



IN THE SIXTH JUDICIAL DISTRICT OF THE STATE OF OREGON

In the Matter of Chief Justice Order 21-025, as issued June 28, 2021, and Chief Justice Order 21-028, as issued July 29, 2021, pertaining to COVID-19 Phase 2 Response

PRESIDING JUDGE ORDER
No. 21-009

FIRST AMENDED

COURTHOUSE SECURITY AND
COURT OPERATIONS

THIS AMENDED PRESIDING JUDGE ORDER REPLACES PJO#20-005 as Previously Amended, 20-006, 20-009, 21-005, and 21-008 AND CLARIFIES OPTIONS FOR OBJECTION TO CERTAIN SAFETY REQUIREMENTS IMPOSED BY THIS ORDER. The order is amended to require FACE COVERINGS as set forth in CJO 21-028. The previously prescribed process for seeking exceptions and the list of approved exceptions is reinstated (PJO 21-008).

SUMMARY OF ORDER:

- 1. Masks are required to enter AND remain in the courthouses, Pendleton, Hermiston and Heppner.
 - a. Entry and/or services will be denied anyone not wearing an approved face covering.**
 - b. Masks will be provided to anyone not providing their own face covering.****
- 2. Security will maintain passive health screening in conjunction with security screening.**
- 3. Masks are required in the common areas, hallways and sitting areas of all locations.**
- 4. Masks are required in the courtrooms unless an exception is allowed.**
- 5. If an exception is granted herein then masks may be removed in the Well of the Court but not in the gallery. If a participant has been exposed to COVID-19 or a variant, or demonstrates any sort of respiratory illness, he or she must wear a mask at all times in the courtroom.**

COURTHOUSE SECURITY OPERATIONS

RECITATIONS:

WHEREAS due to the Governor extending the pandemic emergency through December 31, 2021, but suspending/lifting pandemic restrictions effectively eliminating social distancing and mask requirements; and

WHEREAS, the Chief Justice has amended and issued the attached Chief Justice Order (CJO) 21-025 to address the COVID-19 pandemic; and

WHEREAS the Chief Justice has issued a further order, CJO 21-028, also attached, re-imposing the requirement that all court staff, judges and users are required to wear face coverings in all public areas and in courtrooms unless specifically excepted as described in the order; and

WHEREAS the Presiding Judge (PJ) has certain authority under state law, including ORS 1.171 which allows the apportionment of caseload and the disposition of judicial business of the circuit court; and

WHEREAS the PJ has authority under ORS 1.180 for safety and security of court facility operations; and

WHEREAS the PJ has issued PJO 20-005, as amended, on Umatilla and Morrow County Circuit Court and issued PJO 20-006 with further orders regarding operations of the Morrow County Circuit Court; and

WHEREAS the pandemic, while currently subsided is not gone, and the principal means to defeat the pandemic is to avoid contact with infected persons, and key to that is vaccination, mask use and reasonable social distancing; and

WHEREAS the Presiding Judge previously issued and has reinstated PJO 21-008 regarding the use of face coverings; and

WHEREAS the before mentioned statutes provide the PJ the authority to impose mask and social distancing requirements for security purposes.

THEREFORE, IT IS ORDERED that:

1. This amended PJO replaces and rescinds PJO 20-005, 20-006; 20-009, 21-005 and 21-008, and any other active Sixth District PJO specifically related to court operations during the pandemic emergency.
2. **Pandemic Orders.** The court adopts CJO 21-025 as set out in Attachment A. Should the Chief Justice issue a superseding order then that order will be automatically adopted by this order.
 - a. **Masks.** Due to increased occurrence of COVID-19 all persons entering or working in the court facility, including judges, staff and members of the public are required to wear a face covering while in the court facility. Any exceptions granted pursuant to CJO 21-028

COURTHOUSE SECURITY OPERATIONS

or this PJO do not apply in public areas of the court facility, such as the front entry, waiting areas, hallways, restrooms, and elevators.

- b. **Social Distancing.** Until further amendment or supplemental order, social distancing, maintaining six (6) feet distance between persons is not required unless specifically required by a judge in his or her courtroom.

3. Hearings

All appearances are assumed to be in person unless a courtroom schedules the docket for remote appearance, or the presiding judge has issued an instruction or order providing for presumptive remote appearances for hearing or case types. Parties may, as appropriate, file a motion to appear remotely when the appearance is otherwise presumptively in person. Persons exhibiting viral illness like symptoms or with known exposure to COVID-19 illness shall coordinate with their attorney, and without attorney with the court to seek remote appearance.

4. Customer Service Hours

- a. Customer service windows will be open at the Umatilla County (Pendleton, Hermiston) and Morrow County (Heppner) on court days from 8:00 a.m. to noon and from 1:00 p.m. to 4:30 p.m.
- b. Telephonic services will be provided at all locations on court days from 8:00 a.m. to noon and from 1:00 p.m. to 4:30 p.m.
- c. Window hours may be temporarily curtailed to accommodate other immediate court needs such as processing of jurors.

