reading. For example: Testimony of Dr. Doug Ross, Reel 3, 1-06-55 to 1-14-23. The party would have the testimony within that time span transcribed into written form and append it to the brief to comply with Rule 11(B). The party may make the transcription from the videotape or from an audio tape recording furnished by the reporter, provided there is an accurate frame of reference to the elapsed time counter. The inclusion assists the reviewing court in that the court does not have to place the appropriate reel on the playback equipment, find the appropriate portion, and view the testimony, remembering it for the purposes of decision.

Rule 11(C) Custody

R.C. 2301.20 provides that the official shorthand reporter is required to retain and preserve the shorthand notes. The provision is necessary because the reporter may be called upon to transcribe the notes into written form. It is a difficult task for another person to transcribe a reporter's shorthand notes. In contrast, records made in electronic media are complete at the conclusion of the proceedings and do not require a reporter's transcription to be utilized by others.

The trial court has custody and control over the electronic recordings of proceedings, including the release of the videotape recording after it has served its function. Videotape is reusable and specific provision is made in Rule 13(E) for the disposition of videotape recordings filed with the court. The same standards serve to guide the court in releasing a videotape recording of proceedings under this rule.

Rule 11(D) Inspection of electronically recorded transcripts of proceedings

All electronically recorded transcripts of proceedings are required to be maintained in the manner directed by the trial court as provided in Rule 11(C).

Rule 11(D) provides that a party may view or hear the transcript of proceedings on file. Party is used as a simplified reference; the reference includes a party's counsel. There is a clear implication that electronic transcripts of proceedings are not available for indiscriminate public viewing, any more than stenographic notes in the hands of the official court reporter are available for public inspection and reading. Rule 11(C)(E) places the responsibility for custody and maintenance of the filed electronically recorded transcripts in the trial court. The court may entertain and dispose of requests to view the videotape record by persons other than parties or their counsel.

The important aspect of the rule is that a party does not have to order a copy of the videotape recording in videotape or in an audio recording for the purposes of preparing an appeal. The party may work from the original. As a practical matter, the inexpensive audio cassette recording made simultaneously with the videotape recording or made from the videotape sound track provides the information needed for brief preparation with the exception of the superimposed time readings.

Rule 11(E) References to electronically recorded transcripts of proceedings

The rule implements App. R. 16(D) and Rule VI, Section 1(B)(3) of the Rules of Practice of the Supreme Court. Those references contemplated written records and call for reference to the pages of the record. This rule adapts the reference system to the electronically recorded transcript of proceedings. The example used in the discussion above is repeated to illustrate the reference to videotape: Testimony of Dr. Doug Röss, Reel 3, 1-06-55 to 1-14-23.

Rule 11(F) Expense of electronically recorded transcripts of proceedings

The rule refers to three distinct areas of expense: (1) the recording of the proceedings themselves; (2) the securing of copies of the transcript of proceedings; and (3) the viewing of the transcript of proceedings.

The expense of recording the proceedings electronically may be made up of different items: the cost of the videotape used, a fee for personnel and equipment to make the recording, and a fee for renting equipment operated by court personnel. The rule provides that these expenses are costs in the action. The official shorthand reporter's services are paid for on an annual salary basis or, if the appointment is for less than one year, on a per diem fixed by the court. R.C. 2301.22. It is also provided that an \$25.00 per diem fee be taxed as costs in each reported case and paid into the county general fund. R.C. 2301.21. The rule provision that the expenses of making the electronic recording of the proceedings be costs has the force of statute by virtue of Article IV, Section 5 of the Ohio Constitution and provides an equivalency to the statutory provision relating to an official shorthand reporter. The costs charged for electronic recording consist of the disbursements made by the court; the amounts applicable to the official shorthand reporter are not the amounts charged. Costs would not include allowances for regular court employees. The owner of the videotape is the party who pays the assessed costs, which include the price of the videotape used in the recording of the proceedings.

The rule provides that the cost of an electronically recorded transcript of proceedings shall be borne by the party requesting the copy or as provided by law. This is in contrast to the provisions made for copies of transcripts from the notes of the official shorthand reporter. R.C. 2301.24 provides that the requesting party pay the compensation specified directly to the reporter, and R.C. 2301.25 provides that the cost of the transcript shall be charged as costs in the case. The same statutes provide that the cost of copies ordered by the trial judge or the prosecuting attorney are to be paid from the public treasury and charged as costs in the case. The difference in treatment between an electronically recorded transcript and one recorded stenographically or phonographically is that the electronic transcript is completed, accessible and usable at any given time without a transcription. A transcription is a convenience, not a necessity, in

contrast to stenographic notes which must be transcribed to be useful. R.C. 2301.24 and 2301.25, relating to the provision of transcripts to indigent criminal defendants remain in effect, leaving the matter to the discretion of the trial court. Copies of the transcript may be whole or partial. It may be in the same medium or it may be transcribed into another medium. For example, videotape may be reproduced, the sound track alone may be reproduced as an audio tape recording, or the testimony may be transcribed into written form. Rule 13(A). The cited section applies in municipal courts by virtue of R.C. 1901.21. An example of a provision of law which would make the cost of a transcript recorded on videotape an item of costs in the case is App. R. 24.

