



# RETURN TO FULL CAPACITY

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## COVID-19 GUIDELINES FOR MICHIGAN'S JUDICIARY

Updated: February 2021

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# INTRODUCTION

Michigan has never faced a challenge like COVID-19. The pandemic is not only taking lives and battering our economy, but also challenging the strength of our institutions. From day one, our judiciary has met this challenge with unmatched dedication to public service and an unwavering commitment to innovation in keeping courts operating and accessible to the public.

By working together, we have addressed immediate concerns regarding how our courts provide essential services and have ramped up our ability to hear other business in virtual courtrooms. Now, as responsible stewards of our justice system, we must develop a strategy for returning to full capacity that works for our 57 circuit courts, 78 probate courts, 107 district and municipal courts, more than 160 different funding units, and 559 independently-elected judgeships. However, we cannot have 559 different plans; our judiciary must have one plan that clearly describes the steps that must be taken to protect public health while getting our branch of government back to full speed. Administrative Order No. 2020-14 provides the authority and this document provides the specific guidance trial courts need to move forward.

While our trial courts must follow this guidance, we understand that each jurisdiction is uniquely positioned to address local COVID-19 challenges based on proximal concerns and available resources. As a result, each chief judge must rely on public health information from local authorities to inform decisions on operational status of their courts. Ultimately, by using the phased approach provided in these guidelines, courts statewide will return to full capacity on their own timelines.

These guidelines are designed to assist court leaders in developing a planning and response cycle driven by local community health data and trends. The process will help facilitate decision making at the local level to best ensure public health and safety as courts return to full capacity. These decisions can be made for 30-day or 14-day operating periods (or less), depending on local circumstances and should be part of a regular planning cycle (see Appendix 1, p. 19).

“Full capacity” in 2020 means something different than in prior years and will require a culture shift in the judiciary based on advancements in court technology and remote work capacity achieved during the early stages of the COVID-19 pandemic. In that time, the number of Zoom licenses doubled to more than 1,000 as additional Zoom licenses were distributed to courts across the state, ensuring virtual capacity in every jurisdiction. Consequently, conducting virtual proceedings should be a continued fixture in court planning. This can mitigate exposure risks, while increasing court access to the attorneys, the parties, and the public. Although there will be a time when litigants and the public can return to the courtrooms for more proceedings, we must change our philosophy and only require attendance when absolutely necessary. Each court’s plan and definition of “full capacity” should take advantage of technology to the extent possible under current administrative orders.

Full capacity will also require different approaches to human resources to effectively respond to future resurgences of COVID-19. For instance, many courts have successfully implemented remote work arrangements for employees. Such arrangements should continue beyond the COVID-19 pandemic where it makes sense to do so. Further, requiring sick workers to remain at home will continue to play an essential role in maintaining a healthy work place. Gone are the days when employees with symptoms of respiratory illness, even if mild, can be allowed to “tough it out” and conduct the court’s business as usual.

The State Court Administrative Office (SCAO) is closely monitoring guidance from the White House, the Centers for Disease Control, and state health officials and will update these Return to Full Capacity guidelines as appropriate. SCAO is also tracking the guidance provided by our counterparts in the federal courts, and these guidelines reflect extensive consultation in that regard.

## PHASED APPROACH

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The proposed phased approach relies upon up-to-date data to assess readiness to proceed to expanded phases of court capacity. This approach is designed to mitigate risk of COVID-19 resurgence, protect vulnerable employees, and requires courts to submit plans for each phase to the SCAO regional office.

## GATING CRITERIA<sup>1</sup>

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Readiness to enter each phase is dependent on whether gating criteria have been satisfied. In consultation with local health professionals, courts will determine whether criteria involving exposure or symptoms in the court facility, number of community cases, and local health system capacity have been met. Before entering any phase, courts must demonstrate that *all* of the following criteria have been satisfied:

**Symptoms:** No COVID-19 confirmed or suspected cases in the court facility within a 14-day period; or, confirmed or suspected cases have occurred in the court facility, but deep cleaning of exposed areas and applicable employee self-quarantine actions have been taken.<sup>2</sup>

**Community Case:** There is a downward trajectory of documented cases within a 14-day period; or, there is a downward trajectory of positive tests as a percent of total tests within a 14-day period (flat or increasing volume of tests).

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<sup>1</sup> Chief Judges will need to tailor the application of these criteria to local circumstances (e.g., metropolitan areas that have suffered severe COVID outbreaks rural and suburban areas where outbreaks have not occurred or have been mild). Additionally, Chief Judges, should consult with local public health and public safety agencies to determine when these criteria are satisfied and minimize employee risk as they progress through the phases outlined below.

<sup>2</sup>This criteria is derived from “Guidelines for Opening up America.”



In addition to establishing sufficient downward trajectories for documented cases and percent positives over a 14 day period, the following criteria apply:

- Courts moving from Phase 2 to Phase 3 must be able to show a percent positivity rate of 5 percent or less for the 7 day period preceding the court’s request to increase capacity
- Courts moving from Phase 1 to Phase 2 must be able to show a percent positivity rate of 15 percent or less for the 7 day period preceding the court’s request to increase capacity.

