

1 **Chapter 16**

2 **Iowa Rules of Electronic Procedure**

3 . . . .

4 **Rule 16.412 Exhibits.**

5  
6 **16.412(1)** *Maintenance of hearing and trial exhibits.*

7 a. Exhibits offered at a hearing or a trial must be maintained electronically  
8 for purposes of the record.

9 b. Exhibits offered at a hearing or a trial that cannot reasonably be  
10 maintained electronically may be maintained nonelectronically for purposes of  
11 the record.

12 c. Prior to offering an exhibit, the submitting party must redact the exhibit  
13 pursuant to division VI of this chapter (Personal Privacy Protection), except as  
14 provided in rule 16.601(3) (exhibits).

15  
16 **COMMENT:**

17 ~~Rule 16.412(1). EDMS is designed to store or maintain in an electronic form as many exhibits as possible.~~  
18 ~~Rule 16.412 does not specify when exhibits should be converted to electronic form and decisions on when~~  
19 ~~to do so will need to be made on a case-by-case basis. Examples of exhibits that may not be reasonably~~  
20 ~~maintained electronically include physical exhibits, large or original photographs, and blueprints.~~

21  
22 **16.412(2)** *Electronic submission of proposed exhibits prior to hearing or*  
23 *trial.*

24 a. A party ~~may~~ must submit proposed exhibits to the court prior to the  
25 hearing or trial in which the party intends to offer the proposed exhibits for  
26 admission into evidence. Upon submission through EDMS, each proposed  
27 exhibit will receive a file stamp. Case attorneys and self-represented case parties  
28 will have access to proposed exhibits. Exhibits offered or admitted into evidence  
29 are subject to the public access and personal privacy rules of divisions V and VI  
30 of this chapter.

31 b. The following exceptions apply to the requirement of submitting  
32 proposed exhibits electronically prior to hearing or trial.

33 (1) Parties in any criminal case must submit proposed exhibits pursuant  
34 to this rule if the exhibit has been disclosed to the opposing party through the  
35 discovery process.

1           (2) When a party could not reasonably anticipate use of an exhibit or when  
2 the exhibit is used as rebutting evidence, a party may be excused from  
3 electronically submitting the exhibit as a proposed exhibit prior to the hearing  
4 or trial.

5           (3) A party is excused from electronically submitting proposed exhibits  
6 prior to a hearing or trial if the party is excused from electronic filing under rule  
7 16.302(2), 16.302(3), 16.701(3), or 16.801(2)(b).

8           c. Each proposed exhibit must be submitted as a separate docket event  
9 document.

10           d. The filer must insert a description of the proposed exhibit into the  
11 “Additional Text” field. When an exhibit is filed in multiple parts, the filer must  
12 insert a description for each part into the “Additional Text” field.

13           e. An exhibit that exceeds the required size limit for a submission as posted  
14 in the electronic filing section of the Iowa Judicial Branch website must be  
15 separated into parts of an acceptable size, and each part must be filed as a  
16 separate attachment under the same docket event separately.

17           ef. At the conclusion of the hearing or trial or hearing, the court, except in  
18 juvenile court proceedings, shall must enter an exhibit maintenance order that  
19 states which proposed exhibits were offered or and which were admitted into  
20 evidence. If no party files an objection to the exhibit maintenance order within  
21 10 business days, the clerk of court thereafter may delete proposed exhibits that  
22 are not listed in the order.

