

## **TENTH CIRCUIT PHASE 2 OPERATIONAL PLAN (COVID-19)**

The Florida Supreme Court entered *In re: COVID-19 Public Health and Safety Precautions for Operational Phase Transitions*, Fla. Admin. Order No. AOSC20-32, Amendment 3 (August 12, 2020) (hereinafter “Third Amended AOSC20-32”) in response to the COVID-19 health emergency. The order requires the 20 circuits that make up Florida’s circuit courts to file an operational plan with the General Services Unit of the Office of State Courts Administrator in order to transition through the phases of court operations that are established in the order. This circuit’s operational plan is based, with minor variations, on the format of the *Requirements, Benchmarks, and Guidelines Governing Operational Phase Transitions* that was submitted to the Florida Supreme Court by the Workgroup on the Continuity of Court Operations and Proceedings During and After COVID-19 on August 2, 2020.

This operational plan is developed to transition the Court from Phase 1 court operations where “in-person contact is inadvisable, court facilities are effectively closed to the public, and in-person proceedings are rare” to Phase 2 court operations in which “limited in-person contact is authorized for certain purposes and/or requires use of protective measures”. *In re: Comprehensive COVID-19 Emergency Measures for the Florida State Courts*, Fla. Admin. Order No. AOSC20-23, Amendment 6, 2 (August 12, 2020) (hereinafter “Sixth Amended AOSC20-23”).

This operational plan was promulgated with extensive input from judges, court staff, justice system partners and local public health officials in an effort to develop one plan for the entire circuit.<sup>1</sup> Each county that makes up the circuit may transition to Phase 2 at different times upon reaching the benchmarks discussed below. This Operational Plan will operate in tangent with the Court’s emergency COVID-19 administrative orders, and any subsequent amendments to such administrative orders. Further, this Operational Plan will be amended as necessary due to evolving health information, revised protocols, and unforeseen circumstances.

### **BENCHMARK CRITERIA**

Pursuant to Third Amended AOSC20-32, *Covid-19 Workgroup-Court Operations Subgroup Recommendations*, the following benchmarks must be met for the Court to move from Phase 1 court operations to Phase 2 court operations:

1. There must be no confirmed or suspected cases of COVID-19 in the court facility within a 14-day period. If there have been confirmed or suspected cases in the court facility, deep cleaning and disinfecting of exposed areas have been completed and applicable employees have been directed to self-isolate or quarantine.
2. There must be no local or state restrictive movement or stay-at-home orders that limit the ability of individuals to leave their homes during the daytime.

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<sup>1</sup> "In the case of a multi-use building, these requirements and guidelines are not intended to govern activities inside of the separate offices of other constitutional officers." AOSC20-32, Amendment 3, f.n. 14., *Covid-19 Workgroup-Court Operations Subgroup Recommendations*, at 6.

3. There must be improving COVID-19 health conditions over a 14-day period in the community. To meet this benchmark, courts must look at the daily number of new positive COVID-19 cases, the daily percentage of positive tests based on the total number of tests, the daily number of hospitalizations for COVID-19, and the daily number of emergency department visits for COVID-19-like illness. OSCA will maintain necessary data on its intranet site that will be updated weekly.
4. There must be sufficient availability of COVID-19 tests to meet community needs.
5. The court must consult with other building occupants (multi-tenant courthouses or buildings) and with justice system partners.

## **PREPARATION TO MOVE TO PHASE 2**

The Court began operating in Phase 1 on March 13 in response to the Florida Supreme Court's *In re: COVID-19 Emergency Procedures in the Florida State Courts*, Fla. Admin. Order No. AOSC20-13 (March 13, 2020). Local Phase 1 procedures were codified on March 19, 2020, in *In re: COVID-19 Emergency Court Operations Procedures*, Tenth Cir. Admin. Order No. 1-53.0 (March 19, 2020) (hereinafter "AO 1-53.0") (AO 1-53.0 was clarified on March 20, 2020, when the Court entered *In re: Attendance of Persons at Essential and Critical Court Proceedings During the COVID-19 Emergency*, Tenth Cir. Admin. Order No. 1-54.0). To date, the Court has amended the administrative order on five occasions.