**Health System Capacity:** Rescission of local and state restrictive movement and/or shelter-in-place orders and local and regional health care facilities are able to treat all patients without crisis care.

**OUTBREAKS:** If there is an “outbreak” (2 or more confirmed positive Covid-19 cases) in a court facility, the court must notify the appropriate SCAO regional administrator. Additionally, the court must review its current Model LAO 50 to determine whether additional safety measures need to be added in response to the outbreak. The court should work with the SCAO regional administrator and local public health department in making revisions to its plans.

If these conditions are met, the courts should demonstrate that conclusion by submitting a model plan to the SCAO regional office for approval to enter the next phase. Conversely, if the data suggests that local conditions have deteriorated, the court must retreat to the previous phase and follow the terms of the approved plan for the previous phase. The State Court Administrator may require a court to return back to any phase at any time.

## COURT GUIDELINES FOR ALL PHASES

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### FACE COVERINGS

Face coverings are required for all court employees and court visitors at all times. Limited exceptions include<sup>3</sup>:

- Face coverings are not required for employees who have private offices, or separate enclosed work areas.
- Where face coverings cannot be medically tolerated.
- At the discretion of the judge presiding over a court proceeding, face coverings may be removed by attorneys while speaking, jurors when they are asking questions, or for witnesses during testimony, where 6 ft. social distancing is maintained, and where court attendees are wearing face coverings at all times.

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<sup>3</sup> CDC has updated face covering guidances and recommend that people should wear masks in public settings for their protection and the protection of others. Masks are not a substitute for social distancing and should be worn in public in addition to staying 6 ft apart.

- Face coverings are required for attorneys unless the judge presiding over a court proceeding determines that the attorney is inaudible and temporary removal of the face covering is necessary to facilitate the creation of an accurate record. The judge may allow the attorney to temporarily remove face coverings while speaking if 6 ft. social distancing is maintained, and where court attendees are wearing face coverings at all times.

Ensure that appropriate policies, based upon COVID-19 response lessons learned, are in place regarding:

- Social distancing and protective equipment
- Notification, isolation, and contact tracing procedures
- Sanitation and disinfection of common and high-traffic areas
- Business travel
- Reasonable accommodation for employees (e.g., children’s schools or daycare closed, fear or actual risk of exposure when using mass transit, caring for ill or vulnerable persons [see definition in Appendix 2, p. 20] in the household)

Direct employees to [self-monitor for indicative symptoms](#) of COVID-19 and to stay home if they exhibit these symptoms or feel ill. Employees who have had COVID-19 or its symptoms should return to work only after consulting with and getting clearance from a medical provider.

Implement policies and procedures for workforce [contact tracing](#) (i.e., identify all areas in the facility where the individual was present and everyone they may have been in contact with) following the individual’s positive COVID-19 test.

Monitor the status of public infrastructure (e.g., transportation, medical, local businesses, restaurants) to determine if operational adjustments need to be made.

Work with your regional administrator as you plan to move into each phase of expanded operations. Each plan and your advancement into each new phase of expanded operation is subject to SCAO approval.

## INDIVIDUAL RESPONSIBILITIES

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### CONTINUE TO PRACTICE GOOD HYGIENE

- Wash your hands with soap and water or use alcohol-based hand sanitizer, especially after touching frequently used items or surfaces.
- Avoid touching your face.



- Frequently disinfect used items and surfaces.
- Use face coverings while in public, and particularly when using mass transit.
- Maintain 6 ft. separation and other social distancing measures.
- Wear face covering in court facilities at all times, absent applicable exceptions.

## PEOPLE WHO FEEL SICK SHOULD STAY HOME

- Do not go to work.
- Contact and follow the advice of your medical provider.

## LEGAL AUTHORITY

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In Administrative Order No. 2020-14, the Michigan Supreme Court has directed trial courts to “adhere to the phased return of operations as determined by policy guidelines established by the State Court Administrative Office.” This authority is pursuant to 1963 Const, Art VI, Sec. 4 which provides for the Supreme Court’s superintending control over all state courts.

As noted in the order, these SCAO policies include, but are not limited to:

- Continued use and expansion of remote hearings as practicable and increase of the court’s capacity to conduct business online, including increased remote work by employees.
- Continued limited access to courtrooms and other spaces to no more than 10 persons, including staff.
- Imposition of social distancing practices of at least 6 feet for both employees and visitors.
- Limited in-person court activity to essential functions that cannot be conducted remotely.
- In accordance with CDC guidelines,
  - o Adoption of policies that ensure appropriate cleaning and sanitation.
  - o Adoption of policies that appropriately protect vulnerable individuals.
  - o Adoption of policies to safely screen employees and the public for potential cases of illness.<sup>4</sup>
- Courts must maintain their current level of operations until SCAO approves a court’s plan to expand in-court proceedings. Courts in each circuit may work together to submit to SCAO at each gating level a single plan wherever possible consistent with the SCAO guidelines for returning to full capacity. Conditions may also require a court to move to a previous access level, depending on local conditions. (See Appendix 4, “Reducing Capacity in Response to Deteriorating Conditions,” p. 24.)

