



Supreme Court Guidelines on the Conduct of Videoconferencing

February 9, 2021

The Supreme Court has issued *Supreme Court Administrative Matter No. 20-12-01-SC (Re: Proposed Guidelines on the Conduct of Videoconferencing)* dated December 9, 2020¹ (Court Videoconferencing Guidelines) to ensure that hearings via videoconferencing are conducted in an orderly manner and that the constitutional rights of the accused are protected. The guidelines, which took effect on January 16, 2021,² recognize that proceedings via videoconferencing have become an alternative to in-court proceedings.

- A. [Scope and Application](#)
- B. [General Procedure](#)
- C. [Other matters](#)

A. Scope and Application

1. The Court Videoconferencing Guidelines apply to all proceedings (at any stage) before the first and second level courts, Court of Appeals, the Sandiganbayan, and the Court of Tax Appeals.³ These will be in effect during the current public health emergency and thereafter, unless revoked or modified by the Supreme Court.⁴ The provisions of the Rules of Court will still apply during videoconferencing, except for the requirement that witnesses give their testimonies in open court.⁵
2. A hearing may be conducted through videoconferencing in any of the following instances:⁶
 - a. Acts of God and human-induced events which restrict the physical access to courts, and other instances posing threats to the security and safety of the courts;

¹ *Supreme Court Administrative Matter (A.M.) No. 20-12-01-SC (Re: Proposed Guidelines on the Conduct of Videoconferencing)* dated December 9, 2020; <https://sc.judiciary.gov.ph/16099/>; last accessed at 11:13 AM on January 12, 2021.

² *Court Videoconferencing Guidelines*, XI; The Guidelines were published in Philippine Daily Inquirer and Philippine Star on December 29, 2020.

³ *Court Videoconferencing Guidelines*, 1.3(a) and 3(b).

⁴ *Court Videoconferencing Guidelines*, 1.3(c).

⁵ *Court Videoconferencing Guidelines*, 1.1(f).

⁶ *Court Videoconferencing Guidelines*, 1.3(b).

Supreme Court Guidelines on the Conduct of Hearings via Videoconferencing

- b. Public emergencies as declared by the government;
- c. The litigant, witness, or counsel is unable to physically appear in court due to security risks, serious health concerns, vulnerability of the witness, or the fact that he or she is a victim of sexual offense or domestic violence;
- d. The litigant or witness is a high-risk Person Deprived of Liberty (PDL);⁷
- e. The litigant or witness is a PDL or a Child in Conflict with the Law (CICL) held or committed in a facility;
- f. A government agency witness or an expert witness whose presence is necessary cannot attend an in-court hearing due to justifiable grounds;
- g. The litigant or witness is an Overseas Filipino Worker (OFW) or a Filipino residing abroad or temporarily outside the Philippines;
- h. The litigant or witness is a non-resident foreign national who was involved in an action pending in court while he was in the Philippines and wants to appear and/or testify remotely from outside the Philippines;
- i. There are compelling reasons warranting the resort to videoconference; or
- j. “[O]ther circumstances or grounds that may hereafter be declared by the Supreme Court as sufficient to justify the conduct of videoconferencing.”

B. General Procedure

A summary of the pointers for the conduct of videoconferencing is provided below.

1. *How it is initiated* – Videoconferencing may be ordered by the court *motu proprio* (in case of an act of God (see part A.2(a) above), a public emergency (see part A.2(b) above), when a litigant or witness is a high-risk PDL (see part A.2(d) above),⁸ when a litigant or witness is a PDL or CICL in a facility (see part A.2(e) above), or other circumstances as determined by the Supreme Court (see part A.2(j) above))⁹ or upon a motion duly filed and served.¹⁰ Scheduled videoconferencing hearings cannot be cancelled except on meritorious grounds.¹¹

⁷ *Court Videoconferencing Guidelines*, I.2(e). A high-risk PDL is one who is: “(i) charged with violation/s of laws penalizing terrorism and terrorism-related offenses; (ii) charged with violation/s of laws penalizing crimes against international humanitarian law, genocide, and other crimes against humanity; or (iii) considered a ‘*high-value target*’ because of the considerable threat he or she poses to the security of the jail facilities, the court, or the community, the risk of escape or attempted escape, and other safety and welfare considerations in transporting him or her to and from the jail and courtroom [(e.g., suspected members of terrorist groups, and drug and other organized crime syndicates)].”

⁸ *Court Videoconferencing Guidelines*, II.1. High-value targets are excluded from the enumeration as they are required to file a motion.