5. Weapons Security and Health Screening

- a. **General Security.** PURSUANT TO ORS 1.171 and ORS 1.180 the presiding judge has authority for determining court facility entrance screening policies. This authority is hereby delegated to the Trial Court Administrator and members of the Sheriff's Court Security Detail. For this order, "court facility" will have the same definition as found in ORS 166.360. For this purpose, Court Security Officers may ask appropriate questions and temperature screen as part of COVID-19 screening of any persons entering the court facility.

- 1) The Umatilla County Courthouse in Pendleton, the Stafford Hansell Government Center Circuit Court (second floor), and the Morrow County Courthouse in Heppner, or any other facility or location where the court conducts its business are court facilities for the use of members of the public to exercise their rights to view proceedings and handle their affairs through the court. There is no right of public access to staff areas or judicial

COURTHOUSE SECURITY OPERATIONS

chambers, offices, jury rooms, or conference rooms. Any right of access to public areas may, however, be revoked as a result of conduct detrimental to the safety of the court's judicial officers, other officers of the court, its employees, and members of the public.

- b. Entry into the courthouse, Pendleton, Hermiston or Heppner, and continued presence, requires use of a face covering (mask). Court Security staff or Court staff will provide a face covering to anyone entering a court facility on court business if they do not have their own.
 - 1) Masks are required to enter AND remain in the courthouses, Pendleton, Hermiston and Heppner.
 - 2) Entry and or services will be denied anyone not wearing a mask.
 - 3) Security will maintain passive health screening in conjunction with security screening.
 - 4) Masks are required in the common areas, hallways and sitting areas of all locations.
 - 5) Masks are required in the courtrooms unless an exception is allowed.
 - 6) If an exception is granted herein then masks may be removed in the Well of the Court but not in the gallery., If a participant has been exposed to COVID-19 or a variant or demonstrates any sort of respiratory illness he/she must wear a mask at all times regardless of location in the courtroom.
 - 7) Court staff who are vaccinated during regular work are not required to wear masks while in staff areas.
- c. **Weapons Prohibited.** Entrance to court facilities and weapons screening is controlled by order of the PJ and by related order of the Board of Commissioners for the County. Firearms under ORS 166.370 and weapons are specifically excluded from these premises unless otherwise permitted by separate PJO.
 - 1) In addition to statutory prohibitions, the following items are barred from court facilities: pocket knives, folding knives, box cutters, multi-tools, sporting sticks, walking sticks (not handicap assistance canes), handcuffs, handcuff keys, replica firearms, or any other item deemed as a possible weapon by Court Security staff. Persons possessing any such item may be required to surrender the item to a Court Security Deputy or to immediately remove the item from the court facility. Any person refusing to comply will be immediately ejected from the court

COURTHOUSE SECURITY OPERATIONS

facility with the possible future limitation of their unrestricted access to the court facility.

- 2) Where a court facility security screening station is established, no person will enter any area of the court facility protected by the security screening station without permission from a Court Security Deputy or other authorized county or state employee. Any person not exempted from these requirements by Judicial Rule or Order who desires entry into the protected area of the court facility must submit to the security screening process. The security screening process may include, but is not limited to, magnetometer checks of persons, X-Ray checks of containers and physical checks of containers.
 - 3) Any person present in the court facility in possession of a container is subject to the search of that container when requested by Court Security Deputies. The person will have the option of submitting to the search or immediately removing the container in question from the court facility.
 - 4) For the purpose of this order, container means any purse, briefcase, bag, backpack, billfold, or other item whose contents are obscured from view.
 - 5) For the purpose of this order, screening means the detection of items prohibited from being present in Sixth Judicial District court facilities by Oregon Revised Statutes, Judicial Rule, Judicial Order, or County Commissioner Order.
 - 6) For the purpose of this order, screening station means any area in or adjacent to a court facility that controls entry into the court facility or portions of the court facility where such entry is restricted by signing, Court Security Deputies or authorized state or county employees.
- d. **Prohibited Conduct.** Detrimental conduct pursuant to this order may include, but is not limited to:
- 1) Direct physical assault or physical harassment upon any person;
 - 2) Destruction or theft of court records or posted public notices;
 - 3) Vandalism, defacing, burning, or other physical destruction of any device or room within these facilities;
 - 4) Intimidation, extortion, coercion, or other forcible conduct aimed at interrupting the court's judicial officers, other officers of the court, and its employees, in the course of their work or at interfering with members of the Bar or of the public in their dealings with the court;