On May 29, 2020, in preparation for the Court's eventual move to Phase 2, and to further mitigate the spread of COVID-19 and the effects of such on the Court and its participants during Phase 1, the Court entered AO 1-53.3, *In re: COVID-19 Emergency Court Operations Procedures* (hereinafter "AO 1-53.3"). In AO 1-53.3, the Court instituted the face mask and health screening requirements originally outlined in *In re: COVID-19 Public Health and Safety Precautions for Phase 2*, Fla. Admin. Order No. AOSC20-32, Amendment 1 (May 21, 2020), in Polk County court facilities. Those requirements went into effect on June 1, 2020.

On June 12, 2020, the Court entered AO 1-53.4, *In re: COVID-19 Emergency Court Operations Procedures* (hereinafter "AO 1-53.4"). AO 1-53.4 made the face mask and health screening requirements mandatory in Hardee, Highlands, and Polk Counties. The requirements went into effect in Hardee County on June 15, 2020 and will be effective in Highlands County when the authorities permit occupancy of the Highlands County Courthouse following recent emergency building repairs or immediately if a temporary courthouse facility is established. AO 1-53.4 also added additional health and safety screening requirements for the Bartow Courthouse due to a request by the Public Defender's Office and agreed to by the Clerk, State Attorney, and Court Security Officer.

Most recently, the Court entered AO 1-53.5, *In re: COVID-19 Emergency Court Operations Procedures* (hereinafter "AO 1-53.5") to revise dates and references in the Order to be consistent with the Florida Supreme Court orders and directives.

With regard to the benchmark criteria, the Court states:

1. All of the building partners have agreed that if there is a confirmed or suspected case of COVID-19 in their office they will notify the other building partners and conduct deep cleaning and disinfection of exposed areas and require the applicable employee to self-isolate or quarantine.
2. There are no local and state restrictive movement or stay-at-home orders that limit the ability of individuals to leave their homes during the daytime.
3. On August 24, 2020, the chief judge conducted an analysis pursuant to Appendix A of Third Amended AOSC20-32 and established that each of the three counties of the Tenth Judicial Circuit may advance to the next phase after meeting other benchmarks.
4. There is sufficient availability of COVID-19 tests to meet community needs, as confirmed by local health officials.
5. In preparation to move to Phase 2, the Court has identified its partners in each courthouse and branch facility and began open communication with its health, justice, and building partners through phone, e-mail, and remote technology (videoconferencing and teleconferencing). The building partners are identified below in the section titled “Building Partners”.

### **BUILDING PARTNERS / OCCUPANTS**

The Court has and will continue to collaborate with building occupants and law enforcement regarding health, safety, cleaning and disinfecting, and related issues. The Court has and will continue to collaborate with building occupants and law enforcement regarding health, safety, cleaning, disinfecting, and related issues. The Court has had several remote conferences, telephone calls, and e-mail exchanges concerning these issues with the building occupants.<sup>2</sup> Other meetings were held with building partners in the other court facilities on additional dates.

#### Hardee County Courthouse Building Partners:

- Clerk of Court
- County Manager/Facilities/Maintenance
- County Probation
- Guardian ad litem Office
- Sheriff

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<sup>2</sup> Meeting dates with the Bartow courthouse building partners prior to June 19, 2020, include, but are not limited to, May 11, 2020, May 13, 2020, May 15, 2020, May 28, 2020, and June 11, 2020 (a meeting with limited building partners was held on August 5, 2020). This information is provided to assure the legal community and the public that such collaboration concerning the health and safety precautions has occurred. The Court is grateful for the work of the elected officials and agency leaders who have hospitably collaborated to work through the difficult issues presented by the health and safety precautions and who have worked so hard to protect the public confidence in the courts.