23  
24 **COMMENT:**

25 Rule 16.412(2). Access to proposed exhibits filed before trial is restricted to self-represented case parties,  
26 attorneys indexed to the case, and the court. ~~The court may ask attorneys who have filed proposed exhibits~~  
27 ~~to bring paper copies to trial for the court and jury. If the court requires a party to bring paper copies to~~  
28 ~~trial for the court and jury, the paper copies must be marked as a copy.~~ If an exhibit in a public case  
29 contains protected information, the party offering it, or the party filing it as proposed, must redact the  
30 protected information before the exhibit becomes public. Rule 16.601(3) allows the submitting party 14  
31 days to redact the exhibit before it becomes public. Admitted exhibits that a party has not identified as  
32 containing protected information generally become public. Exhibits submitted in paper in all proceedings,  
33 including proceedings listed in rules 16.412(3) and 16.412(6), may remain in paper unless the matter is  
34 appealed, at which time the clerk of court will scan the exhibits. Examples of descriptions in the “Additional  
35 Text” field for proposed exhibits include “Exhibit 1—Contract” or “Exhibit A—Letter from Jane Doe.”  
36 Examples of “Additional Text” field descriptions for exhibits filed in multiple parts include “Exhibit 1.1—  
37 Contract (Part 1)” or “Exhibit 1.2—Contract (Part 2).”  
38

1           **16.412(3)** *Exhibits offered at a hearing or a trial that were not submitted*  
2 *as proposed exhibits.* When offered or admitted at hearing or trial, an exhibit that  
3 can reasonably be maintained electronically, but that was not previously  
4 submitted as a proposed exhibit, will remain nonelectronic unless the court  
5 orders otherwise. Upon an appeal in the case, the clerk of court will  
6 electronically file the exhibit.

7           **16.412(4)** *Index of nonelectronic exhibits.* When a party offers one or more  
8 exhibits that will be maintained nonelectronically under rule 16.412(1)(b), ~~(c), or~~  
9 ~~(d)~~, the party must electronically file an index of the exhibits. The index should  
10 list and briefly describe the nonelectronic exhibits.

11           **16.412(5)** *Exhibits to pleadings.* Under rule 16.311(1), evidentiary  
12 material that is submitted with or attached to a motion or other pleading must  
13 be filed as an attachment and should not be submitted as a proposed exhibit.

14           **16.412(6)** *Submission of proposed exhibits in small claim, simple*  
15 *misdemeanor, traffic, and municipal infraction cases.* Proposed exhibits may be  
16 but are not required to be submitted electronically in small claim, simple  
17 misdemeanor, traffic, and municipal infraction cases. The submitting party  
18 must redact proposed exhibits, whether electronic or nonelectronic, pursuant to  
19 division VI of this chapter prior to submitting the proposed exhibits. Upon  
20 initiation of an appeal in the case types included in this rule, the clerk of court  
21 will convert exhibits admitted in nonelectronic form to an electronic form when  
22 possible.

23           **16.412(7)** *Submission of video and audio exhibits.*

24           *a. Video exhibits.* Video exhibits must be submitted in the following format:  
25 .avi, .flv, .mpeg, .mp4, .wms, or ~~.mov.~~ ~~Or, .mov;~~ or the video exhibit must be  
26 submitted with a player application that allows the exhibit to be viewed. Video  
27 exhibits cannot be electronically filed but may be submitted to the court on a  
28 media storage device such as a CD, DVD, or flash drive. The media storage  
29 device must contain only the exhibit or exhibits and any required player  
30 application and no other files or applications. Upon initiation of an appeal, the  
31 clerk of court will provide any video exhibits to the appellate court.

32           *b. Audio exhibits.* Audio exhibits must be submitted in the following  
33 format: .wav, .mp3, or ~~.wma.~~ ~~Or, .wma;~~ or the audio exhibit must be submitted  
34 with a player application that allows the exhibit to be heard. Audio exhibits  
35 cannot be electronically filed but may be submitted to the court on a media

1 storage device such as a CD, DVD, or flash drive. The media storage device must  
2 contain only the exhibit or exhibits and any required player application and no  
3 other files or applications. Upon initiation of an appeal, the clerk of court will  
4 provide any audio exhibits to the appellate court.

5 *c. Video and audio exhibits in an appeal to district court.* Transcribed  
6 portions of a video or audio exhibit may be included in documents filed in an  
7 appeal to the district court, provided the transcribed material was properly  
8 admitted in the underlying court case. The parties must not embed or include  
9 actual audio or video in any documents filed in an appeal to the district court.

