

# District of Delaware Re-Opening Guidelines

June 15, 2020

These Guidelines are subject to modification, rescission, or replacement at any time, at the sole discretion of the court.

## **District of Delaware Re-Opening Guidelines**

- I. Criteria for Entering Phase One – Commonly referred to as “Gating Criteria” and based on Administrative Office of the United States Courts (“AO”) guidelines
  - a. No COVID-19 confirmed or suspected cases in the courthouse or leased space within a 14-day period; or, if there are any confirmed or suspected cases, a cleaning of any exposed area has occurred, and self-quarantine actions and/or other appropriate actions have been taken
  - b. Sustained downward trend of COVID-19 case counts in Delaware over a 14-day period
  - c. Rescission of strict local restrictive movement and/or shelter-in-place orders
  
- II. Guidelines for All Phases
  - a. Establish and Maintain Policies Regarding the Following:
    - i. Social Distancing and Protective Equipment
      - 1. Follow Court Order IN RE: Use of Face Mask / Covering dated April 28 (and any updates)
      - 2. Continue to promote good hygiene practices regarding hand washing, face coverings, social distancing, etc.
      - 3. Regarding courtrooms, it is left to the discretion of the presiding judge to require use of protective equipment and distancing as is practical
    - ii. Follow AO guidelines for notification, isolation and contact tracing of confirmed, suspected confirmed, or otherwise ill employees
    - iii. Follow AO and Centers for Disease Control and Prevention (“CDC”) protocols for sanitation, disinfection and cleaning of common and high-traffic areas
    - iv. Follow AO Human Resources (“HR”) policies to accommodate employees and family needs, e.g., children’s schools closed, ill or vulnerable family members
  - b. Employees who feel ill should stay at home, self-monitor for indicative symptoms, and return to work only after consultation with medical doctor

- c. Identify responsible employees to monitor public infrastructure and status of medical situation in community
    - i. Remain updated on the most recent guidance of state and local health officials
    - ii. As local conditions evolve, different areas of the District may be differently impacted, which may affect implementation of this Plan (for example with respect to jury selection, if portions of Delaware experience significantly higher incidences of infection)
  - d. Maintain contact with Circuit Executive as the court moves from one phase to another
- III. Regular Meetings
- a. At least during the early phases of re-opening, the core stakeholders will meet weekly to address concerns and make necessary changes to the re-opening plan
  - b. Core Stakeholders Group
    - i. Chief Judge
    - ii. Chief Bankruptcy Judge
    - iii. Clerks for both District and Bankruptcy Courts
    - iv. Chief Probation Officer
    - v. United States Marshal
    - vi. Facilities Designee
    - vii. United States Attorney Designee
    - viii. Federal Public Defender Designee

## PHASE ONE

Phase One involves the court's initial emergence from strict shelter-in-place orders in the community and from cancellation of in-person appearances in court; it is the first step toward returning to normal operations through a phased approach. Great care is taken in Phase One to protect vulnerable individuals, to adhere to strict social distancing protocols, and to restrict in-person court activities only to functions which are critical.

Employees must remain cognizant of CDC, AO, state and local guidelines and minimize personal travel and gatherings of large groups.

### I. Court Operations

- a. Standing orders will need modification to account for change in court operations
- b. Individual courtroom protocols to be determined at the discretion of the assigned judicial officer in consultation with the chief judge
- c. Grand jury operations will be limited, with focus on urgent matters and meeting in larger spaces
- d. It is expected that during Phase One no jury trials, criminal or civil, will occur, except (if at all) in extraordinary circumstances. Individual judges will continue to address continuance requests on a case-by-case basis.
- e. Minimize on-site court proceedings using video-conferencing and tele-conferencing to the greatest extent possible
- f. In-person court proceedings should adhere to social distancing guidelines
  - i. If possible, limit hearings to no more than 10 people in District Court and 25 people in Bankruptcy Court. These limits apply to non-court-affiliated employees and do not include the judge, law clerk, court reporter, deputy, court security officer, or probation officer.
  - ii. The presiding judge, in consultation with the chief judge, must address how to handle witnesses, press, and court observers and ensure public's right of access to judicial proceedings
  - iii. Consider using video-conference and tele-conference capability for some participants to join remotely, i.e. probation officer, law clerk, AUSA, court reporter, witnesses
- g. At the discretion of the judicial officer, develop paperless process for exchange of all necessary documents

