

5101:6-6-03 Tape recording of the hearing.

- (A) All state hearings shall be tape recorded by the hearing officer. The tape shall be started at the beginning of the hearing and shall continue until the hearing is concluded. There shall be no testimony or other proceedings off the record. The tape recording shall not be altered or edited in any manner or for any reason.
- (B) The tape recording of the hearing shall not be a part of the official hearing record. The tape shall be maintained at the appropriate district hearings section for thirty calendar days after the issuance of the hearing decision unless an administrative appeal has been requested. If an administrative appeal is requested, the tape recording shall be maintained at the district office for seven months after all administrative appeal proceedings have been completed. The tape recording may be erased after expiration of the above period.
- (C) During the fifteen-day administrative appeal period, the individual or authorized representative may request a copy of the tape recording. The district hearings section shall respond to such requests within two workdays whenever possible, and shall mail the copy to the individual or authorized representative free of any charge. Nonreceipt of a copy of a tape within the administrative appeal period shall not result in an extension of the administrative appeal period. In extraordinary circumstances, the fifteen-day limit on requests for a copy of the tape may be waived, upon written request to the office of legal services, ODHS.
- (D) The district hearings section shall respond to reasonable requests from the local agency, or other agency specifically involved in the hearing, for a copy of the tape recording of that hearing. ~~A reasonable charge, as determined by the district director, may be made for the copy.~~
- (E) Upon request by the office of legal services, the district hearings section shall send the tape recording, within two workdays, for review in administrative appeals or for judicial review.
- (F) The individual and/or the agency may tape record the hearing, at their own expense, so long as it does not seriously interfere with the orderly conduct of the hearing.
- (G) If, during the administrative appeal process, it is found that the hearing officer's tape recording is lost or unusable (for example, because it has been damaged or because material portions of the tape are inaudible), the administrative appeal hearing examiner shall remand the case to the state hearing officer for a new hearing if the following conditions are met:
 - (1) The individual takes material issue with the recitation of the testimony set forth in the hearing decision; and
 - (2) The individual and either the state hearing officer or the agency are not able to stipulate to the testimony given.

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Certification: Arnold R. Tompkins

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Date

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