10 **16.412(8)** *Disposition of scanned exhibits.* Exhibits for which the clerk of  
11 court is responsible for scanning will be disposed of according to the  
12 requirements of the Iowa Rules of Civil Procedure and Iowa Rules of Criminal  
13 Procedure.

14 **16.412(9)** *Mistrial.* In the event of mistrial, the parties, the court, and the  
15 clerk of court must comply with all of the following.

16 *a. Exhibit maintenance order.* The court, except in juvenile court  
17 proceedings, must enter an exhibit maintenance order that states which  
18 proposed exhibits were offered and which were admitted into evidence. If no  
19 party files an objection to the exhibit maintenance order within 10 business days  
20 from its filing, the clerk of court may delete proposed exhibits that are not listed  
21 in the order.

22 *b. Index of nonelectronic exhibits.* When a party offers one or more exhibits  
23 that will be maintained nonelectronically under rule 16.412(1)(b), the party must  
24 within 10 business days from the offer electronically file an index of the exhibits.  
25 The index must list and briefly describe the nonelectronic exhibits.

26 *c. Clerk of court to retain custody of exhibits.* The clerk of court will retain  
27 custody of all exhibits offered or admitted during the trial, whether maintained  
28 electrically or nonelectronically.

29 *d. Release of nonelectronic exhibits for use during retrial.* Nonelectronic  
30 exhibits offered or admitted during the trial may not be released for use in a  
31 retrial except upon order of the court. The order must identify each  
32 nonelectronic exhibit to be released by number or letter and by a brief  
33 description, and the order shall specify to whose custody the exhibit is released.

34 *e. Nonelectronic exhibits not offered or admitted during retrial.* For  
35 nonelectronic exhibits released pursuant to this rule that are not offered or

1 admitted during the retrial, the party to whom the exhibits were released must  
2 immediately return the exhibits to the clerk of court.

3 **16.412(10) Criminal codefendant's trial.** In the event nonelectronic  
4 exhibits are offered or admitted during a trial and then are needed for use in a  
5 codefendant's trial, the parties, the court, and the clerk of court must comply  
6 with the following provisions.

7 *a. Clerk of court to retain custody of exhibits.* The clerk of court will retain  
8 custody of all exhibits offered or admitted during the first defendant's trial,  
9 whether maintained electronically or nonelectronically.

10 *b. Release of nonelectronic exhibits for use during codefendant's trial.*  
11 Nonelectronic exhibits offered or admitted during the first defendant's trial may  
12 not be released for use in a codefendant's trial except upon order of the court.  
13 The order must identify each nonelectronic exhibit to be released by number or  
14 letter and by a brief description, and the order must specify to whose custody  
15 the exhibits are released.

16 *c. Nonelectronic exhibits not offered or admitted during codefendant trial.*  
17 For nonelectronic exhibits released pursuant to this rule that are not offered or  
18 admitted during the codefendant's trial, the party to whom the exhibits were  
19 released must immediately return the exhibits to the clerk of court.

20 **16.412(11) New trial.** If nonelectronic exhibits are offered or admitted  
21 during trial, and the district or appellate court has ordered a new trial, the  
22 parties and the court must comply with the following provisions.

23 *a. Clerk of court to retain custody of exhibits.* The clerk of court will retain  
24 custody of all exhibits whether maintained electronically or nonelectronically  
25 that were offered or admitted during the prior trial.

26 *b. Release of nonelectronic exhibits for use during new trial.* Nonelectronic  
27 exhibits offered or admitted during the prior trial may not be released for use in  
28 the new trial except upon order of the court. The order must identify each  
29 nonelectronic exhibit to be released by number or letter and by a brief  
30 description, and the order must specify to whose custody the exhibits are  
31 released.

32 *c. Nonelectronic exhibits not offered or admitted during new trial.* If any  
33 nonelectronic exhibits released pursuant to this rule are not offered or admitted  
34 during the new trial, the party to whom the exhibits were released must  
35 immediately return the exhibits to the clerk of court.