⁹ *Court Videoconferencing Guidelines*, II.1.

¹⁰ *Court Videoconferencing Guidelines*, II.2.

¹¹ *Court Videoconferencing Guidelines*, II.4.

Supreme Court Guidelines on the Conduct of Hearings via Videoconferencing

2. *Platform and Distribution of Link* – Courts must use MS Teams, the platform authorized by the Supreme Court.¹² A link to the videoconferencing will be e-mailed to the participants.¹³ Any unauthorized sharing of the link may be considered a contempt of court.¹⁴
3. *Public Access to Hearings* – Anyone who wishes to attend the videoconference may send a request to the court’s official email address.¹⁵ The court may refuse access if the evidence to be presented is of such nature as to require the public’s exclusion in the interest of morality or decency or if a child witness will testify.¹⁶
4. *Justices or Judges Presiding from Courtroom* – Justices or judges shall preside, and court personnel shall attend, videoconferencing hearings from the chambers or courtroom at all times except in exceptional circumstances and upon prior permission from the Presiding Justice or the Office of the Court Administrator, as the case may be.¹⁷
5. *Colloquy* – A colloquy shall be conducted to confirm the defendant’s ability to see and hear the judge or justice and to inform him or her of his or her rights and obligations during the videoconference.¹⁸ Participants will also pan their cameras across the room to ensure that there will be no coaching during the hearing.¹⁹ Litigants and counsels shall be permitted to confer privately via electronic means if they are not at the same location.²⁰
6. *Presentation of Evidence* – Documentary evidence and judicial affidavits shall also be made available through e-mail or the shared document repository²¹ of the court.²² During the hearing, the court may direct counsel to share documentary evidence through the digital screen-sharing function of the software or platform.²³

Object evidence may also be examined by the participants by displaying it on screen.²⁴ The same may also be shown physically to the witness testifying at his or her location within the full view of the other participants.²⁵ If the court should find it difficult to examine documentary²⁶ and/or object evidence,²⁷ it may order the conduct of in-court hearings instead.

¹² *Court Videoconferencing Guidelines*, II.A(1).

¹³ *Court Videoconferencing Guidelines*, II.A(3)(a).

¹⁴ *Court Videoconferencing Guidelines*, II.A.(3)(d).

¹⁵ *Court Videoconferencing Guidelines*, II.A(5).

¹⁶ *Court Videoconferencing Guidelines*, II.A(5).

¹⁷ *Court Videoconferencing Guidelines*, II.B(1).

¹⁸ *Court Videoconferencing Guidelines*, Annex A.

¹⁹ *Court Videoconferencing Guidelines*, II.B(5).

²⁰ *Court Videoconferencing Guidelines*, II.C(4).

²¹ *Court Videoconferencing Guidelines*, I.2.(h). A shared document repository is a “shared electronic storage space that can be accessed by authorized participants.”

²² *Court Videoconferencing Guidelines*, II.C(1).

²³ *Court Videoconferencing Guidelines*, II.C(1).

²⁴ *Court Videoconferencing Guidelines*, II.C(2).

²⁵ *Court Videoconferencing Guidelines*, II.C(2).

²⁶ *Court Videoconferencing Guidelines*, II.C(1).

²⁷ *Court Videoconferencing Guidelines*, II.C(2).

Supreme Court Guidelines on the Conduct of Hearings via Videoconferencing

7. *Suspension or Discontinuance of Hearing* – The court may order the suspension or discontinuance of the proceedings should there be any technical issue which may taint the regularity or fairness of the proceedings, or when matters arise which warrant the physical appearance of a litigant or a witness in the courtroom.²⁸
8. *Recording of Hearing* – All videoconferencing hearings shall be recorded by the court and shall form part of the records of the case.²⁹ Any unauthorized recording is considered a contempt of court.³⁰
9. *Court Orders* – The orders and actions made during the videoconferencing will have the same effect as if they were done in open court.³¹ As such, the litigants may avail of the same periods and remedies as if the hearing was held in open-court proceedings.³²

C. Other matters

1. *Motion Filed by Warden for high-risk PDLs* – A jail warden may file a motion to conduct videoconferencing when the case involves a high-risk PDL who is alleged to be a high value target or who has serious health issues.³³ The motion may be granted *ex parte* if the videoconferencing is intended to allow an accused PDL to testify or attend the proceedings.³⁴
2. *Procedure for Persons Outside of the Philippines*³⁵ – Upon proper motion with the court,³⁶ the videoconference may be conducted in a Philippine embassy or consulate if the litigants and witnesses are persons outside of the Philippines – *i.e.*, OFWs, Filipinos residing abroad or temporarily outside of the Philippines, or non-resident foreign nationals.³⁷ The embassy or consulate must have allowed the use of its facilities.³⁸
3. *Gross Misconduct* – It is considered as gross misconduct to intentionally disrupt “digital communications intended to deny participation by any party,” to coach any witness presented for examination, and to knowingly present falsified digital images or evidence.³⁹

²⁸ *Court Videoconferencing Guidelines*, II.B(10).