Electronically recorded transcripts of proceedings introduce a new factor, viewing or hearing the original transcript of proceedings for brief preparation or the purposes of post judgment motions. The rule provides that the expense of such viewing or hearing is an expense to be borne by the requesting party. The provision has no counterpart in the statutes by virtue of the nature of the reporter's notes. The provision is commensurate with the requirement that the requesting party bear the cost of a copy. It is a substitute for securing a copy. Viewing or hearing by the prosecuting attorney will be at public expense whether through the prosecuting attorney's budget or through the court's budget. The rule does not provide for that expense to be charged as costs in the case as was true of the expense of copies under the cited statutes.

RULE 12. ~~Conditions for~~ Recording, Broadcasting, and Photographing Court Proceedings.

(A) ~~Presiding judge. Procedure~~

~~The Requests for permission to broadcast, televise, record, or take photographs in the courtroom shall be in writing. Unless otherwise provided by law or local rule, the judge assigned to the trial or hearing proceeding shall permit the audio, audio-video recording, broadcasting or recording by electronic means, and the taking of photographs in court proceedings that are open to the public as provided by Ohio law. After consultation with the media, the judge shall specify the place or places in the courtroom where the operators and equipment are to be positioned. Requests for permission for the broadcasting, televising, recording, or taking of photographs in the courtroom shall be in writing and the~~ The written order of the judge shall be made a part of the record of the proceedings.

(B) ~~Permissible equipment and operators.~~

~~(1) Use of more than one portable television, videotape, or movie camera with one operator shall be allowed only with the permission of the judge.~~

~~(2) Not more than one still photographer shall be permitted to photograph trial proceedings without permission of the judge. Still photographers shall be limited to two cameras with two lenses for each camera.~~

~~(3) For radio broadcast purposes, not more than one audio system shall be permitted in court. Where available and suitable, existing audio pickup systems in the court facility shall be used by the media. If existing audio pickup systems are not available, microphones and other electronic equipment necessary for the audio pickup shall be as inconspicuous as possible but shall be visible.~~

~~(4) Visible audio recording equipment may be used by news media reporters with the prior permission of the judge.~~

~~(5) Arrangements between or among media for "pooling" of equipment shall be the responsibility of the media representative authorized to cover the proceeding. "Pooling" arrangements are to be made outside the courtroom and without imposing on the judge or court personnel. If disputes arise over arrangements between or among media representatives, the judge may exclude all contesting representatives from the proceedings.~~

~~(6) The judge shall prohibit the use of electronic or photographic equipment that produces distracting sound or light. No artificial lighting other than that normally used in the courtroom shall be employed, provided that, if the normal lighting in the courtroom can be improved without becoming obtrusive, the judge may permit modification.~~

~~(7) Still photographers and television and radio representatives shall be afforded a clear view but shall not be permitted to move about in the courtroom during court proceedings from the places where they have been positioned by the judge, except to leave or enter the courtroom.~~

~~(E)~~ **Limitations:**

(1) There shall be no audio pickup recording or audio broadcast of conferences conducted in a court facility between attorneys and clients or co-counsel, ~~or of conferences conducted at the bench between counsel and the judge, or from the courtroom when court is not in session.~~

(2) The judge shall ~~inform victims and witnesses of their right to object~~ permit any victim or witness who objects to being ~~filmed, videotaped, recorded, broadcasted,~~ or photographed the opportunity to be heard in advance of testifying. A victim or witness may not object to the court recording the proceeding as part of its official record.

(3) This rule shall not be construed to grant ~~media representatives~~ any greater rights than permitted by law.

~~(4) Media representatives shall not be permitted to transmit or record anything other than the court proceedings from the courtroom while the court is in session.~~

~~(D)~~**(C) Revocation of permission:**

Upon the failure of any ~~media representative person~~ to comply with the conditions prescribed by this rule or the judge, the judge may revoke the permission to record, broadcast, or photograph the trial or hearing proceeding.

(D) Permissible equipment and operators

(1) Video, still photography, audio recording, or broadcasting of court proceedings shall be limited to one videographer, one still photographer, and one audio technician.

unless otherwise ordered by the judge. In the event of multiple requests, the judge may order coverage of court proceedings to be conducted by pool representation. Individuals participating in the pool shall designate a pool representative. Access to video, photographs, and audio shall be shared with the pool. The pool arrangement shall be by agreement of the participants and the judge shall resolve any dispute.