Highlands County Courthouse Building Partners:

- Clerk of Court
- County Manager/Facilities/Maintenance
- Heart of Florida Legal Aid Society
- Sheriff

Polk County Courthouse Building Partners:

- Clerk of Court
- County Manager/Facilities/Maintenance
- Public Defender
- Sheriff
- State Attorney

Polk County Lakeland Government Center Building Partners:

- Clerk of Court
- County Manager/Facilities/Maintenance
- County Probation
- Healthy Families
- Property Appraiser
- Public Defender
- Sheriff
- State Attorney
- Supervisor of Elections

Polk County NE Government Center Building Partners:

- Clerk of Court
- County Manager/Facilities/Maintenance
- County Probation
- Healthy Families
- Property Appraiser
- Public Defender
- Sheriff
- State Attorney
- Supervisor of Elections

**REMOTE HEARINGS**

This circuit has implemented remote technology resources, including but not limited to, teleconferencing and videoconferencing. These resources will enable the Court to provide the public safe and secure access to the courts and will allow judges to conduct hearings in a safe and secure environment. Virtual courtrooms have been established in multiple locations throughout

the circuit to enable critical essential, and non-essential hearings to be conducted during Phase 1 court operations while minimizing entry into the courthouse(s). Judges and attorneys have embraced the use of these technology resources during this trying time. The use of this same technology will be critical as the court moves to Phase 2 and establishes the groundwork for hearing more non-essential hearings. Therefore, during Phase 2, proceedings will be conducted remotely as set forth by the Florida Supreme Court. “[R]emote conduct’ or ‘conducted remotely’ means the conduct, in part or in whole, of a court proceeding using telephonic or other electronic means.” Sixth Amended AOSC20-23 at 3.

### **COURT EMPLOYEES AND REMOTE WORK<sup>3</sup>**

- Court employees will continue to work remotely as long as their work can be completed remotely.
- To limit the number of court employees in an office space, some employees may observe a hybrid schedule of working remotely for part of the workweek and in the office for part of the workweek.
- An effort will be made to return those court employees who cannot work remotely to the courthouse so that they may be productive. Administrative leave is authorized for employees who are unable to return to work in the courthouse due to limitations on in-person proceedings and who are unable to work partially or completely remotely.
- Department directors will be instructed to provide a detailed workplan for the employees in their department and submit it to the Administrative Office of the Court for review and approval.
- Court employees working in any court facility must self-check for symptoms of COVID-19 as required by AO 1-53.5, or as subsequently amended.
- Court employees must wear face masks at all times throughout any court facility. Employees with private offices, or who are in offices with ample room to socially distance, may remove their masks in their offices; otherwise, they must wear a mask at their desk. Masks will be provided at no cost to employees who do not have one.
- Court employees must socially distance in public and non-public areas of the courthouse, including but not limited to, workspaces, courtrooms, and hearing rooms.

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<sup>3</sup> For purposes of this Section, the term “employee” includes Court Administration employees, judicial assistants, and judges.

## **HUMAN RESOURCES POLICY<sup>4</sup>**

- If a judge, judicial assistant, or other court employee have COVID-19 symptoms; have been exposed to persons who have tested positive for COVID-19 or who is exhibiting symptoms; have taken a COVID-19 test due to symptoms or exposure to someone who has tested positive for COVID-19; or have tested positive for COVID-19, they must notify as follows:
  - Judges must notify the Chief Judge.
  - Judicial assistants must notify the judge they work for and the Trial Court Administrator.
  - Other court employees must notify the Trial Court Administrator.
- Once the Chief Judge or the Trial Court Administrator is notified by a judge, judicial assistant, or other court employee as directed above, the Trial Court Administrator will ask the judge, judicial assistant, or other court employee for a list of court employees and building partners they may have had contact with while symptomatic. The Trial Court Administrator will then notify the court employees who may have been exposed and building partners whose employees may have been exposed. The Trial Court Administrator will not identify the judge, judicial assistant, or other court employee when notifying court employees and building partners of possible exposure.
- If any court employee develops COVID-19 symptoms while at work, they will be instructed to go home and consult with a health provider.