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<sup>4</sup>Public health communities may not necessarily align with jurisdictional boundaries or SCAO Regions. The Michigan Association of Local Public Health publishes an online directory by region. The directory is available at [www.malphp.org/resources/directory](http://www.malphp.org/resources/directory).

# HOW TO BEGIN

Before beginning a return to full capacity and entering Phase One of these guidelines, the court must work with local health officials and rely on their data and recommendations in determining when it is appropriate to do so. The determination must consider the following factors:

- Total population
- Population density
- Population over age 60
- Availability of ICU beds
- Stresses on local hospitals and ICU systems
- Number of confirmed cases of COVID-19

NOTE: In reestablishing operations within your facility, your starting point **must not be greater than** the phase recommended by your public health community and local public safety agencies.

Prior to moving from one phase to the next, the court must prepare and submit a plan to SCAO to seek approval to expand in-court proceedings; until approval is granted, courts must maintain their current level of operations. At each stage, this guidance provides steps with respect to protecting employees, managing court operations, and operating court facilities.

## EMPLOYEES

Each court must utilize screening procedures that identify the presence of COVID-19 symptoms, COVID-19 exposure, and international travel.<sup>5</sup>

Local Health Orders will provide direction on the screening criteria that is appropriate for outbreak conditions in the community. However, in the absence of a screening and social distancing order by the Local Health Officer, the Michigan Association for Local Public Health (MALPH) recommends the following promising practices in order to control and limit the spread of COVID-19 throughout the workplace, home, and community.<sup>6</sup>

The screening questions should include, but not be limited to:

- Fever greater than 100.4 degrees;
- Cough or worsening cough (excluding chronic cough due to known medical reason);
- Shortness of breath, or any two of the following symptoms:
  - Fever
  - Chills
  - Repeated shaking with chills
  - Muscle pain
  - Headache
  - Sore throat
  - New loss of taste or smell

<sup>5</sup> Employers can comply with screening and record keeping requirements by using the MI Symptoms App: [misymptomapp.state.mi.us](https://misymptomapp.state.mi.us).

<sup>6</sup> Courts should regularly review screening recommendations from the CDC, as well as state and local public health officials to tailor screening protocols to local public health conditions.





If a touchless/contactless thermometer is available, a temperature check is strongly recommended in lieu of verbal confirmation.

In addition, employees and members of the public seeking entry into the court facility should be asked if they have had any close contact in the last 14 days with someone with a diagnosis of COVID-19. Lastly, employees and members of the public should be asked whether they have traveled internationally in the last 14 days.

Any “yes” response to the screening questions above requires the individual to be excluded:

- For at least 24 hours with no fever (that is three full days of no fever without use of medicine that reduces fever) AND other symptoms have improved (for example, when your cough and shortness of breath have improved) AND at least 7 days have passed since your symptoms first appeared.
- 14 days of close contact with diagnosed case of COVID-19.

As the court continues planning for additional phases, workers must continue to work remotely to the extent possible. For employees who must enter court facilities, emphasize frequent and proper handwashing.

Wear face covering in court facilities at all times, unless 6 ft. social distancing can be reasonably maintained.

## **CHIEF JUDGE AND COURT**

Before entering Phase One the court must continue to hold proceedings virtually whenever possible. The court must continue social distancing (at least 6 feet from another person) for employees working in shared spaces and court-users waiting for services inside or outside of the courthouse.

## **FACILITIES**

Work with facilities to make sure sinks are well supplied. Employees should not share space or equipment. If this is not possible, have employees wash their hands with soap before and after using shared equipment. Clean and sanitize equipment between uses. Any employee with cold symptoms or underlying health conditions should stay home or work remotely.

The court must limit capacity inside facilities to provide for social distancing between court-users and employees. This includes, but is not limited to use of signs, contact barriers, entrance limits, and specialized hours.

# PHASE ONE

## EMPLOYEES

If an employee has self-identified as a vulnerable employee (see definition in Appendix 2, p. 20) and is unable to return to work, engage the employee in a discussion to determine whether an appropriate accommodation is available, including the ability to work remotely if their job lends itself to remote work. This also applies to employees who have indicated that they live with or provide care for vulnerable individuals.

Discuss reasonable accommodation options with supervisors for those who rely solely on public transportation or have other concerns.

To reduce the risk to others, employees should conduct a health self-assessment prior to coming into the office, such as taking their temperature. If an individual's temperature is greater than 100.4 degrees or if an individual is exhibiting other signs of COVID-19 infection per CDC guidance, the individual should self-report to supervisors, stay home, and call their physician. Utilize the [CDC Self-Checker](#) to assist with that assessment.

Employees should maximize physical distance from others in the workplace. Six-foot distancing should be observed in all offices, meetings, court proceedings, etc. Tape or other visible means should be used to mark 6 ft. distances where practical.

Minimize personal travel (i.e., leisure travel, non-business related) and adhere to CDC guidelines, as well as local and state orders regarding travel and potential for self-isolation upon return.