²⁹ *Court Videoconferencing Guidelines*, II.B(8).

³⁰ *Court Videoconferencing Guidelines*, II.B(8).

³¹ *Court Videoconferencing Guidelines*, II.5.

³² *Court Videoconferencing Guidelines*, II.5.

³³ *Court Videoconferencing Guidelines*, III.1.

³⁴ *Court Videoconferencing Guidelines*, III.1.

³⁵ Pursuant to *OCA Circular No. 18-2021* dated February 1, 2021, the implementation of the Court Videoconferencing Guidelines with respect to remote appearances from abroad is suspended until April 1, 2021 in order to provide sufficient time for the Department of Foreign Affairs to formulate the guidelines and setup for videoconference hearings before Philippine embassies and consulates.

³⁶ *Court Videoconferencing Guidelines*, IV.1 and IV.3.

³⁷ *Court Videoconferencing Guidelines*, IV.1.

³⁸ *Court Videoconferencing Guidelines*, IV.3.

³⁹ *Court Videoconferencing Guidelines*, VI.

SyCipLaw's Litigation and Arbitration Department

For more information about the legal issuance discussed in this bulletin, please contact -

Ricardo Ma. P.G. Ongkiko
Partner, Head of the Litigation Department
rmpgongkiko@syciplaw.com

John Christian Joy A. Regalado
Partner
jcaregalado@syciplaw.com

This bulletin was prepared with the assistance of the following associates of SyCipLaw:

Kathleen Mae L. Nieto
Patrice Jane L. Romero

SyCipLaw's Litigation and Arbitration Department has a wide-ranging litigation practice in virtually all court levels — from the municipal trial courts and the regional trial courts, to the Court of Appeals and the Supreme Court, as well as in various administrative agencies. The department also has a very extensive arbitration practice, being involved in foreign arbitration, international commercial and other domestic arbitration, and construction arbitration.

SyCipLaw is ranked by Chambers Asia-Pacific, Asia Pacific Legal 500, and Asialaw Profiles as a top-tier and highly recommended law firm for dispute resolution, arbitration, and litigation.

Other bulletins

The links to our earlier bulletins can be found at the SyCipLaw information hub, <https://syciplawresources.com/>.

For more information about other regulations covered by our bulletins, please contact your account partner or sshg@syciplaw.com or info@syciplaw.com.

Supreme Court Guidelines on the Conduct of Hearings via Videoconferencing

This bulletin contains a summary of the legal issuances discussed above. It was prepared by SyCip Salazar Hernandez & Gatmaitan (SyCipLaw) to update its clients about recent legal developments.

This bulletin is only a guide material and is circulated for information purposes only. SyCipLaw assumes no responsibility for the accuracy, completeness or timeliness of any information provided in this bulletin. It does not constitute legal advice of SyCipLaw or establish any attorney-client relationship between SyCipLaw and the reader. It is not a substitute for legal counsel. Online readers should not act upon the information in this bulletin without seeking professional counsel. For more specific, comprehensive and up-to-date information, or for help regarding particular factual situations, please seek the opinion of legal counsel licensed in your jurisdiction.

SyCipLaw may periodically add, change, improve or update the information in this bulletin without notice.

Please check the official version of the issuances discussed in this bulletin. There may be other relevant legal issuances not mentioned in this bulletin, or there may be amendments or supplements to the legal issuances discussed here which are published after the circulation of this bulletin.

No portion of this bulletin may be emailed, forwarded, reposted, copied in different electronic devices, copied or posted online in any platform, copied or reproduced in books, pamphlets, outlines or notes, whether printed, mimeographed or typewritten, or copied in any other form, without the prior written consent of SyCipLaw.

SyCip Salazar Hernandez & Gatmaitan

SyCipLaw Center, 105 Paseo de Roxas

Makati City 1226, The Philippines

t: +632 8982 3500; +632 8982 3600; +632 8982 3700

f: +632 8817 3145; +632 8817 3896

e: sshg@syciplaw.com

www.syciplaw.com