### **BUILDING ENTRY PROCEDURES / HEALTH AND SAFETY SCREENING**

Building Entry Locations: To facilitate the health screenings and temperature checks with the limited resources available to the Court, the following building entry procedures apply:

- Hardee County: Attorneys, jurors, vendors, and the public entering the Hardee County Courthouse for a hearing will be directed to the specific site of the hearing. To the extent that this provision conflicts with Administrative Order Number 1-33.2 or a subsequent amendment of that Administrative Order, this provision prevails.
- Highlands County: Attorneys, jurors, vendors, and the public may enter the courthouse in Highlands County on Commerce Avenue unless directed to an alternative entrance. To the extent that this provision conflicts with Administrative Order Number 1-20.11 or a subsequent amendment of that Administrative Order, this provision prevails.

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<sup>4</sup> For purposes of this Section, the term “employee” includes Court Administration employees, judicial assistants, and judges.

- Polk County: In Polk County, attorneys, jurors, vendors, and the public may only enter the Bartow courthouse through the Juvenile Division entrance on the west side of the building or through the Church Street entrance on the north side of the building. To the extent that this provision conflicts with Administrative Order Number 1-12.13 or a subsequent amendment of that Administrative Order, this provision prevails.

WH/Lakeland branch court facilities may continue to us regular entrance.

- Employees and officials who work at any courthouse may continue to use regular entrances. Winter Haven/Lakeland branch court facilities may continue to use regular entrance.

#### Health and Safety Screening:

- Temperatures will be taken of all persons entering through the above building entry locations, including employees who choose to enter through these entrances, to determine if they have a fever. Everyone entering through these locations will also be asked the following health screening questions to determine if they have symptoms of COVID-19:

Question 1: Do you have any of the following symptoms (excluding those due to a known medical reason other than COVID-19)? cough, shortness of breath or difficulty breathing, fever or chills, fatigue, muscle or body aches, headache, sore throat, new loss of taste or smell, congestion or runny nose, nausea or vomiting, or diarrhea.

Question 2: Are you currently awaiting the results of a test to determine if you have COVID-19 based on symptoms or suspected exposure?

Question 3: Are you under instructions to self-isolate or quarantine due to COVID-19?

Question 4: Within the past 14 days, have you had close contact with someone with a COVID-19 diagnosis or who is awaiting test results for COVID-19 based on symptoms or suspected exposure? (Note: Close contact is defined as contact that is less than 6 feet for 15 minutes or more, irrespective of whether a cloth face covering or respiratory PPE was worn.)

Third Amended AOSC20-32, *Covid-19 Workgroup-Court Operations Subgroup Recommendations*, at 8-9.

“A person who refuses the health screening, who has a fever of 100.4 degrees or greater, who answers affirmatively to any of the symptoms in Question 1, or who answers affirmatively to Question 2, 3, or 4 [of the health survey] shall not be allowed to enter the [courthouse] facility.” *Id.* at 8. Courthouse security personnel will ask the person their name, the purpose of their visit to the courthouse, and their contact information. Courthouse security will submit this information to the Office of the Court Administrator (hereinafter “OCA”). The OCA will let the applicable office or judge know that the person was denied access to the Court and will provide the person’s contact information so that

the applicable office or judge may reschedule or provide alternative means of access to the individual if necessary, including, but not limited to, videoconferencing or teleconferencing.

“Law enforcement personnel, working within the courthouse or acting in their official capacity visiting the courthouse, whose agency has a policy that requires self-checking for symptoms and remaining home if they present symptoms are not subject to the health screening described [above].” AOSC20-32, Amendment 3, *Covid-19 Workgroup-Court Operations Subgroup Recommendations*, at 7. In the event a law enforcement officer is entering the Polk County Courthouse (Bartow) to attend a jury trial, the officer may contact Lt. Kevin McGraw of the Polk County Sheriff’s Office for instructions regarding entering the courthouse using the West entrance so as to avoid using the same entrance as a juror.