Employees should wear face coverings at all times, unless they have a private office. Any exceptions must be approved by the chief judge.

## CHIEF JUDGE AND COURT

Continue to rely on local public health and CDC guidance to inform your local data-based decisions.

Consider the guidance provided to other agencies in your building and to your community as a whole, as well as the decisions made by your funding unit, the public defender, the prosecuting attorney, etc., when developing your plan and making operational decisions.

On-site court proceedings and off-site visits to probationers and clients should be minimized by using video- and tele-conferencing whenever possible. When face-to-face meetings are required, you should limit them to no more than 10 people, adhere to social distancing rules and hygiene protocols (e.g., wearing face



coverings), and make every effort to “prescreen” probationers and clients to ensure they are asymptomatic for COVID-19.

Review and update court orders and notices as appropriate.

Minimize business travel and adhere to CDC guidelines regarding isolation following travel.

It is presumed that employees and visitors to the court will be required to wear face coverings. Employees and visitors who cannot medically tolerate face coverings should not be required to wear them. However, courts should attempt to make accommodations in order to maintain social distancing at all times.

## **HUMAN RESOURCES CONSIDERATIONS**

Continue remote work arrangements whenever possible and feasible within judicial operations and keep initial staffing in the court facility to a minimum.

Returning employees should not include those who are in the [vulnerable or high-risk categories](#) or others who require reasonable accommodations because of COVID-19. These employees should continue to work remotely.

Work with supervisors to identify employees who, due to vulnerability or other need for reasonable accommodation, need to continue to work remotely.

Consider reasonable accommodation options for those who rely on public transportation to get to the workplace and may be at a higher risk of exposure to COVID-19 as a result.

In addition to considering local employment policies and collective bargaining agreements, the following circumstances should be taken into account when an employee asks to work remotely or use leave time because of COVID-19. The employee:

- Is subject to a federal, state, or local quarantine or isolation order related to COVID-19, or is living with or caring for an individual who is.
- Has been advised by a health care provider to self-quarantine due to concerns related to COVID-19, or is living with or caring for an individual who has been advised to self-quarantine.
- Is considered “high-risk” where local health officials recommend such individuals remain at home due to concerns related to COVID-19, or is living with or caring for a high-risk individual who is.
- Is experiencing symptoms of COVID-19 and seeking a medical diagnosis, or is living with or caring for an individual who is.
- Is caring for a child if the school or place of care has been closed, or the childcare provider of such child is unavailable, due to COVID-19.

## FACILITIES

If the court facility has been exposed to the virus, coordinate cleaning and disinfection of the facility with your jurisdiction's facilities department or a contractor prior to allowing employees back into the building. Cleaning procedures should be consistent with [CDC guidance on cleaning and disinfection](#). The CDC created a cleaning and disinfection [decision-making tool](#) to assist leaders in efforts to develop and maintain appropriate cleaning and disinfection protocols in public facilities and work spaces.

If the courthouse or facility is currently physically closed to the public, it should remain so unless the local public health or safety officials have reopened public facilities. During this phase, the courts must implement measures to limit gatherings and to ensure minimal foot traffic in the building. Multi-tenant facilities should use the Facility Security Committee to make public access decisions for the building.

Use COVID-19 screening procedures at facilities to mitigate possible employee exposure. Screening processes and checklists should be developed in consultation with the local health department.

Increased cleaning of common areas and use of cleaning and disinfecting for exposed areas should continue.

Large venues and common areas (e.g., courtrooms, jury assembly, sit-down dining, etc.) should be closed to the greatest extent possible. If not possible, keep occupancy rate to 10 or less and operate under strict social distancing protocols. Absent applicable exceptions, the use of face coverings is required in court facilities at all times. The court must continue to promote social distancing. Tape or other visible markers should be used to mark 6 ft. distances where practical. If consultation between facilities management and leadership reveals that social distancing cannot safely be maintained without additional measures, implement additional precautions such as staggered arrival times for employees, and specific appointment times for participants of the court's limited number of in-person proceedings.

## BEFORE PROCEEDING TO PHASE TWO

Before exiting Phase One and proceeding to Phase Two, courts should coordinate with local public health officials and reevaluate the Gating Criteria to ensure:

- Readiness to progress to the next phase
- Need to implement additional social distancing measures based upon resurgence of infections in the local area

After making these determinations, the court must submit its plan for entry into Phase Two (with supporting data) to their SCAO regional administrator for approval.<sup>7</sup>

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<sup>7</sup> See SCAO Model Plans for each phase at [www.courts.mi.gov/rtfc](http://www.courts.mi.gov/rtfc)



## PHASE TWO

A court is ready to move to Phase Two when it has determined, after consulting with local health officials that there is no evidence of a COVID-19 rebound within the local community, gating criteria have been satisfied for a second time, and the SCAO regional office has approved the Phase Two plan.

