

Re: **Proposals to AMEND RULE 19 OF THE RULES GOVERNING COURT REPORTING IN THE STATE OF HAWAI‘I, AND TO ESTABLISH PILOT PROJECTS ON THE PREPARATION OF TRANSCRIPTS OF DIGITALLY RECORDED COURT PROCEEDINGS, AND PER DIEM COURT REPORTERS**

The Supreme Court of Hawai‘i seeks public comment on the following:

Proposed amendments to Rule 19 of the Rules Governing Court Reporting in the State of Hawai‘i; and,

Proposed order establishing pilot projects on the preparation of transcripts of digitally recorded court proceedings, and per diem court reporters.

These proposed orders were prepared in response to the [Court Reporter Working Group Report and Recommendations dated June 29, 2022 \(Report\)](#). This Report recommended an increase to the official transcript rates set forth in Rule 19 of the Rules Governing Court Reporting in the State of Hawai‘i, which have not been increased since July 1, 2008. In addition, the Report included numerous recommendations related to official transcripts of court proceedings, and some of these recommendations would be established under these proposed pilot projects. To encourage public comment, the Report will be released to the public for review and consideration.

Comments about these proposal should be submitted, in writing, no later than **Friday, December 22, 2023** to the Judiciary Communications & Community Relations Office by mail to 417 South King Street, Honolulu, HI 96813, by facsimile to 808-539-4801, or via the [Judiciary website](#).

To encourage further discussion, any public comments received by the judiciary may be published on the judiciary’s website.

Attachment.

**PROPOSED AMENDMENTS TO RULE 19 OF THE RULES GOVERNING COURT
REPORTING IN THE STATE OF HAWAI‘I**

(Deleted material is bracketed and stricken; new material is underlined.)

Effective January 1, 2024, Rule 19(a)-(b) of the Rules Governing Court Reporting in the State of Hawai‘i are amended as follows:

Rule 19. OFFICIAL TRANSCRIPT RATES.

(a) Government Rates. An official court reporter may charge the following rates for the court reporter’s service in preparing transcripts for which the State of Hawai‘i or a political subdivision of the State of Hawai‘i or the United States bears the responsibility of payment:

	Original per 25 line page	Copies produced by any medium per 25 line page
1. Daily transcripts	[\$5.25] <u>\$5.66</u>	\$1.00
2. Expedited	[\$3.75] <u>\$4.32</u>	\$1.00
3. Within 7 (seven) calendar days	[\$3.00] <u>\$3.57</u>	\$1.00
4. Within 14 (fourteen) calendar days	[\$2.65] <u>\$3.25</u>	\$1.00
5. Within 60 (sixty) calendar days or for appeal	[\$2.50] <u>\$3.10</u>	\$1.00

If the total amount to be charged for a transcript, excluding copies, is less than \$25.00, the official reporter may charge \$25.00.

(b) Non-Government Rates. An official court reporter may charge the following rates for the court reporter’s service in preparing transcripts for which a non-government entity or person is responsible for payment:

	Original per 25 line page	Copies produced by any medium per 25 line page
1. Daily transcripts	[\$7.00] <u>\$7.10</u>	\$1.50
2. Expedited	[\$5.00] <u>\$5.35</u>	\$1.50
3. Within 7 (seven) calendar days	[\$4.00] <u>\$4.40</u>	\$1.50

- | | | | |
|----|---|-------------------------------------|--------|
| 4. | Within 14 (fourteen) calendar days | [\$3.50] <u>\$3.95</u> | \$1.50 |
| 5. | Within 60 (sixty) calendar days or for appeal | [\$3.25] <u>\$3.70</u> | \$1.50 |

If the total amount to be charged for a transcript, excluding copies, is less than \$25.00, the official reporter may charge \$25.00.

Effective July 1, 2024, Rule 19(a)-(b) of the Rules Governing Court Reporting in the State of Hawai‘i are amended as follows:

Rule 19. OFFICIAL TRANSCRIPT RATES.

(a) Government Rates. An official court reporter may charge the following rates for the court reporter’s service in preparing transcripts for which the State of Hawai‘i or a political subdivision of the State of Hawai‘i or the United States bears the responsibility of payment:

	Original per 25 line page	Copies produced by any medium per 25 line page
1.	Daily transcripts	\$1.00
2.	Expedited	\$1.00
3.	Within 7 (seven) calendar days	\$1.00
4.	Within 14 (fourteen) calendar days	\$1.00
5.	Within 60 (sixty) calendar days or for appeal	\$1.00

If the total amount to be charged for a transcript, excluding copies, is less than \$25.00, the official reporter may charge \$25.00.