(2) The judge shall prohibit equipment or activity that is distracting to the proceedings. No artificial lighting other than that normally used in the courtroom shall be employed, provided that, if the normal lighting in the courtroom can be improved without becoming obtrusive, the judge may permit modification.

(3) For audio recording or broadcast purposes, not more than one audio system shall be permitted in the courtroom. Where available and suitable, existing audio pickup systems in the court facility shall be used. If existing audio pickup systems are not available, microphones and other electronic equipment necessary for the audio pickup shall be as inconspicuous as possible but shall be visible.

(4) Videographers, photographers, and audio technicians shall not move about the courtroom while court is in session.

(E) Prohibition on recording jurors, witnesses, and juvenile defendants

No audio recording, video or photograph of any juror, witness, or juvenile defendant shall be taken by any means by a person other than as approved by the judge. This division shall not apply to the court recording the proceeding as part of its official record.

Commentary (April 1, 2025)

Rule 12 is updated and simplified to reflect changes in court technology and court practice, especially post-COVID-19 pandemic, including the routine broadcasting by courts of their public proceedings on websites such as Youtube and holding hearings publicly accessible online using programs like Zoom.

Additionally, the amended rule and updated commentary delete portions of former Sup.R. 12(C) and previously existing commentary stating that "[t]he filming, videotaping, recording, or taking of photographs of victims or witnesses who object shall not be permitted." That rule provision and commentary mirrored Canon (3)(A)(7)(c)(iii) of the Code of Judicial Conduct. That Code section no longer exists; thus, the amended rule and updated commentary no longer require or permit blanket orders not to film, videotape, record, or photograph objecting victims or witnesses.

Commentary (July 1, 1997)

Rule 12 is analogous to former C.P. Sup. R. 11 and M.C. Sup. R. 9. Division (A) was revised to include a reference to standards set forth in Ohio law, such as *In re T.R.* (1990), 52 Ohio St.3d 6, that govern public access to court proceedings. The 1997 amendments also eliminated the prohibition against changing film and videotape during court proceedings.

Rule 12(A) Presiding Judge

The judge assigned to the trial or hearing shall permit the broadcasting or recording by electronic means and the taking of photographs in court proceedings open to the public, upon request, if the judge determines that to do so would not distract the participants, impair the dignity of the proceedings or otherwise materially interfere with the achievement of a fair trial. Both the request for permission and the ruling on the request must be in writing and made a part of the record of the proceedings.

~~The filming, videotaping, recording, or taking of photographs of victims or witnesses who object shall not be permitted.~~

~~After consultation with the media the judge specifies the locations within the courtroom where operators and equipment may be located. However, still photographers and television and radio representatives must be given a clear view of the proceedings under division (B)(7).~~

Rule 12(B) Permissible Equipment and Operators

~~Not more than one portable television, videotape, or movie camera with one operator and not more than one still photographer with two cameras shall be allowed unless the judge presiding at the trial or hearing specifically permits additional cameras or operators. Each of the two still cameras permitted by the rule is limited to two lenses.~~

~~For purposes of radio broadcasting, not more than one audio system is permitted. If an existing audio system is available and suitable, it shall be used. If an audio system is not available, then microphones and other necessary equipment "shall be as inconspicuous as possible but must be visible."~~

~~Portable audio recording equipment may be used by reporters if it is visible and if the permission of the judge presiding at the trial or hearing is first obtained.~~

~~All pooling arrangements are the responsibility of the media representatives. Pooling arrangements must be made without involving the court. If any disputes arise, the judge may exclude all contesting media representatives.~~

~~Electronic or photographic equipment that produces distracting sound or light shall be prohibited by the judge. No artificial lighting, other than that normally used in the courtroom, is permitted unless the judge, upon request and after consultation with the media representatives, determines that the normal light can be improved without becoming obtrusive.~~

~~Still photographers and television and radio representatives shall not move about the courtroom from the place where they have been positioned by the judge, except to leave or enter the courtroom.~~

Rule 12(C) Limitations

~~Audio pickup or broadcast of conferences in a court facility between attorney and client or between counsel and the judge are prohibited.~~

~~The trial judge must advise victims and witnesses of their right to object to being filmed, videotaped, recorded, or photographed.~~

~~No part of Rule 12 gives authority for media coverage where it is otherwise limited or prohibited by law.~~

~~While the court is in session, media representatives are not permitted to either transmit or record anything from the courtroom other than court proceedings.~~

Rule 12(D) Revocation of Permission

~~If any media representative fails to comply with the conditions set by either the judge or this rule, the judge may revoke the permission to broadcast or photograph the trial or hearing.~~

RULE 99. Effective Date.

[Existing language unaffected by the amendments is omitted to conserve space]

(~~Insert division letter~~) The amendments to Sup.R. 11 and 12 adopted by the Supreme Court on March 13, 2025, shall take effect on April 1, 2025.