“Other employees working within a courthouse, who are authorized to enter the courthouse with a security badge or other means that allows entry without the security screening applicable to the general public, are not subject to the health screening described [above] if the employee’s employing agency has a policy that requires self-checking for symptoms and remaining home if they present symptoms.” AOSC20-32, Amendment 3, *Covid-19 Workgroup-Court Operations Subgroup Recommendations*, at 7-8. Each building partner as set forth herein may avoid the health screening of the general public if the employing agency has a policy that requires self-checking for symptoms of COVID-19 and remaining home if they present symptoms.

- Employees and officials who work in the courthouse will do a self-check health assessment every day prior to arrival at the courthouse. Should they have COVID-19 symptoms they must remain home and should consult a medical professional.
- Additional Health and Safety Screening for Officials, Personnel Working Within a Courthouse, and Law Enforcement Personnel: Any person not subject to the health screening described above must not enter the courthouse if currently awaiting the results of a COVID-19 test based on symptoms or exposure.
- Inmates or Detainees from Jail and Juvenile Facilities: Inmates and detainees in jail or juvenile facilities will continue to have available the remote technology at the jails and courthouses. If a judge finds that an inmate or detainee’s presence is necessary for an in-person proceeding, “[a]t a minimum, if inmates and detainees do not undergo a health screening and temperature check prior to being transported to the courthouse, they are subject to the health screening and temperature check requirements that are applicable to members of the public for entry into the courthouse.” AOSC20-32, Amendment 3, *Covid-19 Workgroup-Court Operations Subgroup Recommendations*, at 9.

## **SOCIAL DISTANCING**

Social distancing guidelines (current guidance is to remain at least six feet from other people) as recommended by the Centers for Disease Control and Prevention (“CDC”) will be enforced to the extent possible in each court facility. This includes all public and non-public areas

in the courthouses. Furniture will be relocated and/or removed, and hearings will be staggered to assist citizens and courthouse occupants with the practice of social distancing. The Court will continue to review CDC guidance and consult with local medical professionals regarding the Court's social distancing guidelines for use in courtrooms, waiting areas, jury boxes, jury deliberation rooms, elevators, hallways, bathrooms and office space.

Signage is in place to instruct all courthouse occupants and visitors and parties/litigants of the importance of social distancing while in the courthouse or waiting to enter the courthouse.

### **HYGIENE PROTOCOLS AND PERSONAL PROTECTIVE EQUIPMENT (PPE)**

- Signage will be strategically placed in public and private areas that emphasizes the importance of hygiene protocol.
- Hand sanitizers are readily available throughout the courthouses.
- Face masks will be required for everyone entering the courthouse with no exceptions. Any visitors who do not have a face mask will have one provided to them by the Court at no cost. These are provided at the entrances to the court facilities.
- Gloves are available for Court employees and for use in hearing rooms and courtrooms.
- A limited number of face shields are available and will be provided to individuals in a court hearing if the parties and Court determine that facial expressions or features must be observed or where audio is hampered and jeopardizes the creation of an accurate record.

### **JUDGE AND COURT EMPLOYEE TRAINING**

The Chief Judge and the Trial Court Administrator regularly e-mail judges and court employees regarding changes to building and work processes. The OCA will organize other training and technical assistance on changes necessitated by this operational plan if needed by judges and court employees. Trainings have been provided to judges and court employees on using remote technology.

### **VULNERABLE POPULATIONS**

The Court will continue to use remote technology to reduce the need for vulnerable populations to appear in-person at courthouse facilities. Other accommodations will be provided when feasible and as authorized by law. Vulnerable individuals include people at increased risk for severe illness and people who need to take extra precautions as identified by the CDC. See <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html>.

## **COURTHOUSE FACILITY AND SECURITY**

### Exterior:

- Building entrances are marked by signs, where possible, at six-foot intervals to remind visitors and employees of social distancing.
- Other signage: Four health screening questions, temperature check requirement, and face mask requirement (Spanish and English)
- See Building Entry Procedures / Health and Safety Screening Section for entry procedures for each county.

