

Institutional guidelines for requests for video hearings before the Tribunal administratif du Québec

1. Objectives

The object of these institutional guidelines is to ensure the quality, promptness and accessibility of administrative justice and to protect the rights of the parties to be heard.

As such, they seek to provide a framework for the use of video hearings that respects the adjudicative authority of administrative judges. For the sake of transparency and to promote uniform application, they set out the applicable criteria and the procedure to be followed to submit a request and enable its processing.

2. Scope of application

These institutional guidelines apply to all requests by a party for a hearing, case management conference, pre-hearing conference, conciliation or any other adjudicative activity to be conducted, in whole or in part, by video hearing.

3. Processing the request

3.1 Criteria

No request to proceed by video hearing will be granted solely on the basis of the consent of the parties.

The Tribunal administratif du Québec (Tribunal) will decide the request, taking into account the nature of the file, the reasons underlying the request and the prejudice the parties could suffer. To grant the request, the Tribunal must find that a video hearing would better serve the ends of justice.

The following situations may favour holding a video hearing:

- All of the issues to be determined by the Tribunal are questions of law;
- The applicant lives in a remote area, and the use of video hearings could facilitate faster handling of the case;
- The parties to the case or the witnesses, or both, are outside Quebec;
- One of the parties to the case or a witness, or both, is/are incarcerated;
- The hearing concerns a non-complex matter;
- The hearing concerns an incidental motion;
- The case must be heard and decided by preference under section 119 of the *Act respecting administrative justice*¹;
- Expert testimony would otherwise be impossible.

A video hearing is not appropriate in the following situations in particular:

- The credibility of the parties or the witnesses is at the heart of the dispute;
- Numerous exhibits must be filed in evidence;
- Non-standard size plans and exhibits must be filed.

Exceptionally, video hearings may be used by the Commission d'examen des troubles mentaux (CETM). To proceed in this manner, there must be no medical contraindication, and the consent of the accused is required. Video hearings may be warranted in the following situations:

- in cases of urgency;
- when, for logistical reasons, it is difficult to hold the hearing where the accused is detained in custody or receiving treatment.

3.2 Deadline

The request to proceed by video hearing must be made as soon as possible or on receipt of the notice of hearing.

4. Presentation of the request

A party who wishes to make a request to proceed by video hearing should send such request, in writing, to the secretariat of the Tribunal.

¹ CQLR, chapter J-3.

The request must contain the following information:

- The names of the parties and the file numbers concerned by the request;
- The surname and given name of the party making the request, his street and email addresses, and his telephone and fax numbers;
- The reasons justifying the use of a video hearing;
- Whether or not the other parties consent;
- An undertaking to provide all parties and the Tribunal with all the evidence and documents likely to be filed during the hearing as soon as possible before the adjudicative activity covered by the request is held.

A copy of the request must be sent to the other parties.

5. DECISION

Once the duly completed request is received by the secretariat of the Tribunal, it is submitted to the administrative judge assigned to the case. If no judge has yet been assigned, it is submitted to the Vice-President of the section concerned or the Chairperson of the CETM. The request to proceed by video hearing may then be granted or refused. It may also be made subject to any conditions deemed necessary.

The secretariat of the Tribunal informs the parties of the decision concerning the request to proceed by video hearing.

If the request is refused, the parties must present themselves at the place and time indicated in the notice of hearing. The same applies if the Tribunal was unable to reach the parties to inform them of the decision.

If the request is granted, it is the secretariat's responsibility to reserve a video hearing room. The party who requested the video hearing assumes its cost² and must complete the form entitled "Undertaking to pay video hearing fees".

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² Exceptions may apply.