COURTHOUSE SECURITY OPERATIONS

- 5) Any conduct which interferes with or interrupts a court proceeding or court administration;
- 6) Any entrance into an area of these buildings designated off-limits or for employees only;
- 7) Any introduction of noxious odors designed to deny members of the public the use of any public part of these buildings;
- 8) Any attempt, either by fraud or threat, to gain access to confidential court records or material; (9) Any attempt, either by fraud or threat, to gain access to the private office of a judicial officer, the court administrator, or other court officer; or
- 9) Any attempt by a member of the public to deny any other member of the public the use of these buildings.

e. **Health Screening.**

- 1) Court Security Officers will not screen for Health issues for persons entering the courthouse or court facility **unless** a person self-identifies with COVID 19, some variant, or other symptomology, or exhibits outward symptoms of illness, at which time screening is required.
 - i. Screening may require noninvasive temperature screening for anyone entering the court facility or may visually assess the person's physical appearance regarding presentation as fevered or demonstrating outward symptoms of illness.
 - ii. Any person self-identifying as ill, symptomology similar to COVID, or demonstrating outward symptoms of illness will be screened.
 - iii. Screening including questions:
 1. In both counties, COVID-19 screening questions include, but are not limited to, the following:
 2. Do you have a fever or are you experiencing chills?
 3. Are you experiencing a loss of taste or smell?
 4. Do you have a cough?
 5. Are you experiencing any difficulty breathing or shortness of breath?
 6. Within the last 14 days have you had close contact with anyone who has been diagnosed with COVID-19?
 - iv. Screening includes temperature screening. Access to the court facility will be denied to anyone presenting with a fever over 99.9 degrees measured noninvasively, or to anyone who states they have a fever or chills or presents as having fever

COURTHOUSE SECURITY OPERATIONS

or chills, or to anyone refusing to consent to noninvasive temperature screening.

- 2) Access to the court facility will be denied for anyone answering yes to any of the screening questions.
 - i. If a person is granted access to court or county services and declines to wear a protective mask that is approved by Court Security Deputies, they shall be directed to leave the building.
 - ii. Court Security Deputies and court staff may enforce these requirements and the court may enforce compliance through contempt of court if the person is present in a courtroom without a mask after being advised to wear the mask by Court Security Deputies or court staff
 - iii. No person will be denied access to the court facility without being given the court telephone number – 541-278-0341 (Pendleton) 541-667-3020 (Hermiston), 541-676-5264 (Heppner) – allowing them to conduct their business telephonically. As WebEx is generally available in the courtrooms, the WebEx number for the appropriate courtroom can be called by anyone who is ill. Persons represented by counsel must contact their attorney.
- 3) Certain persons are exempted from screening requirements when acting within the scope of their official duties, but shall self-identify as to any of the screening questions to security and individuals with court appearances have a personal responsibility to make other arrangements for appearance by phone:
 - i. Judges;
 - ii. County Commissioners
 - iii. Attorneys, including any member of the Oregon Bar with Bar identification;
 - iv. Law Enforcement Officers while on duty; and
 - v. Court and County employees displaying appropriate identification.

Dated

JULY 30, 2021



Daniel J. Hill, Circuit Court Judge

DANIEL J. HILL
Presiding Judge of the Circuit Court

In the Matter of Updated Directives	)	CHIEF JUSTICE ORDER
Relating to Court Operations	)	No. 21-025
)	
	)	ORDER ESTABLISHING UPDATED
	)	DIRECTIVES RELATING TO COURT
	)	OPERATIONS

I HEREBY FIND AS FOLLOWS:

1. On March 8, 2020, Governor Kate Brown issued 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"). Related to that declaration, among other restrictions, the Governor imposed protective face covering and social distancing requirements on Oregonians, as well as facility capacity limits. On November 25, 2020, the Governor announced a statewide health and safety framework, with four different county risk levels based on each county's level of COVID-19 spread: Extreme Risk, High Risk, Moderate Risk, and Lower Risk.
2. On June 25, 2021, Governor Brown issued Executive Order 21-15, which extended the COVID-19 state of emergency to December 31, 2021, but otherwise rescinded earlier Executive Orders that had imposed statewide restrictions relating to protective face coverings, social distancing, capacity limits, and the county risk level framework. Executive Order 21-15 becomes effective not later than June 30, 2021.
3. Since March 16, 2020, I have issued many Chief Justice Orders (CJOs) restricting court operations and imposing other requirements relating to the COVID-19 state of emergency, including:
 - a. Amended CJO 20-006 (March 27, 2020), Imposing Level 3 Restrictions (later superseded);
 - b. CJO 20-016 (May 15, 2020), Imposing Level 2 and Level 3 Restrictions and Superseding Amended CJO 20-006 (later superseded);
 - c. CJO 20-027 (July 21, 2020), Extending Statutory Time Periods and Time Requirements in Certain Tax Appeals;
 - d. CJO 20-028 (July 21, 2020), Directing or Permitting Appearances at Arraignment by Remote Means (later superseded);
 - e. CJO 20-041 (October 16, 2020), Extending Statutory Time Periods and Time Requirements in DUII Diversions;
 - f. CJO 20-045 (October 28, 2020), Regarding the Use of Protective Face Coverings in the Oregon State Courts;
 - g. CJO 20-047 (November 18, 2020), Imposing In-Person Restrictions on Court Operations During Statewide "Freeze," as amended (February 17, 2021) (later superseded);

