

AMENDMENT 1
TENTH CIRCUIT PHASE 2 OPERATIONAL PLAN (COVID-19)

On August 24, 2020, the Court approved the *Tenth Circuit Phase 2 Operational Plan (COVID-19)* (hereinafter “Operational Plan”) and submitted it to the Office of the State Courts Administrator as required by AOSC20-32, *In Re: COVID-19 Public Health and Safety Precautions for Phase 2, Amendment 3*. Thereafter, on August 25, 2020 the Court entered Administrative Order Number 1-57.0, *In Re: Phase 2 COVID-19 Emergency Court Operations Procedures* which transitioned Hardee, Highlands, and Polk Counties to Phase 2 court operations.

Since entry of the Operational Plan, the Court has continued to consult with the directors of the local county health departments (hereinafter “local health experts”) for scientific guidance regarding how to best protect participants in court proceedings. Recent consultation with the local health experts makes it necessary to make changes to the Hygiene Protocols and Personal Protective Equipment (PPE) section of the Operational Plan.

Bullet point 5 in the Hygiene Protocols and Personal Protective Equipment (PPE) section provides that:

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.

However, after consultation with the local health experts in Hardee, Highlands, and Polk counties, the Court has determined that face shields are not sufficient to protect witnesses and other court participants while a witness is testifying in a court proceeding. Instead, the Court has determined that a plexiglass barrier or a clear face mask would provide better protection. Therefore, bullet point 5 from the Hygiene Protocols and Personal Protective Equipment (PPE) section, as provided above, is deleted and the below provision is added to the Hygiene Protocols and Personal Protective Equipment (PPE) section:

The use of face masks is mandatory. However, an alternative should be provided for a witness testifying in a court proceeding when deemed necessary to afford due process. The witness may be permitted by the presiding judge to remove the face mask when the witness is in the witness chair and there is a plexiglass barrier around the witness stand. For courtrooms without plexiglass barriers installed around the witness stands, witnesses may be provided with a clear face mask to use during their testimony. The removal of a face mask will not occur until the witness is seated in the witness stand.

This amendment shall be effective on the date approved below. All other provisions of the Operational Plan approved by the Court on August 24, 2020, shall remain in full force and effect.

Approved on this 22nd day of September, 2020.

s/ELLEN S. MASTERS, Chief Judge