(b) Non-Government Rates. An official court reporter may charge the following rates for the court reporter’s service in preparing transcripts for which a non-government entity or person is responsible for payment:

	Original per 25 line page	Copies produced by any medium per 25 line page
1. Daily transcripts	[\$7.00] <u>\$7.30</u>	\$1.50
2. Expedited	[\$5.00] <u>\$6.05</u>	\$1.50
3. Within 7 (seven) calendar days	[\$4.00] <u>\$5.20</u>	\$1.50
4. Within 14 (fourteen) calendar days	[\$3.50] <u>\$4.85</u>	\$1.50
5. Within 60 (sixty) calendar days or for appeal	[\$3.25] <u>\$4.60</u>	\$1.50

If the total amount to be charged for a transcript, excluding copies, is less than \$25.00, the official reporter may charge \$25.00.

Effective July 1, 2025, Rule 19(a)-(b) of the Rules Governing Court Reporting in the State of Hawai‘i are amended as follows:

Rule 19. OFFICIAL TRANSCRIPT RATES.

(a) Government Rates. An official court reporter may charge the following rates for the court reporter’s service in preparing transcripts for which the State of Hawai‘i or a political subdivision of the State of Hawai‘i or the United States bears the responsibility of payment:

	Original per 25 line page	Copies produced by any medium per 25 line page
1. Daily transcripts	[\$5.25] <u>\$7.32</u>	\$1.00
2. Expedited	[\$3.75] <u>\$6.59</u>	\$1.00
3. Within 7 (seven) calendar days	[\$3.00] <u>\$5.87</u>	\$1.00
4. Within 14 (fourteen) calendar days	[\$2.65] <u>\$5.65</u>	\$1.00
5. Within 60 (sixty) calendar days or for appeal	[\$2.50] <u>\$5.50</u>	\$1.00

If the total amount to be charged for a transcript, excluding copies, is less than \$25.00, the official reporter may charge \$25.00.

(b) Non-Government Rates. An official court reporter may charge the following rates for the court reporter's service in preparing transcripts for which a non-government entity or person is responsible for payment:

	Original per 25 line page	Copies produced by any medium per 25 line page
1. Daily transcripts	[\$7.00] <u>\$7.50</u>	\$1.50
2. Expedited	[\$5.00] <u>\$6.75</u>	\$1.50
3. Within 7 (seven) calendar days	[\$4.00] <u>\$6.00</u>	\$1.50
4. Within 14 (fourteen) calendar days	[\$3.50] <u>\$5.75</u>	\$1.50
5. Within 60 (sixty) calendar days or for appeal	[\$3.25] <u>\$5.50</u>	\$1.50

If the total amount to be charged for a transcript, excluding copies, is less than \$25.00, the official reporter may charge \$25.00.

**PROPOSED ORDER ESTABLISHING PILOT PROJECTS ON THE PREPARATION
OF TRANSCRIPTS OF DIGITALLY RECORDED COURT PROCEEDINGS,
AND PER DIEM COURT REPORTERS**

Upon consideration of the Court Reporter Working Group Report and Recommendations dated June 29, 2022, and pursuant to this court’s power, under article 6, section 7 of the Hawai‘i Constitution to promulgate rules and regulations in all courts relating to process, practice, procedure, and appeals,

IT IS HEREBY ORDERED that the pilot projects related to the preparation of transcripts of digitally recorded court proceedings, and per diem court reporters are established effective upon entry of this order.

(A) Term. The pilot projects are effective immediately and shall expire 24-months after entry of this order on <insert date>, unless further extended or made permanent by order of this court. Over the course of the term, the court may amend these pilot projects by subsequent order.

(B) Definitions. As used in this order:

“Digital recording” means audio or video recordings of court proceedings that are part of the record in a case as provided in Hawai‘i Court Records Rules, Rule 4(d).¹

“Private court reporter” means the definition set forth in Hawai‘i Revised Statutes § 606-13.5.