- h. CJO 21-009 (March 11, 2021), Imposing Updated Restrictions on Court Operations (including imposing some restrictions based on county risk levels; providing for remote arraignments; extending statutory time periods and time requirements in Forcible Entry and Detainer (FED) proceedings; providing that order in effect until the time when social distancing is no longer required and until further Chief Justice Order; and superseding CJO 20-016, CJO 20-028, and CJO 20-047 (Amended)); and
- i. CJO 21-016 (May 25, 2021), Providing Exception to the Required Use of Protective Face Coverings in the Oregon State Courts.

My goal in issuing those orders has been to meet our courts' obligations to the public while also continuing to minimize health risks for judges, staff, litigants and case participants, interpreters, and members of the public who come into our courthouses and offices.

- 4. I have based prior orders on one or more of the following grants of statutory authority:
 - a. ORS 1.002 provides that:
 - (1) 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, 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
 - (2) The Chief Justice may delegate the exercise of any powers specified in ORS 1.002 to the Presiding Judge of a court.
 - b. 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 for the judicial district.
 - c. Section 6(1)(a) of Oregon Laws 2020, chapter 12, provides that, during a declared COVID-19 state of emergency and continuing for 60 days after the declaration or any extension is no longer in effect, and upon a finding of good cause, the Chief Justice may extend or suspend any time period or time requirement established by statute or rule that applies:
 - (1) In any case, action, or proceeding after its initiation in any circuit court or the Oregon Tax Court; or
 - (2) To the initiation of an appeal to the Magistrate Division of the Tax Court or an appeal from the Magistrate Division to the Regular Division.

- d. Section 6(4) of Oregon Laws 2020, chapter 12, provides that, during a declared COVID-19 state of emergency and continuing for 90 days after the declaration or any extension is no longer in effect,
 - (1) Notwithstanding any other statute or rule to the contrary, the Chief Justice may direct or permit any appearance before a court or magistrate to be by telephone, other two-way electronic communication device, or simultaneous electronic transmission; and
 - (2) If an appearance is set to occur as just described, a Presiding Judge instead may order that the appearance be in person if, upon the request of a party, the judge determines that there is a particular need for an in-person hearing or that a party has a constitutional right to an in-person hearing.
- e. Section 6(5) of Oregon Laws 2020, chapter 12, provides that the Chief Justice may delegate the exercise of any powers described in subparagraphs 4.c. and 4.d. of these findings to the Presiding Judge of a court.
- 5. In Executive Order 21-15, Governor Brown stated that her most recent extension of the COVID-19 state of emergency was essential for continuing flexibility for statewide recovery, including as to statutes drafted to end once the state of emergency ends, such as those providing for extension of certain court deadlines. Executive Order 21-15 states that that continued flexibility during the recovery period will help Oregon manage the transition back to “normal order” in a manner that is smooth and less disruptive.
- 6. For the reasons given by Governor Brown declaring and extending the COVID-19 state of emergency, I find that good cause, as that term is used in Oregon Laws, chapter 12, section 6(1)(a) and described in subparagraph 4.c. of these findings, exists to:
 - a. Extend statutory time periods and time requirements in Forcible Entry and Detainer (FED) proceedings, as set out in paragraph 5 of this order; and
 - b. Extend statutory time periods and time requirements in Driving Under the Influence (DUII) Diversions, as set out in paragraph 6 of this order.
- 7. ORS 1.171(2) provides that, to facilitate exercise of administration and supervision over the circuit court of the district consistent with applicable provisions of law, the Presiding Judge may apportion and otherwise regulate the disposition of the judicial business of the circuit court of the judicial district, and make rules, issue orders, and take other appropriate action to that exercise; and ORS 1.171(3) provides that the Presiding Judge may assign actions and proceedings pending before a court to other judges of the judicial district for hearing and disposition.
- 8. ORS 8.225 provides that a Trial Court Administrator for a judicial district has the duties, powers, and functions prescribed by law or by rules of the circuit courts in the district, and that the Trial Court Administrator may delegate the powers of the office to employees of the Trial Court Administrator.

I HEREBY ORDER, pursuant to the foregoing authority, and as provided further below, that the following updated directives relating to court operations shall take effect on June 30, 2021. This order remains in effect until further order of the Chief Justice.