### **EMPLOYEES**

Continue accommodations for employees identified as vulnerable during Phase One. For any employee newly self-identified as a vulnerable employee (see definition in Appendix 2, p. 20) who is unable to return to work, engage the employee in a discussion to determine whether an appropriate accommodation is available, including the ability to work remotely if their job lends itself to remote work. This also applies to employees who have indicated that they live with or provide care for vulnerable individuals.

Discuss reasonable accommodation options with supervisors for those who rely solely on public transportation or have other concerns.

To reduce risk, prior to coming into the office, all individuals should conduct a health self-assessment, to include taking their temperature. If an individual's temperature is greater than 100.4 degrees or if an individual is exhibiting other signs of COVID-19 infection per CDC guidance, the individual should self-report to supervisors, stay home, and call their physician. Use the CDC Self-Checker to assist.

When in the office, all individuals should maximize physical distance from others. Six foot distancing should be observed in all offices, meetings, court proceedings, etc. Tape or other visible markers should be used to mark 6 ft. distances where practical.

If the court's Phase One plan limited personal travel, personal travel can resume, however, continue to be aware of potential out-of-state travel precautions and quarantine requirements upon return.

Employees should wear face coverings at all times, unless they have a private office.

## CHIEF JUDGE AND COURT

Make operational preparations for a significant increase in filings and other court proceedings that will likely occur during this phase. The emphasis should be on accepting filings remotely to the greatest extent possible. For guidance on docket management, see [Early Case Triage Strategies to Ease Docket Pressure](#). Courts should continue to maximize use of virtual proceedings when possible.

Continue to rely on local public health and CDC guidance to inform your local data-based decisions.

Continue to encourage remote work whenever possible and feasible with court operations. Refer to Human Resource Considerations from Phase One.

Continue to work with supervisors to consider reasonable accommodations for personnel who are members of a vulnerable population or have other personal requirements that need to be addressed.

On-site court proceedings and off-site visits to probationers and clients can be increased, although courts should continue to use video and teleconferencing to the greatest extent possible. For specific guidance on conducting jury trials, [click here](#). Courts should limit gatherings during this phase and adhere to strict social distancing and hygiene protocols. Absent applicable exceptions, face coverings are required for all face-to-face meetings.

It is presumed that employees and visitors to the court will be required to wear face coverings at all times. Employees and visitors who cannot medically tolerate face coverings should not be required to wear them. However, accommodations should be made to allow for social distancing at all times.

Essential business travel can resume, accounting for potential out-of-state travel precautions and quarantine requirements upon return.

## FACILITIES

If the courthouse or facility has “limited public access,” consult with the local funding unit and local health authority regarding adjustment of public access restrictions. Multi-tenant facilities should use its Facility Security Committee to make public access decisions for the building.

Continue use of enhanced screening procedures at facilities to mitigate possible employee exposure.

Cleaning and disinfection for newly exposed areas should continue.

Large venues and common areas (e.g., sit-down dining, courtrooms, jury assembly, etc.) can operate under moderate 6 ft. physical distancing protocols. Tape or other visible means should be used to mark 6 ft. distances where practical.

Absent applicable exceptions, the use of face coverings is required in court facilities at all times.



## **BEFORE PROCEEDING TO PHASE THREE**

Before exiting Phase Two and proceeding to Phase Three, courts should coordinate with local public health officials and reevaluate the gating criteria to ensure:

- Readiness to progress to the next phase.
- Need to implement additional social distancing measures based upon resurgence of infections in the local area.

After making these determinations, the court must submit its plan for entry into Phase Three (with supporting data) to their SCAO regional administrator.

# PHASE THREE

A court is ready to move to Phase Three when it has determined, after consulting with local health officials that there is no evidence of a COVID-19 rebound within the local community, gating criteria have been satisfied for a third time and the SCAO regional office has approved the Phase Three plan.

## **EMPLOYEES**

Vulnerable individuals who were on temporary leave or who are working remotely return to work and should practice 6 ft. physical distancing and minimizing exposure to social settings where distancing may not be practical. Continue to observe precautionary measures such as face coverings at all times absent limited exceptions.

Personal travel should take into account potential out-of-state travel precautions and quarantine requirements upon return.

Everyone should consider minimizing time spent in crowded environments.

Employees should wear face coverings at all times, unless they have a private office. Any exceptions must be approved by the chief judge.

## CHIEF JUDGE AND COURT

Continue to rely on local public health officials and guidance from the CDC to inform decisions on operations. For specific guidance on conducting jury trials, [click here](#).

On-site public facing activities and site visits with probationers and clients can be fully resumed.

Continue to work with supervisors to consider reasonable accommodations for personnel who are members of a vulnerable population or have other personal requirements needing to be addressed. Otherwise, resume normal staffing at worksites.

It is presumed that employees and visitors to the court will be required to wear face coverings. Employees and visitors who cannot medically tolerate face coverings should not be required to wear them. However, courts should attempt to make accommodations in order to maintain social distancing at all times.

## FACILITIES

In consultation with local health authorities, consider termination of the use of “enhanced screening” at facilities.

Cleaning and disinfection for newly exposed areas should continue.