¹ At a court proceeding when an official court reporter is not in attendance the testimony and other matters at a hearing are preserved by video or audio recording. See Rules of the Circuit Courts of the State of Hawai‘i, Rule 25.1(a); Rules of the District Courts of the State of Hawai‘i, Rule 25.1(a); Hawai‘i Family Court Rules, Rule 43.1; Hawai‘i Rules of Penal Procedure, Rule 55.

“Transcriber” means an individual or firm that has been certified by: the American Association of Electronic Reporters and Transcribers as an electronic transcriber; or another transcription certification that the Administrative Director of the Courts deems suitable.

(C) The Preparation of Transcripts of Digitally Recorded Court Proceedings Pilot Project.

In establishing this pilot project, the court notes that Rule 25.1(c) of the Rules of the Circuit Courts of the State of Hawai‘i, and Rule 25.1(c) of the Rules of the District Courts of the State of Hawai‘i provide that a digitally recorded court proceeding “shall be prepared by a competent person approved by the court” and contemplate the use of a transcriber. Similarly, Rule 7 of the Rules Expediting Child Protective Appeals allows the Office of the Chief Court Administrator to have transcripts of digitally recorded court proceedings prepared by “any court employee.”

The instant pilot project clarifies that transcribers, as defined herein, are competent persons who may prepare and file transcripts of digitally recorded court proceedings. Likewise, the pilot project clarifies that private court reporters are competent persons who may prepare transcripts of digitally recorded court proceedings on behalf of a party, and the party may then file the transcript in the underlying case.

(1) Transcribers; preparation of transcripts. In all courts of the State of Hawai‘i, with the approval of the Administrative Director of the Courts or his designee, the court administrator may have transcripts prepared from digital recordings by transcribers.

(i) Format. All format requirements for transcripts shall be established by the Administrative Director of the Courts, and shall be in a format that is customary in this jurisdiction.

(ii) *Delivery.* The delivery time schedule for the transcript shall be as provided in the applicable court rule. For purposes of a transcript prepared for an appellate case, the provisions of the Hawai‘i Rules of Appellate Procedure (HRAP) Rule 10(b) shall apply to the transcriber.

(iii) *Fee requirements.* The fee requirements shall be the official transcript rates adopted by the Hawai‘i Supreme Court in Rule 19 of the Rules Governing Court Reporting in the State of Hawai‘i.

(iv) *Certification.* The person or transcription services firm designated to transcribe the digitally recorded court proceedings must authenticate the original transcript and each copy with a certification on the last page that the transcript is a true and correct transcription of the recorded proceeding in question.

(v) *The record on appeal.* In an appeal, requests for transcripts shall be made as provided in HRAP Rule 10(b)(1)(A) through (D) and the court administrator may determine whether to have transcripts from digital recordings prepared by transcribers, in which case the party requesting transcripts shall address payment or deposit requirements with the transcriber. HRAP Rule 10(b)(1)(H) also applies for cancellation of a request for transcripts assigned to a transcriber. Where a transcriber is assigned to prepare a transcript of a recorded court proceeding, HRAP Rules 10(b)(1)(E)-(G) shall apply with the following underlined changes:

(E) *Expected completion date; time limitations.* Upon receipt of a request for a transcript, the reporter or transcriber shall acknowledge the date of receipt on the request, indicate the expected completion date on the request, and then electronically file a copy of the acknowledged request in the appellate record and shall serve a copy on all parties. If the transcript cannot be completed within 45 days after the filing of the notice of appeal, the reporter or transcriber shall notify all parties of the new date on which the transcript is expected to be completed, provided that the transcript shall be completed within 60 days after the filing of the notice of appeal, unless the reporter or transcriber obtains an additional

extension of time from the appellate court. Any such additional extension shall be granted upon demonstration by the court reporter or transcriber that good cause for the extension exists. In the event of the failure of the reporter or transcriber to file the transcript within the time allowed, the appellate court may take appropriate action, including the levying of a sanction against the court reporter[;] or transcriber.

(F) *Inadequate payment or deposit.* If, upon receiving a request for a transcript, the reporter or transcriber determines that the prepaid fees or the amounts deposited by the requestor with the court reporter are inadequate to cover the cost of the transcript, the reporter or transcriber shall, within 10 days after receiving the request, file with the appellate clerk and serve upon the requestor an estimate or revised estimate of the total cost of the transcript and a notice of the additional amount required to be paid or deposited with the court reporter or transcriber. The requestor shall pay the reporter or transcriber and shall file a reporter's or, if applicable, transcriber's certificate of payment with the appellate clerk within 10 days after service of the reporter's or transcriber's notice. The reporter or transcriber shall continue to work on the transcript until the prepaid fees or initial deposit are earned or until the expiration of the time allowed to make the additional payment or deposit.

