

RULE ADOPTIONS
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LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF COURT REPORTING

Adopted New Rule: N.J.A.C. 13:43-5.10

On the Record/Off the Record

Proposed: March 16, 2009 at 41 N.J.R. 1162(a).

Adopted: July 20, 2009 by the State Board of Court Reporting, Marianne Cammarota, President, State Board of Court Reporting.

Filed: August 11, 2009 as R.2009 d.271, **without change**.

Authority: N.J.S.A. 45:15B-1.

Effective Date: September 8, 2009 .

Expiration Date: May 27, 2014 .

Federal Standards Statement

A Federal standards analysis is not required because the adopted new rule is governed by N.J.S.A. 45:15B-1 and is not subject to any Federal requirements or standards. However, the new rule provides in subsection (h) that if the rule conflicts with any Federal court rule, the Federal rule takes precedence.

Full text of the adopted new rule follows:

SUBCHAPTER 5. GENERAL PROVISIONS

13:43-5.10 On the record/off the record

(a) For purposes of this section, "on the record" means every word spoken during a proceeding is recorded stenographically for inclusion in the transcript and "off the record" means that portion of the proceeding that is not recorded for inclusion in the transcript.

(b) When determining whether to go on the record or off the record, certified court reporters and temporary registered reporters shall follow the requirements of this section.

(c) In a judicial setting or administrative setting or hearing, the presiding officer shall determine whether the proceeding shall be on the record or off the record.

(d) In a deposition, a certified court reporter or a temporary registered reporter shall stay on the record unless all parties to, or involved in, the deposition agree that the reporter should be off the record.

(e) In a non-judicial setting, a court reporter or a temporary registered reporter shall stay on the record, unless all parties agree that the reporter shall be off the record. In any dispute between the parties concerning whether to be on the record or off the record, the determination of the presiding officer shall be dispositive.

(f) The certified court reporter or a temporary registered reporter shall make a parenthetical notation in the record when an off the record discussion takes place.

(g) Nothing in this subsection shall prohibit a certified court reporter or a temporary registered reporter from accepting an assignment from a third party at the conclusion of any proceeding before any referee, board, commission or other body created by statute in this State in order to record a statement, provided the transcript of the subsequent statement is bound separately and not made part of the transcript of the initial proceeding.

(h) Nothing contained in this section shall be interpreted to conflict with any rules relating to the proceedings in any Federal or State court of competent jurisdiction. If there is any conflict between this section and any Federal or State court rule, the applicable court rule shall take precedence.