

33-05 P U D T
Order of Oral Proceedings

1. Preparation

(1) Place for oral proceedings

A. When an examination of evidence is not conducted with oral proceedings, in principle, any one of the Trial Court (the JPO), the First Trial Court (METI Annex (1st floor)), the Second Trial Court (METI Annex (1st floor)) shall be selected. However, if the oral proceedings are certainly open to the public, a conference room or an interview room is also possible to use for the oral proceedings (→ 07-01).

B. When an examination of evidence is conducted with oral proceedings, the Trial Court or the First Trial Court is used for the proceedings. The Trial Court is an IT trial court equipped with IT equipment, and it is possible to provide technical explanation using a video, etc. and inspection of an actual thing and an object using a document camera.

C. In addition to the above A and B, a circuit trial examination is another possibility as a place to conduct oral proceedings where a panel visits every region of the country.

(2) Pre-meeting of oral proceedings and a notice of proceeding matters

A. A chief administrative judge, an administrative judge panel, and a trial clerk have a pre-meeting on how to proceed the oral proceedings including a brief explanation of the case, major issues, a point for recording, etc.

B. For smooth conduct of productive proceedings, a panel notifies the parties concerned of the matters to be examined on the proceeding date by a notice of proceeding matters (→ 33-08) beforehand, and based on that, encourages preparation of oral proceeding statement brief, etc. A notice of

proceeding matters is, in principle, sent after the date of oral proceeding is fixed, but for allowing a sufficient preparation period, even before the date is fixed, the details of the notice sent afterwards is provided by a facsimile or e-mail.

(3) Proceeding open to the public

A. The oral proceedings should be open to the public for enhancing the fairness of a trial. However, if the disclosure is likely to be contrary to public order and morality, or if a trade secret obtaining a party concerned or an intervener is likely to become public, the oral proceedings is not open to the public.

B. In each case, after the case adopts oral proceedings, a panel decides whether the oral proceedings should be open to the public.

C. A date and place of oral proceedings are publicly notified for enhancing transparency.

(4) Preparation of a trial clerk

A. A schedule of trials in court for each month is notified on a bulletin board in the lobby, the first floor of the JPO. It is also notified on the JPO's website.

B. In the morning of the date of oral proceedings, a trial court case of the day is displayed on a bulletin board at the front of each trial court.

2. From Opening of Court to Adjourning Court

(1) Opening of court

After a court attendant calls the case, a chief administrative judge shall confirm those who appear in court such as parties concerned and agents individually. A trial clerk may also call the case (→ 07-02).

(2) Statement of a demandant

A. Purport and reasons of demand

A chief administrative judge invites a demandant or his/her agent to state

a purport or reasons of demand (Oral Proceedings Statement Brief → 33-07).

- (A) If a reason for demand is the same as described in a written demand for trial, it is not necessary to make a statement. There is no need to make a ritual statement such as “we state according to the written demand for trial”.
- (B) A demandant or his/her agent may state what he/she would like to emphasize and to organize for making statements on the purport and reasons for demand.
- (C) Matters described in a written demand for trial, a refutation, an oral proceedings statement brief, etc. become a basis of trial decision even they are not stated in court.

B. It is preferable to explain a point of issue.

C. The art of the present case, background of the art, actual conditions of product transactions may be explained.

(3) Statement of a demandee

A. Purport and reasons of reply

A chief administrative judge, then, invites a demandee or his/her agent to state a purport or reasons of reply (Oral Proceedings Statement Brief → 33-07).

- (A) If a reason for reply is the same as described in a written reply, it is not necessary to make a statement. There is no need to make a ritual statement such as “we state according to the written demand for trial”.
- (B) A demandee or his/her agent may state what he/she would like to emphasize and to organize for making statements on the purport and reasons for reply.
- (C) Matters described in a written reply, an oral proceedings statement brief, etc. become a basis of trial decision even they are not stated

in court.

B. A point of issue may be explained.

C. The art of the present case, background of the art, actual conditions of product transactions may be explained.

(4) Refutation and re-reply

Furthermore, if there is a refutation of a demandant or his/her agent against the reply of a demandee or his/her agent, or if there is a reply of a demandee or his/her agent against the refutation of the demandant or his/her agent, a chief administrative judge invites them to state such a refutation and reply.

(5) Examination of a chief administrative judge

A chief administrative judge orders to explain unclear statements (descriptions) on a purport and reasons for demand of the demandant, and a purport and reasons for reply of the demandee.

(6) Statement of the other party

A chief administrative judge asks a statement of opinion of the other party to the explanation.

(7) Handling of evidence

A chief administrative judge asks whether confirmation and establishment of the original of evidence are approved, if necessary (→ 34-01).

(8) Decision of acceptance or rejection of witness in court

If there is a request of a witness in court, an acceptance or rejection of the request is determined by consultation.

(9) Conclusion of the proceedings, notice of specifying a date or document proceedings

It is notified a conclusion of the proceedings (it is preferable that oral proceedings are possibly concluded only once), designation of the next date or continuation date, or document proceedings for further proceedings if that is the case. When it is necessary to submit any documents, it is preferable

that the time limit is designated in a shortest period (the standard designated time → 25-01.2) under the agreement of parties concerned.

(10) Examination of evidence

When an examination of evidence is also conducted on the date of oral proceedings, it may conduct before a statement of parties concerned.

When an examination of witness (→ 35-05) is conducted, it follows the order of 35-04.

(11) Statement of opinion on the results of examination of evidence

A chief administrative judge invites both parties concerned to make a statement of opinion.

(12) Adjourning court

A chief administrative judge confirms matters to be described in a trial record (→ 33-04) with parties concerned after the case is fully discussed.

In principle, a chief administrative judge notifies that the oral proceedings are concluded or reach the point at which a decision on the trial can be rendered of the case, and prepares the trial record accordingly. In an exceptional case, a date of next oral proceedings is designated, a submission date of document to be submitted is designated, or document proceedings are notified.

A chief administrative judge declares adjourning court.

(Revised December 2020)