1. Definitions. As used in this order:

- a. “Administrative authority” means, as to any judge, the Presiding Judge; as to any staff, “administrative authority” has the meaning set out in Judicial Department Personnel Rule 2.01.
- 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. “Participant” means any individual who is participating in a proceeding, other than the judge and staff, including lawyers, parties, witnesses, jurors, interpreters, and courtroom security personnel.
- f. “Presiding Judge” means the presiding judge of a judicial district or any person to whom that judge has delegated authority under this order. For purposes of this order, as applicable and pursuant to other statutory authority, the Chief Justice of the Supreme Court, the Chief Judge of the Court of Appeals, and the Tax Court Judge have the same authority in their respective courts as that described for a Presiding Judge.
- g. “Proceeding” means a trial, hearing, or other court proceeding. When this order grants authority to a judge presiding over a proceeding, that same authority extends to a mediator conducting an in-person mediation, a facilitator providing in-person facilitation services, or the Citizen Review Board conducting a review of cases involving children in foster care.
- h. “Protective face covering” means a covering of the nose and mouth to protect against spreading the COVID-19 virus, as recommended or described as a means of protection by the Centers for Disease Control and Prevention (CDC) and the Oregon Health Authority (OHA).
- i. “Remote means” means the use of telephone, video, other two-way electronic communication device, or simultaneous electronic transmission.
- j. “Social distancing” means an identified minimum amount of physical distance between each person, such as three feet or six feet.
- k. “Staff” means Oregon Judicial Department staff.

2. Social Distancing and Protective Face Coverings

a. Social distancing, generally

As a general matter, and unless provided otherwise in this paragraph, social distancing is no longer required and need not be maintained in any court facility.

b. Protective face coverings, generally

- (1) As a general matter, and unless provided otherwise in this paragraph, protective face coverings are no longer required in any court facility.
- (2) Protective face coverings must be worn by judges and staff when working in an adult jail or correctional facility, or in or a youth detention or correctional facility, as determined by the Administrative Authority, unless the Presiding Judge permits otherwise.
- (3) The Presiding Judge may exercise authority to:
 - (A) Order that protective face coverings be worn in the court facility in a manner that is consistent with more restrictive county requirements; or
 - (B) Order that protective face coverings be worn by members of the public entering the court facility to protect public health and safety.
- (4) Any individual, including judges, staff, participants in proceedings, or members of the public, may choose to wear a protective face covering while in a court facility. However, if an individual chooses to do so, a judge who is presiding over a proceeding may:
 - (A) Require a juror to temporarily remove a protective face covering when the juror is answering a question during *voir dire*;
 - (B) Require a witness to remove a protective face covering when the witness is testifying; and
 - (C) Require any participant to temporarily remove a protective face covering to ensure that a particular communication is understood.
- (5) The court will provide protective face coverings and information about how to use them.

c. Protective measures in proceedings

- (1) A participant who seeks to mitigate the risk of exposure to COVID-19 may request that reasonable protective measures be taken during any court proceeding.

- (2) On such a request or on the initiative of a judge presiding in a proceeding, the judge may exercise authority to direct that reasonable protective measures be taken, including, but not limited to:
 - (A) Requiring the requesting individual to wear a protective face covering or, in addition to or in lieu of doing so, requiring a face shield or use a protective physical barrier;
 - (B) Requiring that particular individuals wear protective face coverings;
 - (C) Requiring or maintaining social distancing;
 - (D) Rescheduling a proceeding to a date or time when the risk of exposure to COVID-19 may be reduced; or
 - (E) Permitting or requiring that certain appearances be made or testimony given, or the proceeding be conducted, by remote means.
- (3) This subparagraph does not apply to judges and court staff.

d. Protective measures in other particular circumstances

If appropriate to the particular circumstances, the Presiding Judge or designee, the Trial Court Administrator or designee, or the Administrative Authority may exercise authority to require an individual in a court facility, including judges and staff, to take reasonable protective measures, including requiring the wearing of a protective face covering or requiring social distancing.

3. Mode of Proceedings

- a. Circuit court proceedings may be conducted in person or by remote means as determined by the Presiding Judge.
- b. Relationship to other law and additional Presiding Judge authority
 - (1) Notwithstanding ORS 131.045(2) and (3), ORS 135.030(3), and ORS 135.360(3), any category of arraignment may be conducted remotely, without agreement of the parties.
 - (2) Notwithstanding any other statute or rule requiring that a person “personally appear,” “appear personally,” “appear in person,” make a “personal appearance,” or be “present in court,” the proceeding may be conducted remotely, and any appearance may be made by remote means.
 - (3) Notwithstanding any other provision of this order, if the constitution requires an in-person appearance or proceeding, then the appearance or proceeding must be conducted in person. If a party contends that a remote appearance or proceeding conducted remotely results in violation

of the party's rights, then the party may file a motion seeking an order that the appearance or proceeding be conducted in person. This subparagraph applies to any crime victim who contends that an order results in a violation of the victim's constitutional rights.