## II. HR Considerations

- a. Accommodations for Vulnerable Employees
  - i. Employees with high-risk medical issues
  - ii. Employees caring for family members
  - iii. Closed schools or daycare facilities
  - iv. Employees who have tested positive
  - v. Employees who use mass transit
- b. Employees conduct personal self-assessment prior to coming to work
  - i. Consider using CDC Self-Checker  
<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/index.html>  
where symptoms persist
  - ii. Individuals with signs of COVID-19 infection or having fever >100.4  
should stay home, report symptoms to supervisor, and seek medical advice
- c. Maintain adequate social distancing in the office
- d. Flexible leave and telework accommodations
- e. All leave and travel policies will be updated to adhere to the current AO guidelines and the *Guide to Judiciary Policy*

## III. Clerk's Office Operations

- a. Encourage telework
- b. Liberal leave policies to accommodate employees who may be high risk, exhibit symptoms, are required to quarantine, have childcare issues, or are caring for sick family members

## IV. Probation

- a. Continue reduced in-person meetings with defendants to prepare Pre-trial Services Reports and Pre-sentence Reports
- b. E-mail protocol for sharing Pre-trial Services Reports and other critical reports
- c. Encourage use of video-conferencing platforms for meetings with judges in advance of court
- d. Continue to use virtual supervision strategies for basic and low risk cases

V. Facilities Considerations

- a. Building access restrictions remain in place
- b. Appropriate signage (e.g., noting screening procedures and face covering/social distancing policies) should be placed outside all entrances for both employees and the general public
- c. GSA has a “contract vehicle” for courts to hire screening companies to perform temperature checks and conduct screening protocol for persons entering judiciary facilities. At this time, the court does not intend to hire a screening company, due primarily to the significant cost and the belief that other procedures (e.g., self-screening at home, questioning by Court Security Officers (“CSOs”) at entrance, face covering, social distancing) can be effective.
- d. Use of masks/face coverings as prescribed by court order
- e. Proper marking in public areas for social distancing
- f. Increased cleaning protocols in the following areas:
  - i. Common areas
  - ii. Exposed areas
  - iii. High occupancy areas
- g. GSA to conduct cleaning where there has been an exposure
- h. Consider developing protocols to limit number of people using elevators and restrooms and for extra cleaning of both
- i. Limit gathering size in common use areas, e.g., office kitchens, breakrooms, gyms

## **PHASE TWO**

Phase Two involves a gradual loosening of restrictions, taking care to protect safety and public health as more people return to court facilities and courtrooms.

Before proceeding to Phase Two, the court will revisit the Gating Criteria. The local area should continue to show decreased incidences of new COVID-19 cases and a continued relaxation of local or state restrictive movement or shelter-in-place orders.

Even after entering Phase Two, the court should consider returning back to Phase One if local conditions worsen.

### I. Court Operations

- a. Expand in-person court proceedings but continue to encourage use of video-conferencing and tele-conferencing where feasible
- b. Consider expanding number of grand jury sessions
- c. Jury trials may be restarted. Further details on how jury trials will be conducted will be forthcoming from the court and /or presiding judicial officer, taking account of guidance provided by the AO through the COVID-19 Judicial Task Force Jury Subgroup.
- d. Consider resuming petty offense dockets
- e. At the discretion of the assigned judicial officer in consultation with the chief judge of the court, develop protocols for how to conduct in-person proceedings, courtroom set-up, cleaning, social distancing, and screening of individuals
  - i. In-person court proceedings should adhere to social distancing guidelines as implemented at the discretion of the assigned judicial officer
  - ii. Consider relaxing presumptive 10-person and 25-person limit in District and Bankruptcy Courts, respectively, so long as social distancing protocol is followed, considering practicalities

### II. HR Considerations

- a. Accommodations for Vulnerable Employees
  - i. Employees with high-risk medical issues
  - ii. Employees caring for family members
  - iii. Closed schools or daycare facilities
- b. Accommodations for employees with a confirmed COVID-19 diagnosis or suspected diagnosis or who are required (or recommended) to quarantine

