

### **35.245 Depositions.**

- (1) At any time after charges have been signed as provided in KRS 35.150, any party may take oral or written depositions unless the military judge hearing the case, or, if the case is not being heard, an authority competent to convene a court-martial for the trial of those charges forbids it for good cause.
- (2) The party at whose instance a deposition is to be taken shall give to every other party reasonable written notice of the time and place for taking the deposition.
- (3) Depositions may be taken before and authenticated by any military or civil officer authorized by the laws of the state or by the laws of the place where the deposition is taken to administer oaths.
- (4) A duly authenticated deposition taken upon reasonable notice to the other parties, so far as otherwise admissible under the rules of evidence, may be read in evidence or, in the case of audiotape, videotape, digital image or file, or similar material, may be placed in evidence before any military court, if it appears:
  - (a) That the witness resides or is beyond the state in which the court is ordered to sit, or beyond one hundred (100) miles from the place of trial or hearing;
  - (b) That the witness, by reason of death, age, sickness, bodily infirmity, imprisonment, military necessity, nonamenability to process, or other reasonable cause, is unable or refuses to appear and testify in person at the place of trial or hearing; or
  - (c) That the present whereabouts of the witness is unknown.

**Effective:** June 25, 2013

**History:** Amended 2013 Ky. Acts ch. 32, sec. 50, effective June 25, 2013. -- Amended 1970 Ky. Acts ch. 56, sec. 35. -- Created 1954 Ky. Acts ch. 99, sec. 48, effective July 1, 1954.