(G) *Filing the Transcript in the Appellate Case.* Upon completion of each transcript and receipt of payment, the court reporter or transcriber shall file the transcript through JEFS or JIMS, designate the document as the "Transcript of proceedings held on <date>" and enter the date of the transcribed proceeding in the Notes field for the corresponding JEFS or JIMS docket entry.

(2) Private court reporters; preparation of transcripts. In all courts of the State of Hawai'i, a party may have transcripts of digital recordings prepared by a private court reporter. The transcript of the digital recording shall be certified by the private court reporter in a manner consistent with the certification requirement set forth in Rule 2(b) of the Rules Governing Court Reporting in the State of Hawai'i. For purposes of an appeal, the party shall file the transcript prepared by a private court reporter in the appellate case within 10 days after filing the notice of appeal. For good cause, the courts of appeal may extend this deadline.

(i) *Filing process.* The party shall file the completed transcript through JEFS or JIMS, designate the document as the "Transcript of proceedings held on <date>" and enter the date of the transcribed proceeding in the Notes field for the corresponding JEFS or JIMS docket entry.

(ii) *Notice to Appellee if Fewer than all Transcripts are Ordered.* In

an appeal, where the party files a transcript of a digital recording that was prepared by a private court reporter, HRAP Rule 10(b)(4) shall apply with the following underlined changes:

(4) NOTICE TO APPELLEE IF FEWER THAN ALL TRANSCRIPTS ARE ORDERED. Unless transcripts of all oral proceedings have been ordered or filed in the appellate case, the appellant shall, within the 10-day time provided in (b)(1)(A) of this Rule 10, file a statement of the points of error the appellant intends to present on the appeal and shall serve on the appellee a copy of the statement. If, within 10 days after service of the statement, the appellee deems a transcript of other parts of the proceedings to be necessary, the appellee shall file and serve on the appellant a designation of additional parts to be prepared and included in the record on appeal. Unless within 10 days after service of such designation the appellant has ordered such parts and has so notified the appellee, or has filed the additional transcripts in the appellate case, the appellee may within the following 10 days either order the parts, may file the transcripts of the additional portions of the record in the appellate case, or move in the appellate court for an order requiring the appellant to do so.

(D) Per Diem Court Reporters Pilot Project. If, upon the advice of the chief judge of any judicial circuit, the chief court administrator of any circuit determines that the number of official court reporters is insufficient to meet temporary demands and needs and that the services of additional court reporters for such circuit should be provided to the judges on a contract basis, and the chief court administrator notifies the Administrative Director of the Courts, in writing, of such determination, the Administrative Director of the Courts is authorized, subject to funding availability, to contract with any suitable person, firm, association, or corporation for the providing of court reporters to serve such circuit under such terms and conditions as the Administrative Director of the Courts finds, after consultation with the chief judge of the judicial circuit, will best serve the needs of the court.

(E) Miscellaneous Provisions.

(1) Extended Public Comment Period. During the period of these pilot projects, the court invites public comments on all aspects of the pilot projects, and encourages any interested persons or entities, including attorneys, members of the public, court reporters, the

Board of Certified Shorthand Court Reporters, and the Hawai‘i State Bar Association, to provide public comments on a rolling basis. The court will receive and consider supplemental or amended public comments. The comments may be made in writing to the Judiciary Communications and Community Relations Office by mail to 417 South King Street, Honolulu, HI 96813, by FAX to 808-539-4801, or by online form available at the [Judiciary website](#). The deadline to submit comments is <insert date approximately six months prior to end date of pilot project>, 202*. To encourage further discussion, any public comments received by the judiciary may be published on the judiciary’s website.

(2) Interpretation. The provisions of this pilot project shall be read and construed with reference to each other and other court rules, including the Hawai‘i Rules of Appellate Procedure, the Rules of the Circuit Courts of the State of Hawai‘i, the Hawai‘i Electronic Filing and Service Rules, and the Hawai‘i Court Records Rules.