- (4) Each Presiding Judge shall have authority to suspend any Supplementary Local Rule that may be an impediment to conducting proceedings by remote means, including any requirement that an *ex parte* submission be made in person.

4. Exhibits

- a. Notwithstanding UTCR 6.050(3) and UTCR 21.070(3)(p), when a proceeding is to be conducted remotely, any exhibit that can be converted to PDF may be submitted through the court's electronic filing (eFiling) system.
- b. When submitting exhibits through the eFiling system, the filer shall designate the exhibits as described in UTCR 21.070(6).
- c. The submission of exhibits through the eFiling system must comply with UTCR 21.040(1), (2), and current (4) (to be renumbered to (3) effective August 1, 2021) to the extent applicable, except that the court may direct that multiple exhibits in a particular proceeding be submitted as separate eFiled documents.
- d. Exhibits submitted as a unified single PDF file under this paragraph must:
 - (1) Be accompanied by an index that identifies each exhibit, located at the beginning of the submission, and each identified exhibit must be electronically linked to the index; and
 - (2) Include an electronic bookmark for each exhibit.
- e. The court may reject submissions that do not comply with this paragraph.
- f. A Presiding Judge shall determine how nondocumentary exhibits, such as audio or video exhibits, are to be submitted for a proceeding.

5. Forcible Entry and Detainer (FED) Proceedings

- a. Notwithstanding ORS 105.135(2), a first appearance may be scheduled within 14 days after the judicial day next following payment of filing fees.
- b. Notwithstanding ORS 105.137(6), a trial may be scheduled within 30 days from the date of first appearance.
- c. Notwithstanding subparagraphs 5.a. and 5.b., courts shall schedule first appearances and hold trials in FED proceedings as soon as practicable, taking into consideration the availability of staff, the adequacy of the facilities or bandwidth and technology, and the needs of the parties.

6. Driving Under the Influence of Intoxicants (DUI) Diversions

a. Eligibility for diversion agreement

- (1) Notwithstanding ORS 813.210(1), and except as provided in subparagraph 6.a.(2), a defendant who was eligible for diversion on March 8, 2020, is eligible for diversion during the COVID-19 state of emergency, provided that the defendant is otherwise eligible under ORS 813.215. The COVID-19 state of emergency constitutes existence of good cause for extension of the period of eligibility, and a defendant need not file a motion for extension of the period of eligibility.
- (2) On or after September 7, 2021, the time for a defendant to file a petition for a DUI diversion agreement shall be governed by ORS 813.210(1).

b. Application for extension of diversion period

- (1) Notwithstanding ORS 813.225(1), and except as provided in subparagraph 6.b.(2), a defendant who has executed a DUI diversion agreement may apply for an order extending the diversion period by filing an application for diversion at any time prior to the end of the diversion period. The Presiding Judge also may consider an application filed after the end of the diversion period for good cause.
- (2) On or after September 7, 2021, the time for a defendant who has executed a DUI diversion agreement to apply for an order extending the diversion period shall be governed by ORS 813.225(1).

c. Extension of diversion period

Notwithstanding ORS 813.225(5), the Presiding Judge may extend the diversion period as necessary to allow the defendant sufficient time to complete the conditions of the diversion agreement.

7. Appellate Courts, Tax Court, and Office of the State Court Administrator

a. Appellate Courts

- (1) Oral arguments and Supreme Court public meetings may be conducted in person or remotely, by video, at the determination of the Chief Justice or the Chief Judge, or the Chief Justice's or Chief Judge's designee.
- (2) The requirements described in paragraphs 2 and 3 apply, to the extent practicable, to the Supreme Court and the Court of Appeals.

b. Tax Court

- (1) Tax Court proceedings may be conducted in person or remotely, by video or audio, at the determination of Tax Court Judge or that judge's designee.

