

Chapter: Rules for State-Operated Programs and Facilities Subchapter: Behavior Management and Youth Discipline Division: Due Process Hearings Procedures Rule: Level I Hearing by Telephone ACA: N/A Statutes: N/A	Effective Date: 10/1/15 Page: 1 of 1 Replaces: GAP.380.9553, 12/31/96
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RULE

(a) **Purpose.**

This rule allows for a Level I due process hearing to be conducted by telephone when doing so will not significantly diminish a youth's due process rights.

(b) **General Provisions.**

- (1) A Level I hearing may be conducted by telephone only if:
 - (A) the youth waives, in writing, the on-site presence of a hearing examiner after consulting with his/her attorney;
 - (B) the youth's attorney notifies the TJJJ Legal Department at least one working day before the scheduled hearing that the youth wishes to answer "true" to the allegation(s) against him/her;
 - (C) the staff representative has no objection to the hearing being conducted by telephone; and
 - (D) the appropriate authorization form has been properly executed.
 - (2) If the hearing examiner agrees to hold the Level I hearing by telephone:
 - (A) the hearing examiner participates by telephone;
 - (B) the staff representative must be present with the youth at the time and place designated for the hearing; and
 - (C) the youth's attorney may participate by telephone or be present with the youth and staff representative.
 - (3) All required participants must be able to simultaneously hear one another.
 - (4) A telephone hearing must be conducted according to the rules of evidence and procedure that apply to Level I hearings as set forth in [§380.9551](#) of this title.
 - (5) The hearing examiner must adjourn the telephone hearing and require an on-site hearing if the hearing examiner determines that:
 - (A) a youth is not knowingly and voluntarily responding "true" to the allegation(s) presented at the hearing; or
 - (B) an on-site hearing is necessary for any other reason to ensure the youth's due process rights are protected.
 - (6) The hearing examiner who adjourns a telephone hearing may subsequently conduct the on-site hearing unless the youth or the youth's attorney objects.
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