


# OFFICE OF THE ADMINISTRATIVE JUDGE

6<sup>TH</sup> Judicial District



## MEMORANDUM

To: Justices, Judges, and Non-Judicial Personnel

From: Hon. Eugene D. Faughnan, 6th JD Administrative Judge 

Date: February 18, 2022

Re: Protocols for the Expansion of Court Operations

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Throughout the entire COVID-19 pandemic, our Courts have remained open. We thank everyone for their flexibility, adaptability and professionalism during these extremely difficult times. As we return to normalcy it is important to revise the operating Protocols and Procedures. In-Person proceedings are both required and warranted. Virtual proceedings are only appropriate in approved circumstances. The Court system remains nimble and ready to quickly adapt operations as conditions unfold. The Administrative Judges may, based upon local conditions and circumstances, modify the Operational Protocols where appropriate.

This Plan supersedes all previous Operating Protocols and is effective for all proceedings, including Town and Village Courts, on February 25, 2022. To the extent the provisions of this Updated Operating Protocol are inconsistent with provisions in any previously issued memoranda or Administrative Orders, the provisions of this Protocol should be relied upon to guide operations.

### **I. Courthouse Operations**

#### A. Scheduling

1. Calendar times shall be staggered, if necessary, so that different Courtrooms in the same building start at different times. However, staggered calendar times should be phased out. Calendars shall be limited to the number of individuals that can socially distance in each Courtroom.
2. Each Judge may schedule In-Person proceedings at their discretion. All matters shall be scheduled to maximize Court resources, including

Courtroom space, clerk availability and technology constraints. Judges should be mindful that Supervising Judges and Chief Clerks may be required to indicate times and locations when matters may be scheduled by a particular Judge.

3. Occupancy of all Courtrooms shall be limited to the number of individuals that can safely socially distance in the Courtroom. The Administrative Judge may grant exceptions for specific Courthouses, Courtrooms and Court proceedings.
4. All Judges and all non-judicial personnel shall continue to report to work In-Person in their assigned Courthouses and Courtrooms. Any deviation from this will require approval from the Administrative Judge.
5. All current safety measures and protocols will continue. Court managers and PPE Compliance Coordinators shall at all times take steps to enhance monitoring and compliance with all safety measures including social distancing. At this time, social distancing remains at six (6) feet. However, regarding Criminal Jury Trials, social distancing will be three (3) feet. We anticipate a reduction of social distancing to three (3) feet for additional matters in the near future.
6. Each Courthouse shall continue to have a space (kiosk or ante-room) available for use by litigants who are unable to appear virtually.
7. Masks shall be worn at all times and by every individual in all Courtrooms and in all public and private areas of the Courthouse. However, Judges and non-judicial personnel may be eligible for the "Orange Card Exception" regarding private areas as recently promulgated by the Office of Court Administration. Failure to wear a mask as required will result in exclusion from the Courthouse.

## **II. Court Proceedings**

A. Any virtual proceeding shall be conducted from the Courtroom, provided that a Courtroom is available. Jury Trials and Bench Trials shall take priority over all other Courtroom proceedings.

### **B. Matters that must be heard In-Person:**

1. All proceedings pursuant to the Criminal Procedure Law, unless the use of electronic appearances is authorized pursuant to Criminal Procedure Law Article 182 and the defendant consents.
2. Criminal Evidentiary Hearings and Trials.
3. Criminal Arraignments.
4. Criminal Bail Applications, Reviews and Writs.

5. Temporary Orders of Protection.
6. Re-sentencing of incarcerated defendants.
7. Essential Sex Offender Registration Act (SORA) matters.
8. Proceedings pursuant to Mental Hygiene Law Article 10.
9. Judicial Surrenders of Parental Rights.
10. Civil Evidentiary Hearings and Trials.
11. Family Court Evidentiary Hearings.
12. Eviction Proceedings as authorized by law.
13. Any proceeding involving a self-represented litigant(s) where the presiding Judge determines that holding the proceeding via Microsoft Teams denies the self-represented litigant(s) meaningful access to the proceeding and where the presiding Judge determines that the matter can be heard In-Person consistent with all OCA safety protocols.
14. Child Protection intake cases involving removal applications.
15. Juvenile Delinquency Cases involving remand placement applications, or modification thereof .
16. Emergency Family Offense Petitions/Temporary Orders of Protection.
17. Orders to Show Cause.
18. General Civil Post Note of Issue settlement and Pre-Trial conferences.
19. MHL applications for an Assisted Outpatient Treatment (AOT) Plan.
20. Emergency Applications in Guardianship Matters.
21. Temporary Orders of Protection (including but not limited to matters involving domestic violence),
22. Emergency Applications related to Covid-19.
23. Emergency Election Law Applications.
24. Extreme Risk Protection Orders (ERPO).
25. Civil/Housing matters.
26. Applications addressing landlord lockouts (including reductions in essential services).
27. Applications addressing serious code violations.
28. Applications addressing serious repair orders.
29. Applications for post-eviction relief.
30. Surrogate's Court Citations.
31. The Administrative Judge or Supervising Judge may grant exceptions to the above if necessary to accommodate individual circumstances provided that all parties consent.

C. Matters that may be heard In-Person, or a hybrid of In-Person and/or Virtual, at the discretion of the Presiding Judge, shall include:

1. Family Court Act Article 10 proceedings.
2. Adoptions.
3. Mental Hygiene Law Proceedings pertaining to a hospitalized adult are governed by Chief Administrative Judge Lawrence Marks'

Administrative Order AO/144/21.

4. Small Claims Assessment Review Proceedings.
5. Civil Motion arguments.
6. ADR where both parties are represented by counsel and counsel will be present.
7. Arbitrations pursuant to the Part 137 Attorney-Client Fee Dispute Resolution Program.
8. Civil conferences.
9. Any other matter where a hybrid or In-Person and/or Virtual is more efficient based on the immediate circumstances presented.

Hybrid matters shall be conducted by the Judge and non-judicial personnel from a Courtroom, as such Courtroom is available, using Microsoft Teams video conferencing (using the live Courtroom as the background).

D. The scheduling of Jury Trials shall be approved by the Administrative Judge or his/her designee. Jury Trials shall be conducted pursuant to each Court's individual plan submitted by the Administrative Judge and as approved by the Deputy Chief Administrative Judge. Notwithstanding any provision of the aforementioned plans, during a Jury Trial, occupancy shall be limited to the number of people that can safely socially distance in the Courtroom. With regard to Criminal Jury Trials, priority should be given to incarcerated defendants. With regard to Civil Jury Trials, priority should be given to trials where the parties consent to a Summary Jury Trial. During Jury Trials, masks shall be worn at all times.