Large venues and common areas (e.g., sit-down dining, courtrooms, jury assembly, etc.) can operate under limited 6 ft. physical distancing protocols until the CDC rescinds guidance and additional mitigation measures are approved government-wide.

Absent applicable exceptions, the use of face coverings is required in court facilities at all times.





# PHASE FOUR

Before exiting Phase Three and proceeding to Phase Four, courts should coordinate with local public health officials and reevaluate the gating criteria to ensure that the court is ready to return to full capacity.

After making that determination, the court must submit its plan to return to full capacity (Phase Four) to the SCAO regional administrator. The plan should include information regarding increased use of virtual proceedings to mitigate risk, improve convenience to parties, and to expand public access to the court.

A court is ready to move to Phase Four when there has been a public health announcement that COVID-19 has been suppressed within the United States and a Phase Four plan has been approved by the SCAO Regional Administrator.

## **EMPLOYEES**

Vulnerable individuals resume all daily work/life activities with no need for additional precautionary measures.

Normal social activities and gatherings can resume.

Hygiene practices such as proper handwashing and use of hand sanitizer should continue.

## **CHIEF JUDGE AND COURT**

Unrestricted staffing of worksites.

On-site public facing activities and site visits to probationers and clients can be fully resumed.

Resume full, unrestricted operations and activities.

## FACILITIES

All access and operations can operate without restrictions.

Security operations return to full, pre-COVID-19 functionality.

## DEBRIEFING AND PANDEMIC PLANNING

At this stage, the court's leadership team, including the chief judge(s) and court administrator(s) should debrief with local court stakeholders to evaluate pandemic response. Court stakeholders include, but are not limited to representatives from the following: court funding unit, prosecuting attorneys office, public defenders office, and representation from the local bar association. Debriefing should be conducted with the following objectives in mind:

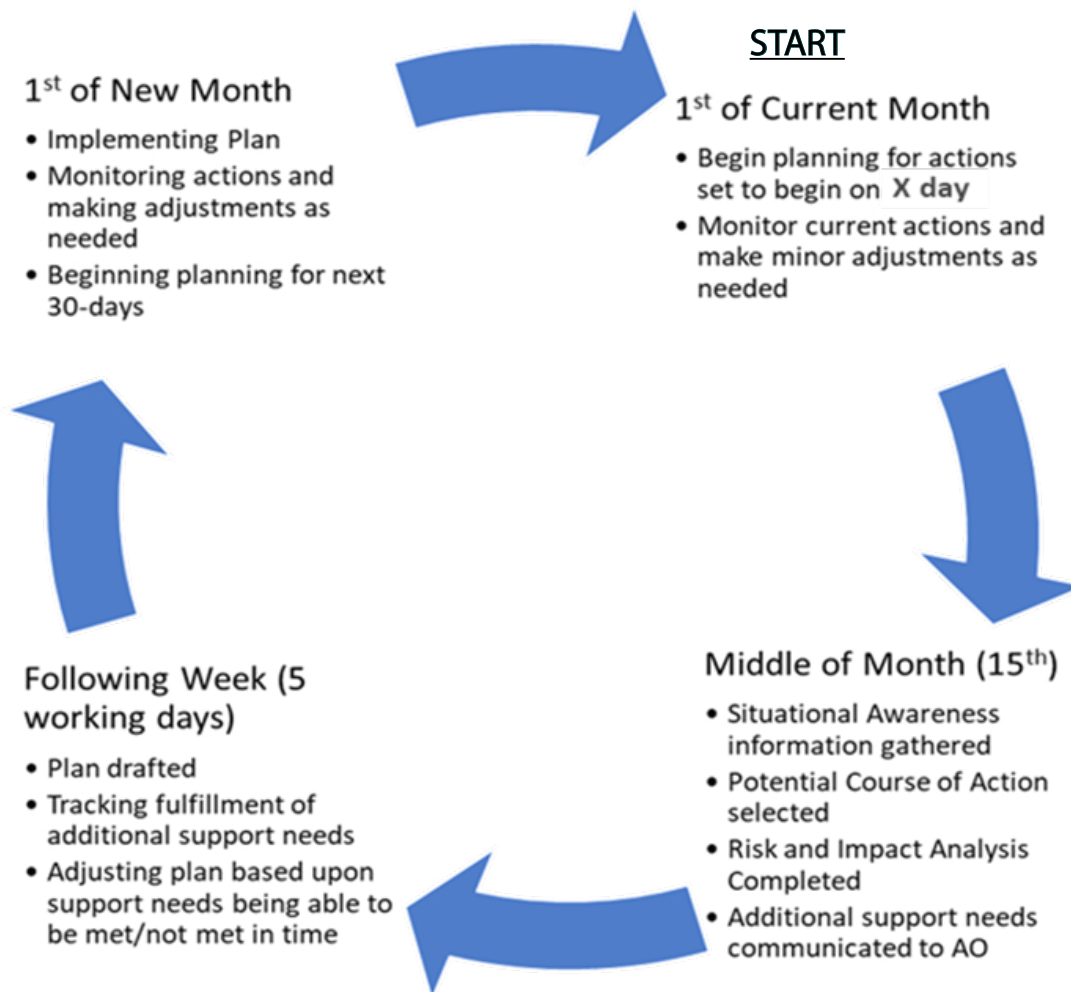
- Identify COVID-19 responses that worked well;
- Identify opportunities for improved local pandemic responses in the future; and,
- Begin planning process to incorporate "lessons learned" into existing continuity of operations plans (COOP), or separate pandemic specific COOP plans.

