

In the Matter of Protective Face	)	CHIEF JUSTICE ORDER
Coverings in the Oregon State	)	No. 21-016
Courts	)	
	)	ORDER PROVIDING EXCEPTION TO THE
	)	REQUIRED USE OF PROTECTIVE FACE
	)	COVERINGS IN THE OREGON STATE
	)	COURTS

I HEREBY FIND THAT:

1. ORS 1.002 provides that:
  - a. The Chief Justice of the Oregon Supreme Court is the administrative head of the judicial department of government in this state; shall exercise administrative authority and supervision over the courts of this state consistent with applicable provisions of law and the Oregon Rules of Civil Procedure (ORCP); and, to facilitate exercise of that administrative authority and supervision, may make rules and issue orders as appropriate or take any other action appropriate to perform the functions of the office of Chief Justice; and
  - b. The Chief Justice may delegate the exercise of any powers specified in ORS 1.002 to the Presiding Judge of a court.
2. ORS 1.171(4) provides that a Presiding Judge may delegate the exercise of any of the administrative powers of the Presiding Judge to another judge of the court or to the trial court administrator.
3. On March 8, 2020, Governor Kate Brown signed Executive Order 20-03, which declared a state of emergency because of the threat that the COVID-19 coronavirus posed to public health and safety (hereafter, "COVID-19 state of emergency"). On April 29, 2021, Governor Brown signed Executive Order 21-10, which extended Executive Order 20-03 and the declaration of the COVID-19 state of emergency.
4. On October 28, 2020, I issued Chief Justice Order (CJO) 20-045, which requires the use of protective face coverings in the Oregon state courts with only limited exceptions.
5. On March 11, 2021, I issued CJO 21-009, which imposed updated restrictions on court operations, including a requirement that, for all proceedings and other court services taking place in a court facility, all judges and staff shall require and maintain social distancing.
6. On May 18, 2021, the Oregon Health Authority (OHA) issued new guidance, including "Statewide Reopening Guidance – Masks, Face Coverings, Face Shields," and "Interim Guidance for Fully Vaccinated Individuals." The new guidance describes exceptions that may be granted to fully vaccinated individuals in Oregon in their places of employment, businesses, or other settings subject to current statewide guidance regarding mask, face covering, and face shield requirements.

This Order is based on the foregoing and on currently available information concerning the risks and spread of the COVID-19 virus, and the effectiveness of vaccines, and may be revised as further information becomes available or as directives from the Governor or guidance from OHA change.

I hereby ORDER as follows:

1. Definitions. As used in this order:
  - a. “Administrative authority” means a Presiding Judge, a Trial Court Administrator, the State Court Administrator, a Division Director, or, in the Appellate Courts, any other judge or staff so designated in writing by the Chief Justice or Chief Judge.
  - b. “Court facility” means the courthouse or any alternative physical location being used by the court or the Office of the State Court Administrator, but not any part of a building or location that is not under the court’s control.
  - c. “Fully vaccinated” means that at least 14 days have passed since a person received the full number of injections required by the specific COVID-19 vaccine maker.
  - d. “In person” means that a court proceeding is being conducted in the court facility, including at least one in-person participant who is neither the judge nor court staff.
  - e. “Participants” means individuals who are participating in a court proceeding, other than the judge and staff, including lawyers, parties, witnesses, jurors, interpreters, and courtroom security personnel.
  - f. “Protective face covering” means a covering of the nose and mouth to protect against spreading the COVID-19 virus, as recommended by the Centers for Disease Control and Prevention (CDC) and OHA.
  - g. “Staff” means Oregon Judicial Department staff.
2. Application of prior Chief Justice Orders
  - a. Except as provided in paragraphs 3 and 4, when entering or working in a court facility, all individuals, including judges and staff, must comply with all protective face covering requirements set out in CJO 20-045, unless an exception or an exemption described in that order applies.
  - b. Even if an exception set out in paragraph 3 or 4 to protective face covering requirements applies, fully vaccinated judges and staff must comply with all social distancing requirements set out in subparagraphs 5.a. and 9.a.(3) of CJO 21-009.

3. Exceptions for fully vaccinated judges and staff
  - a. Fully vaccinated judges and staff who have received approval from the Administrative Authority are not required to wear protective face coverings, unless they are:
    - (1) Working in an adult jail or correctional facility, as determined by the Administrative Authority;
    - (2) Working in a youth detention or correctional facility, as determined by the Administrative Authority;
    - (3) In a public area of the court facility, such as the front entry, waiting areas, hallways, restrooms, and elevators; unless the Presiding Judge has designated the particular area as an area in which protective face coverings are not required; or
    - (4) Participating in a courtroom proceeding at which participants are required to wear protective face coverings under paragraph 4.
  - b. To be eligible for the exception set out in subparagraph 3.a., an individual must obtain approval from the Administrative Authority. Before granting approval, the Administrative Authority shall both request and review proof of fully vaccinated status. An Administrative Authority may delegate the request-and-review responsibility, but retains the authority to approve any exception.
4. Court proceedings, facilitations, and mediations conducted in-person
  - a. A judge presiding over an in-person proceeding may:
    - (1) Permit one or more fully vaccinated participants to remove their protective face coverings during the proceeding, provided that the judge both requests and reviews proof of fully vaccinated status of any such participant. If so, the authorized participant may remove a protective face covering only while in the courtroom.
    - (2) Require that all participants, including the judge and staff, and all staff who enter the location where the proceeding is being conducted, wear protective face coverings during the proceeding. The judge must impose such a requirement upon the request of a participant or may impose such a requirement on the judge's own initiative.
  - b. A Presiding Judge may:
    - (1) Permit fully vaccinated court participants to remove protective face coverings during court proceedings without the need for the judge presiding over the proceeding to grant individual requests. The Presiding Judge may grant such permission only after requesting and reviewing proof of fully vaccinated status. A Presiding Judge's permission under subparagraph 4.b.(1) does not apply, however, if the judge presiding over

a particular court proceeding has required court participants to wear a protective face covering under subparagraph 4.a.(2).

- (2) Delegate the request-and-review responsibility described in subparagraph 4.b.(1) to the Trial Court Administrator, but retains the authority to approve an exception under that subparagraph.
  - c. Subparagraph 4.a. applies to facilitation services and mediations conducted in a court facility. The facilitator or mediator has the same authority and responsibility as the judge presiding over a proceeding, as described in that subparagraph.
- 5. CJO 20-045 remains in effect, as supplemented by this order.
  - 6. This order is effective on May 25, 2021, and will remain in effect until amended, superseded, or vacated by further Chief Justice Order.

Dated this 25<sup>th</sup> day of May, 2021.

  
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Martha L. Walters  
Chief Justice