- c. Employees conduct personal self-assessment prior to coming to work
    - i. Consider using CDC Self-Checker  
<https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/index.html>  
where symptoms persist
    - ii. Individuals with signs of COVID-19 infection or having fever >100.4  
should stay home, report symptoms to supervisor, and seek medical advice
  - d. Maintain adequate social distancing in the office
  - e. All leave and travel policies will be updated to adhere to current AO guidelines  
and the *Guide to Judiciary Policy*
- III. Clerk's Office Operations
- a. Encourage telework
  - b. Liberal leave policies to accommodate employees who may be high risk, exhibit  
symptoms, are required to quarantine, have childcare issues, or are caring for sick  
family members
  - c. Relax business travel restrictions
- IV. Probation
- a. Continue reduced in-person meetings with defendants to prepare Pre-trial  
Services Reports and Pre-sentence Reports
  - b. E-mail protocol for sharing Pre-trial Services Reports and other critical probation  
documents
  - c. Encourage use of video-conferencing for meetings with judges in advance of  
court
  - d. Continue to use virtual supervision strategies for basic and low risk cases
- V. Facilities Considerations
- a. Building access restrictions may be relaxed, but "enhanced screening" may be put  
in place
  - b. Appropriate signage (e.g., noting screening procedures and face covering/social  
distancing policies) should be placed outside all entrances for both employees and  
the general public

- c. GSA has a “contract vehicle” for courts to hire screening companies to perform temperature checks and conduct screening protocol for persons entering judiciary facilities. At this time, the court does not intend to hire a screening company, due primarily to the significant cost and the belief that other procedures (e.g., self-screening at home, questioning by CSOs at entrance, face covering, social distancing) can be effective.
- d. Use of masks/face coverings as prescribed by court order
- e. Proper markings in public areas for social distancing
- f. Increased cleaning protocols in the following areas
  - i. Common areas
  - ii. Exposed areas
  - iii. High occupancy areas
- g. GSA to conduct cleaning where there has been an exposure
- h. Consider developing protocols to limit number of people using elevators and restrooms and for extra cleaning of both
- i. Limit gathering size in common use areas, e.g., office kitchens, break rooms, gyms

## PHASE THREE

Phase Three begins a cautious return to normal court operations with an awareness of the need to provide reasonable accommodations for vulnerable or otherwise affected employees and to maintain a constant vigilance and awareness of local health issues.

Before proceeding to Phase Three, the court will revisit the Gating Criteria. The local area should continue to show decreased incidences of new COVID-19 cases and a continued relaxation of local or state restrictive movement or shelter-in-place orders.

Before entering Phase Three, the court will evaluate its experience in Phase Two and determine whether it is ready to proceed to Phase Three.

All court personnel, and all entrants to court facilities, are encouraged to maintain the good hygiene requirements set forth in Phases One and Two.

### I. Court Operations

- a. On-site and public-facing activities, including court proceedings, may be fully resumed, subject to the discretion of the presiding judge
- b. Resume Naturalization proceedings

### II. HR Considerations

- a. Reasonable accommodations should be made for vulnerable individuals, including social distancing and minimizing in-person participation in group meetings or social situations. These individuals should also continue to observe personal precautionary measures where social distancing is not possible, e.g., wearing face coverings, etc.
- b. Telework can be an option for vulnerable individuals
- c. All leave and travel policies will be updated to adhere to current AO guidelines and the *Guide to Judiciary Policy*

### III. Clerk's Office

- a. Full staffing resumed

### IV. Probation

- a. In-person visits to local detention facilities to prepare Pre-trial Services Reports and Pre-sentence Reports may be resumed
- b. In-person visits to supervisees may be fully resumed

V. Facilities Considerations

- a. Building restrictions are lifted
- b. Consider removing enhanced screening measures for those entering the buildings
- c. Large gathering areas may continue to operate with social distancing criteria in place
- d. Remove limits in gathering areas, e.g., kitchens, breakrooms, gyms, etc.

## **PHASE FOUR**

Phase Four reflects court activity after a public health determination that COVID-19 has been suppressed within the United States.

Court activities can resume normal operations with no restrictions. Personal travel can fully resume without precautionary measures and normal social activities and gatherings can resume.

There are no restrictions to court operations, Clerk's Office staffing, HR considerations or probation activities. The building access will return to normal operations without restrictions and security will return to full, pre-COVID-19 operations.