Consider contacting your SCAO regional administrator to help facilitate debrief sessions and assist the courts in developing robust response plans.



## APPENDIX 1: EXAMPLE OF PLANNING PROCESS

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## APPENDIX 2: DEFINITIONS - CDC GUIDANCE

### Vulnerable Individuals

- People 65 years or older
- People of all ages with underlying medical conditions, particularly if not well controlled, including those who suffer from chronic lung disease, moderate to severe asthma, serious heart conditions, immune disorders, obesity, diabetes, or chronic kidney or liver disease.

### ADA-Compliant Employee Survey for Gradual Return to the Workplace

Directions: Answer “yes” to the whole question without specifying the factor that applies to you. Simply check “yes” or “no” at the bottom of the survey.

Due to circumstances related to COVID-19, would you be **unable** to return to work because of any one of the following reasons:

- Schools or daycare centers are closed, so you need to care for your child/children;
- Other services are unavailable, so you need to care for other dependents;
- Public transport is sporadic or unavailable, so you are unable to travel to work; and/or;
- You or a member of your household fall into one of the categories identified by the CDC as being at high risk for serious complications from the pandemic influenza virus, you would be advised by public health authorities not to come to work (e.g., pregnant women; persons with compromised immune systems due to cancer, HIV, history of organ transplant or other medical conditions; persons less than 65 years of age with underlying chronic conditions; or persons over 65).

Answer: YES \_\_\_\_\_ NO \_\_\_\_\_



## APPENDIX 3: WEB RESOURCES

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[White House guidance, messaging, and memoranda - Centers for Disease Control \(CDC\)](#)

[CDC Listing of State Public Health Agencies](#)

[Directory of Local Public Health Offices](#)

[One Court of Justice COVID-19 Web Page and Resources](#)

[Virtual Courtroom Resources](#)

[Toolkit on Returning to Full Capacity](#)

[State of Michigan COVID-19 Page](#)

[Equal Opportunity Employment Commission COVID-19 Page](#)

[Occupational Health and Safety Administration COVID-19 Page](#)

[World Health Organization \(WHO\) COVID-19 Global Information and Resources](#)

## APPENDIX 4: REDUCING CAPACITY IN RESPONSE TO DETERIORATING CONDITIONS

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The Return to Full Capacity (RTFC) document provides that satisfying gating criteria permits the courts to expand capacity by moving through subsequent phases, but also provides that courts must return to a previous phase upon a determination by the chief judge that local public health conditions have deteriorated. (RTFC, p. 5). In addition, the chief judge of a court may, at any time, submit a revised model LAO 50 to the SCAO regional office to move back a phase and/or restrict in-person hearings based on local conditions. The State Court Administrator may require a court to move back to Phase 1 at any time.

Deteriorating conditions are defined as:

### Phase 3 Courts

If state and local orders restricting movement and/or requiring shelter-in-place have been imposed and the SCAO has determined that existing orders would prevent the court from continuing its current RTFC Phase 3 requirements; OR

If there is an upward trajectory of documented cases for a 14-day period, AND an upward trajectory of positive tests as a percent of total tests for a 14-day period, THEN

The court's Phase 3 LAO will be rescinded and the court will be required to submit a new Phase 1 or 2 LAO as appropriate.

### Phase 2 Courts

A. If state and local orders restricting movement and/or requiring shelter-in-place have been imposed and the SCAO has determined that existing orders would prevent the court from continuing its current RTFC Phase 2 requirements; OR

If there is an upward trajectory of documented cases for a 14-day period, OR an upward trajectory of positive tests as a percent of total tests for a 14-day period, AND

The COVID-19 test positivity rate is 15 percent or higher, THEN

The court's Phase 2 LAO will be rescinded and the court will be required to submit a new any-phase LAO.

B. If there is an upward trajectory of documented cases for a 14-day period, AND an upward trajectory of positive tests as a percent of total tests for a 14-day period, BUT

The COVID-19 test positivity rate is below 15 percent, THEN

The court shall review its current Phase 2 LAO and consider submitting a new Phase 2 LAO that adds additional safety measures. Examples of additional safety measures may include reducing in-person proceedings, eliminating off-site visits, staggering staff schedules, and increased reliance on remote work.



## APPENDIX 5: COVID-19 VACCINE FREQUENTLY ASKED QUESTIONS & RESOURCES

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This guidance, as of February 1, 2021, is intended to provide courts with information regarding COVID-19 vaccinations. Information regarding vaccine safety, availability and side-effects evolves quickly and staff are encouraged to review other credible sources regularly for the most up-to-date information. Examples of reliable COVID-19 resources include the Centers for Disease Control and Prevention (CDC), the Michigan Department of Health and Human Services, and local health departments.