- (2) The requirements described in paragraphs 2, 3, and 4 apply, to the extent practicable, to the Tax Court.
 - c. Office of the State Court Administrator
 - (1) The Citizen Review Board may conduct scheduled reviews of cases involving children in foster care in person or by remote means.
 - (2) The requirements described in paragraphs 2 and 3 apply, to the extent practicable, to the Office of the State Court Administrator and the Divisions within that office.
8. Effect on Other Chief Justice Orders
- a. This order supersedes CJO 21-009 (Imposing Updated Restrictions on Court Operations) (March 11, 2021) in its entirety, which has the following effect:
 - (1) The following operative provisions of CJO 21-009 are superseded, but have been updated in this order or have been ordered to continue by virtue of certain provisions of this order:
 - (A) Paragraph 2 (Mode of Proceedings) (updated);
 - (B) Paragraph 3 (Exhibits) (ordered to continue);
 - (C) Paragraph 4 (Forcible Entry and Detainer (FED) Proceedings, extension of statutory time periods and time requirements for first appearances and trials) (ordered to continue); and
 - (D) Paragraph 10 (Appellate Courts, Tax Court, and Office of the State Court Administrator) (updated).
 - (2) The following operative provisions of CJO 21-009 are superseded and are no longer in effect:
 - (A) Paragraph 5 (Requirements for Proceedings and Court Services in the Courthouse);
 - (B) Paragraph 6 (Expectations for Attorneys);
 - (C) Paragraph 7 (Fines, Fees, and Costs);
 - (D) Paragraph 8 (Remote Work Assignments); and
 - (E) Paragraph 9 (Meetings, Conferences, and Travel).
 - b. This order also supersedes the following orders, which are no longer in effect:
 - (1) CJO 21-041 (Extending Statutory Time Periods and Time Requirements in DUII Diversions) (October 16, 2020) (ordered to continue as updated in this order);

- (2) CJO 20-045 (Regarding the Use of Protective Face Coverings in the Oregon State Courts) (October 28, 2020); and
 - (3) CJO 21-016 (Providing Exception to the Required Use of Protective Face Coverings in the Oregon State Courts) (May 25, 2021).
- c. CJO 20-027 (Extending Statutory Time Periods and Time Requirements in Certain Tax Appeals) (July 21, 2020) remains in effect.
9. All provisions of this order shall continue until further order, and they may be amended by further order.
10. This order takes effect on June 30, 2021.

Dated this 28th day of June, 2021.



Martha L. Walters
Chief Justice

In the Matter of Protective Face	)	CHIEF JUSTICE ORDER
Coverings in the Oregon State	)	No. 21-028
Courts)	
	)	ORDER REINSTATING REQUIRED USE OF
	)	PROTECTIVE FACE COVERINGS IN THE
	)	OREGON STATE COURTS, WITH
	)	EXCEPTIONS

I HEREBY FIND AS FOLLOWS:

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(2) provides that, to facilitate exercise of administration and supervision over the circuit court of the district consistent with applicable provisions of law, the Presiding Judge may apportion and otherwise regulate the disposition of the judicial business of the circuit court of the judicial district, and make rules, issue orders, and take other appropriate action to that exercise; ORS 1.171(3) provides that the Presiding Judge may assign actions and proceedings pending before a court to other judges of the judicial district for hearing and disposition; and 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. ORS 8.225 provides that a Trial Court Administrator for a judicial district has the duties, powers, and functions prescribed by law or by rules of the circuit courts in the district, and that the Trial Court Administrator may delegate the powers of the office to employees of the Trial Court Administrator.
4. 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 June 25, 2021, Governor Brown issued Executive Order 21-15, which extended the COVID-19 state of emergency to December 31, 2021, but otherwise rescinded earlier Executive Orders, including her earlier imposition of statewide restrictions relating to protective face coverings.
5. On June 28, 2021, I issued Chief Justice Order (CJO) 21-025, which established updated directives relating to court operations, including an easing of earlier requirements for wearing protective face coverings.

6. On July 27, 2021, the Centers for Disease Control and Prevention (CDC) issued Guidance to the effect that local decision-makers should assess certain factors to inform the need for prevention strategies to minimize preventable morbidity and mortality related to COVID-19, including the level of COVID-19 transmission, health system capacity, vaccination coverage, capacity for early detection of increases in COVID-19 cases, and populations at risk for severe outcomes from COVID-19. The CDC Guidance further states that proven effective strategies against transmission, beyond vaccination, include the use of protective face coverings. Also on July 27, 2021, the Oregon Health Authority (OHA) issued a recommendation for use of protective face coverings in all public indoor settings statewide. In issuing this Order, I have considered the CDC Guidance and OHA recommendations; current risk levels across Oregon's judicial districts; the vulnerable populations that our courts serve; the jurors and potential jurors who report to our courts; and the need to act so that judges, court staff, and the public are protected.

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 health authorities change.

I hereby ORDER as follows:

1. Definitions. As used in this order:
 - a. "Administrative Authority" means, as to any judge, the Presiding Judge; as to any staff, "Administrative Authority" has the meaning set out in Judicial Department Personnel Rule 2.01.
 - 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. "Enclosed office or workstation" means an office or workstation that is enclosed from floor to ceiling on all sides, including a courtroom.
 - d. "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.
 - e. "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.
 - f. "Open work area" means a work area consisting of one or more temporary or permanent workstations that either have no barriers or are partially separated by barriers that do not enclose the workstation from floor to ceiling on all sides, such as cubicles.
 - g. "Participant" means any individual who is participating in a proceeding, other than the judge and staff, including lawyers, parties, witnesses, jurors, interpreters, and courtroom security personnel.