### Interior:

- Polk County Courthouse: directional signs and six-foot markers have been placed down the hallways on the first floor.
- Furniture has been relocated and/or removed, and hearings will be staggered to assist citizens and courthouse occupants with the practice of social distancing.
- Courtrooms and Hearing Rooms: social distancing signs have been placed outside the entrances.
- Elevator and Restrooms: social distancing signs placed outside the entrances.
- Sneeze guards will be installed for Problem Solving Court, Pretrial Services, and the Drug Court Lab. Sneeze guards have already been installed at counters in the Polk County Clerk of Court's Office.

### Security:

- Court Bailiffs and local Sheriff Deputies are granted the authority to screen and eject persons from courtrooms, hearing rooms, courthouses, or court facilities who refuse to follow health and safety requirements and guidelines, including, but not limited to, wearing face masks and socially distancing.

## **CLEANING AND DISINFECTING**

- Hand sanitizer is available in public areas of the courthouses.
- Courtrooms and public areas are cleaned daily by the cleaning staff provided by each respective county.
- Offices located in the courthouses are also cleaned daily by the cleaning staff; however, court employees are responsible for cleaning and disinfecting their own immediate work areas.

- Additional cleaning will be necessary at times in hearing rooms and courtrooms to wipe down solid surfaces touched during in-person hearings or in the event someone begins showing COVID-19 symptoms. In anticipation of those circumstances, cleaning supplies and disinfecting products will be available throughout the courthouse for use in hearing rooms and courtrooms. These supplies will be replaced when necessary.
- Judges and court employees will come to a central location to retrieve cleaning and disinfectant products when necessary.
- The below cleaning protocols have been established for all courthouse facilities with the assistance of the county manager of each county within the circuit. The cleaning staff in each courthouse facility will:
  1. Pre-clean all areas with mild soap
  2. All door handles and high touched areas of door will be wiped down multiple time daily. (Dependent of Traffic)
  3. All light switch plates we be wiped down multiple times daily (Dependent of Traffic)
  4. All lobby areas will be sanitized multiple times daily. (i.e. chairs, counter tops, etc.) (Dependent on Traffic).
  5. Desk and chairs will be wiped down dependent all items moved. Items on desks cannot be touched by cleaners.
  6. Restrooms will be detailed multiple times daily (i.e. toilet seats, faucet, dispensers, doors, partition doors, etc.)
  7. Fill soap
  8. Elevator buttons will be sanitized multiple times daily.
  9. Telephones will be sanitized 1 time per week.
  10. Stairwell railings sanitized daily.
  11. All rags will be washed and disinfected daily.
  12. Use EPA Approved (List N) Chemicals to disinfect all areas.
  13. Follow Dwell time for Chemicals. (Contact Time)
  14. Make sure all employees are wearing appropriate PPE's. (i.e. gloves, masks, safety glasses)
  15. Double check all areas.

- Cleaning supplies and disinfecting products will be available in locations where equipment, such as copiers, are shared.
- Other building occupants will procure cleaning and disinfectant products for their offices and staff.

### **COURTROOM / HEARING ROOM**

- Courtrooms and Hearing Rooms: social distancing signs have been placed outside the entrances.
- When occupancy in a courtroom or hearing room is limited, priority will be given to the parties, attorneys, victims, witnesses, court reporter, court interpreter, and other persons whose presence is essential to the proceeding.
- Hearing times will be staggered to minimize persons in waiting areas.
- Social distancing will be followed and enforced during hearings.
- Cleaning supplies and disinfecting products will be available throughout the courthouse for use in hearing rooms and courtrooms. A protocol will be in place to clean solid surfaces touched during hearings will be cleaned/disinfected after hearings.
- Hand sanitizer is available inside courtrooms and hearing rooms.

## **OTHER BUSINESS PROCESS CONSIDERATIONS**

- See Court Employees and Remote Work for additional information.
- Use of electronic documents is encouraged.

Approved on this 24th day of August, 2020.

s/ELLEN S. MASTERS, Chief Judge