

[Previous](#) [Contents](#) [Next](#)

I-2-6-40. Record of the Hearing

Last Update: 9/2/05 ([Transmittal I-2-64](#))

Citations:

- Social Security Act § [205\(g\)](#);
- [20 CFR §§ 404.951](#) and [416.1451](#).

The Administrative Law Judge (ALJ) must make a complete record of the hearing proceedings. Therefore, the ALJ or designee will make a verbatim recording of the entire hearing. This is the official record of the proceeding.

If a question arises during the course of a hearing that is not relevant to the issues in the claimant's case, the ALJ may decide to discuss and resolve it off-the-record. However, the ALJ must summarize on the record the content and conclusion of any off-the-record discussion.

A. Digital Recording Process

The Digital Recording Acquisition Project (DRAP) implementation began in December of 2003. With full DRAP implementation, every hearing room in OHA offices throughout the nation and the Commonwealth of Puerto Rico will be equipped with digital recording devices. These state-of-the-art digital devices will simultaneously record every ALJ hearing onto a laptop computer's hard drive and onto a CD-R (recordable compact disc). The digital recording process allows for real-time monitoring, video, and audio confirmation of recording, as well as indexing and annotation during and after the hearing.

NOTE: The term "hearing assistant" refers to a HO staff person/employee acting as a hearing assistant. OHA will also use Contract Hearing Reporters (CHRs), non-government contractors, in this role. The duties and responsibilities of a CHR are determined by the Statement of Work (SOW) and the Blanket Purchase Agreement (BPA).

1. Hearing Assistant Responsibilities Prior to the Hearing

Before each hearing, HO staff person acting as hearing assistant, is responsible for conducting pre-hearing recording activities, including testing the digital recording equipment, and preparing the digital media.

2. Hearing Assistant Actions During the Hearing

The hearing assistant monitors the proceedings and conducts hearing-related activities once the hearing begins. During the hearing, the hearing assistant must assist the ALJ to:

- Monitor the recording equipment to ensure that it is functioning properly by:
 - when cassettes are used, playing back a few seconds of the audio during a normal break in the testimony (with digital recording the hearing assistant monitors the playback in real time);

Date Visited 7/27/2012

- when cassettes are used, asking the ALJ to stop the hearing briefly when changing cassettes to ensure that all of the proceedings are properly recorded; and
 - informing the ALJ immediately of any equipment malfunction.
- b. Enter short notes associated with specific points in the digital recording for the future use by the ALJ or decision writer.
- c. Complete the recording process and update case information on the digital media envelope.

3. Hearing Assistant Actions After the Hearing

After the hearing has ended, the hearing assistant burns the digital media to a CD-ROM disk and places it in the digital media envelope.

In concurrent claims under Titles II and XVI claims, prong-file the envelope containing the CD on the left side of the Title II claim folder. (See [I-2-8-50](#), Procedures for Handling Hearing Cassettes/CDs.)

NOTE 1: Specific set up and recording instructions, media handling procedures, information about where to obtain recording supplies, copies of training materials, how to contact the help desk for assistance, and how to resolve maintenance issues are on the DRAP website, <http://ohaweb.ba.ssa.gov/ohanet/drap/index.htm>.

NOTE 2: If the recording equipment malfunctions during the hearing, the ALJ must suspend the oral testimony until the equipment is repaired or replaced.

B. Analog Tape Recording

1. Hearing Assistant Staff Actions Before the Hearing

Before each hearing the hearing assistant must:

- label the hearing cassette and prepare the cassette envelope and hearing log (See [I-2-6-42](#), Preparing Hearing Cassettes/CDs, Cassette/CD Storage Envelopes, and Hearing Logs.);
- record the proper identification information on the hearing cassette (See [I-2-6-44](#), Recording Identifying Information on the Hearing Cassette/CD);
- clean the magnetic heads inside the recording equipment;
- set up the recording equipment to ensure that testimony given by witnesses will be properly recorded and test the equipment, including the recording quality of each microphone.

2. Hearing Assistant Actions During the Hearing

During the hearing, the individual assisting the ALJ must monitor the recording equipment and inform the ALJ immediately of any equipment malfunction. The individual should also inform the ALJ when it is necessary to stop the hearing briefly to change cassette tapes to ensure that all of the proceedings are properly recorded. Finally, the individual should take hearing notes for future use by the ALJ.

NOTE: If the recording equipment malfunctions during the hearing, the ALJ must suspend the oral testimony until the equipment is repaired or replaced.

Date Visited 7/27/2012

3. Hearing Assistant Actions After the Hearing

After the hearing, the individual assisting the ALJ must place the cassette recording in a cassette/CD storage envelope and prong-file it on the left side of the claim folder.

In concurrent claims under Titles II and XVI claims, prong-file the envelope containing the cassette/CD on the left side of the title II claim folder. (See [I-2-8-50](#), Procedures for Handling Hearing Cassettes/CDs.)

[Previous](#) [Contents](#) [Next](#)