- h. “Presiding Judge” means the presiding judge of a judicial district or any person to whom that judge has delegated authority under this order. For purposes of this order, as applicable and pursuant to other statutory authority, the Chief Justice of the Supreme Court, the Chief Judge of the Court of Appeals, and the Tax Court Judge have the same authority in their respective courts as that described for a Presiding Judge.
- i. “Proceeding” means a trial, hearing, or other proceeding. When this order grants authority to a judge presiding over an in-person proceeding, that same authority extends to a mediator conducting an in-person mediation, a facilitator providing in-person facilitation services, or the Citizen Review Board conducting in-person review of cases involving children in foster care.
- j. “Protective face covering” means a covering of the nose and mouth to protect against spreading the COVID-19 virus, as recommended or described as a means of protection by the CDC and OHA.
- k. “Staff” means Oregon Judicial Department staff.

2. General Requirements

- a. Except for children under 2 years of age, and unless an exception or exemption described in this order applies, all persons entering or working in the court facility, including judges and staff, are required to wear a protective face covering while in the court facility.
- b. Enclosed offices and workstations
 - (1) Judges and staff may remove their face coverings when they are alone in enclosed offices or workstations. When judges or staff leave their enclosed offices or workstations, or when another person enters their enclosed offices or workstations, they must wear a protective face covering, unless an exception or exemption applies.
 - (2) Subparagraph 2.b.(1) applies to a workstation located within an open work area of any size, including any workstation partially separated by barriers from that open area, such as a cubicle, but only if
 - (A) Only 1 person is working in that open work area; and
 - (B) That open work area is separated from the public by a floor to ceiling divider.

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 as described in paragraph 2, 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 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. If this subparagraph applies,
 - (A) The judge who is presiding over the trial or proceeding may
 - (i) Temporarily remove the judge's protective face covering to ensure that a particular participating person understands a particular communication from the judge;
 - (ii) Require or permit a juror to temporarily remove a protective face covering when the juror is answering a question during *voir dire*;
 - (iii) Require or permit a witness to remove a protective face covering when the witness is testifying, provided that a minimum of 6 feet of social distance is consistently maintained between the witness and any other person; and

- (iv) Require or permit any other participating person to temporarily remove a protective face covering to ensure that a particular communication is understood.
 - (B) When the judge who is presiding removes the judge's own protective face covering or requires or permits a juror, witness, or any other participating person to do so under subparagraph 4.a.(2)(A),
 - (i) if the removal is for less than 15 minutes, the judge may use or require other protective measures, such as the use of a face shield or protective physical barrier, additional social distancing, or the use of remote means;
 - (ii) if the removal is for more than 15 minutes, the judge shall use or require other protective measures, such as the use of a face shield or protective physical barrier, additional social distancing, or the use of remote means.
- 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 this subparagraph 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.


5. Exemptions

- a. A Presiding Judge or that judge's designee(s) may grant an exemption from paragraph 2 to any person who seeks to enter, but who does not work in, the court facility, due to disability, respiratory or other health-related issues, or other legally required cause. The Presiding Judge shall grant such an exemption when required by law.
- b. An Administrative Authority may grant an exemption from paragraph 2 to a judge or a staff person who works in the court facility only when the law requires an exemption due to disability or other legally required cause. The Administrative Authority may grant a temporary exemption from this rule for the time necessary to determine whether the law requires an exemption.
- c. If an exemption is granted under this paragraph, the Presiding Judge or that judge's designee(s) may require other protective measures, such as the use of a

face shield or protective physical barrier, additional social distancing, or the use of remote means.

6. The court will provide protective face coverings and information about how to use them.
7. A Presiding Judge, the Chief Judge of the Court of Appeals, or the Tax Court Judge may issue a Presiding Judge Order, Chief Judge Order, or Tax Court Judge Order that imposes additional requirements regarding the wearing of protective face coverings, provided that such an order does not conflict with the provisions of this order and is not less protective or restrictive than the provisions set out in this order.
8. This order supersedes subparagraph 2.b. of CJO 21-025 (Order Establishing Updated Directives Relating to Court Operations – Protective face coverings, generally). Subparagraphs 2.c. and 2.d. of CJO 21-025 (Protective measures in proceedings; Protective measures in other particular circumstances) remain in effect, except that the protective face covering requirements set out in this order supersede any conflicting provision in those subparagraphs.
9. This order supersedes any existing Presiding Judge Order, Chief Judge Order, or Tax Court Judge Order, or part of any such an order, that conflicts with the provisions of this order.
10. This order is effective on August 2, 2021, and will remain in effect until amended, superseded, or vacated by further Chief Justice Order.

Dated this 29th day of July, 2021.



Martha L. Walters
Chief Justice