### What Vaccines are Currently Available?

There are currently two COVID-19 vaccines that have received emergency use authorization (EUA) by the United States Food and Drug Administration (FDA). They are the Pfizer-BioNTech COVID-19 vaccine and the Moderna COVID-19 vaccine.

### What is Emergency Use Authorization?

The FDA defines an EUA as “a mechanism to facilitate the availability and use of medical countermeasures, including vaccines, during public health emergencies, such as the COVID-19 pandemic.” [[Emergency Use Authorization for Vaccines Explained](#) | FDA (last visited February 5, 2021)]

Under an EUA, the FDA can allow the unapproved use of medical products, or unapproved uses of approved medical products, in an emergency when there are no adequate, approved, and available alternatives. For the EUA to be issued “the FDA must determine that the known and potential benefits outweigh the known and potential risks of the vaccine.”

### How were the vaccines tested?

The COVID-19 vaccine development process included tens of thousands of study participants and generated the data necessary for the FDA to thoroughly evaluate the quality and consistency of the vaccines. The COVID-19 vaccines that have received an EUA are being held to the same [safety standards](#) as all vaccines.

### How many doses of the COVID-19 vaccination do I need?

Both the Pfizer and the Moderna COVID-19 vaccines require two injections, taken approximately three to four weeks apart.

### Am I eligible to get a vaccine now?

It depends. In Michigan, the Michigan Department of Health and Human Services (MDHHS) has issued [vaccine prioritization guidance](#). Trial court employees who are unable to work remotely may be prioritized in Phase 1B group B or C based on the frequency and duration of contact they have with the public due to

## APPENDIX 5: COVID-19 VACCINE FREQUENTLY ASKED QUESTIONS & RESOURCES (cont.)

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their roles. Courts should work collaboratively with their local health departments to properly prioritize employees. If court staff are currently eligible for vaccination due to age or underlying health conditions as identified in the MDHHS prioritization guidance document, they should contact the local health department or participating pharmacy to schedule an appointment.

### What are the side-effects associated with the COVID-19 vaccine?

The COVID-19 virus is reported to have caused more than 400,000 COVID-related deaths in the United States. The virus has caused significant health issues in considerably more individuals, and has strained the healthcare system throughout the country. The vaccine is designed to create resistance to the COVID-19 virus and stop the spread of the disease. COVID-19 vaccines may cause side effects and that some commonly reported side effects of the vaccines tend to mimic COVID-19 symptoms. Specifically, common side effects of the vaccines are:

- Pain/swelling/redness at the injection site
- Tiredness
- Headache
- Muscle pain
- Chills
- Joint pain
- Swollen lymph nodes in the same arm as the injection
- Nausea
- Vomiting
- Fever

Side effects may be more pronounced after the second dose for both vaccines. Because these side effects overlap with the symptoms of COVID-19, staff should not come to work if they are exhibiting any of the side effects listed for either vaccine.

### Are there resources available to help communication vaccine information to employees?

Yes. The CDC created a COVID-19 [Communication Toolkit](#). The kit includes relevant information and includes posters on various vaccine related issues.





## APPENDIX 5: COVID-19 VACCINE FREQUENTLY ASKED QUESTIONS & RESOURCES (cont.)

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### Should we mandate vaccination for court employees?

The Equal Opportunity Employment Commission (EEOC) recently updated its [COVID-19 guidance](#) to include a section specific to vaccination related employment issues, including whether an employer can mandate COVID-19 vaccinations for employees. Please refer to the EEOC guidance for information specific to mandatory vaccination policies, as the guidance is quickly evolving. While current guidance indicates that such policies are permissible (with caveats), there are many issues that need to be carefully evaluated by organizations who are considering mandatory COVID-19 vaccination policies.

Some considerations include addressing accommodations under the Americans with Disability Act (ADA) and potential claims under Title VII of the Civil Rights Act of 1964 related to inconsistent application of COVID-19 vaccination policies. The court would also need to be prepared to address workers' compensation and leave administration issues. Consequently, we recommend that courts work in close collaboration with local counsel, human resources (if available), and labor relations partners in developing vaccination policies and procedures. The Society for Human Resources Management (SHRM) recently issued guidance with helpful advice on developing a vaccination strategy. The article, "[Developing a Vaccination Strategy](#)," provides a multi-phased approach to vaccination planning, which includes considerations of the potential legal and practical issues mentioned above.

While courts are working on vaccination strategies, they should continue to keep employees as informed as possible by providing employees with updates regarding local vaccination rollout. Employees may also be interested in the [Vaccination Prioritization Guidance](#) issued by MDHHS.

### Other COVID-19 Vaccination Resources:

[8 Things to Know about the U.S. COVID-19 Vaccination Program | CDC](#)

[Facts about COVID-19 Vaccines \(cdc.gov\)](#)

[Benefits of Getting a COVID-19 Vaccine | CDC](#)

[Different COVID-19 Vaccines | CDC](#)

[COVID-19 vaccine: Separating myths from facts - Sanford Health News](#)



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