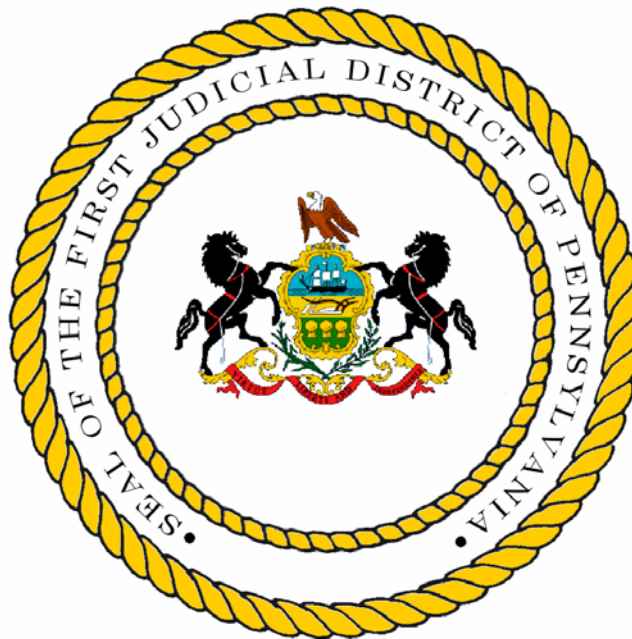


**First Judicial District of Pennsylvania
Court of Common Pleas of Philadelphia
Orphans' Court Division**

**Protocols and Guidelines for Conducting
In-Person and Hybrid Judicial Proceedings
In City Hall**



April 22, 2021

REVISED: JUNE 30, 2021

PREAMBLE

On March 17, 2020, the First Judicial District suspended all in-person proceedings for the health and safety of judges, judicial staff, counsel, parties and the public. During this time, the Court's leadership has closely monitored public health guidance provided by the Centers for Disease Control and Prevention, the Pennsylvania Department of Health and the City of Philadelphia's Department of Public Health.

With the continued guidance from public health officials and current COVID-19 statistical data, and consistent with the terms of the June 21, 2021, Pennsylvania Supreme Court Order, No. 553 Judicial Administration Docket and in accordance with all health and safety protocols, EFFECTIVE JULY 6, 2021, the Orphans Court Division will resume normal in-person operations. When necessary and appropriate to ensure access and due process, remote and hybrid proceedings will be available at the sole discretion of each individual Orphans' Court Judge after consulting with all parties and consistent with the following guidelines:

- Mask wearing will be optional for individuals who are fully vaccinated. Persons who are not fully vaccinated are still required to wear masks in City Hall, the courtrooms and in all FJD facilities.
- All unvaccinated persons required to wear a mask should wear a CDC compliant face mask that properly fits over the nose and mouth at all times when inside City Hall and in the Courtrooms.
- All persons shall maintain a proper social distance from any other persons when inside City Hall, the courtrooms and all court facilities and offices.
- In Court procedures have been modified to reduce contact during hearings.
- Courtrooms have been reconfigured to ensure proper social distance seating.
- Courtrooms have enhanced cleaning/disinfecting protocols and increased ventilation; hand sanitizer stations are located throughout City Hall and courtrooms.
- Judicial staff will ensure compliance with each courtroom's occupancy limit, which was established in accordance with public safety guidance. Livestreaming of the entire proceeding where permitted is available via YouTube.

Recognizing that the pandemic is not a static event, these Protocols and Guidelines are subject to updating and revision. The Orphans' Court Division invites comments and improvements to these Protocols and Guidelines to ensure the safety of judges, judicial staff, counsel, parties, witnesses and the public.

Any comments and suggestions may be emailed to Sheila.Woods-Skipper@courts.phila.gov.

For the most recent version, please visit: <https://www.courts.phila.gov/covid-19/>

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ENTRY INTO CITY HALL

Authorized badge holders – any hearing participant that has an active, City-issued badge that allows them entry into City Hall – including counsel and legal support staff – may enter any entrance of City Hall.

All other persons – All other persons must enter City Hall through the public entrance in the Northeast Corner of City Hall.

COVID-19 PROTOCOLS DURING IN-PERSON PROCEEDINGS

While a face mask is optional for persons who are vaccinated, a face mask is mandatory for any person who is not vaccinated. Thus all unvaccinated individuals including the presiding trial judge, all courtroom and judicial staff, counsel, parties, and witnesses must wear a CDC compliant face mask that is properly fitted over the nose and mouth when inside City Hall, the courtrooms, and all court offices. The unvaccinated person may not remove their face mask at any point. The only exception to this policy is when a person is actually drinking from a water bottle.

While all unvaccinated persons are required to wear a face mask, unvaccinated persons are also encouraged (but not required) to wear two face masks, *e.g.*, one surgical face mask and one cloth face mask. Participants may wear a face mask that has a clear window provided that the face mask is CDC compliant and properly fitted over the nose and mouth. Finally, a plastic face shield is not a replacement for a face mask but a plastic face shield may be worn in **combination** with a face mask. Also, all persons may be asked to wear a face mask even if they are vaccinated while in the courtrooms.

All operable windows shall remain partially open during all proceedings in order to increase ventilation and bring fresh outside air into the court rooms.

Note: All participants are encouraged to wear layers of warm clothes as the temperature inside the courtroom may not reach a comfortable level during proceedings if the outside temperature is particularly cold.

CONDUCT OF JUDICIAL PROCEEDINGS IN CITY HALL

Physical Reconfiguration of Courtrooms & Compliance with Social Distancing

To comply with social distancing requirements, all participants are assigned seats in the public gallery of the courtroom. No chairs shall be moved or relocated at any point during the proceeding.

All lawyers, and paralegals will sit at tables where each chair is at least six feet away from any other chair¹. With the approval of the presiding trial judge, counsel may move or relocate chairs and tables but any relocation must abide by social distancing requirements unless a mobile Plexiglas barrier is used. At the end of proceeding, all relocated chairs and tables shall be moved back in the original location in the “well” of the courtroom which is marked by tape on the floor.

Plexiglas is installed in areas where social distancing cannot be observed. For example, Plexiglas is installed above the court reporter (on the bench and around witness stand) to allow social distancing for the court reporter. Mobile Plexiglas barriers are available if an unanticipated need for Plexiglas arises.

With the permission of the presiding trial judge, counsel may use a podium to make opening statements and closing arguments provided that they abide by social distance requirements. Otherwise, counsel must remain seated when making their opening statement and closing argument.

Examination of Witnesses

All testimony must be presented in-person unless the judge and all parties have agreed to hybrid proceedings where some witnesses or persons are present by advanced communication technology such as through Zoom.

Upon entry to City Hall, the witness shall go to the assigned “trial” courtroom and follow the instructions of the court staff.

Counsel must remain seated during the entire proceeding including when examining witnesses. The ONLY exception to this requirement is that – with the permission of the presiding trial judge – counsel may use a podium to make opening statements and closing arguments provided that social distancing requirements are met.

All trial participants will use either microphone stands that are contactless or wireless microphones that are for the sole use of each trial participant.²

To the extent that a sequestration order is in effect, counsel must advise all trial participants to abide by any sequestration order by not watching the livestream of the trial on YouTube.

¹ Per Public Property’s guidance, the 6 feet social distance is measured from the center of one chair’s seat to the center of the next chair’s seat. Although the CDC has lifted the social distancing requirement, the FJD has not.

² Judicial staff will disinfect microphones at least twice each day with either a disinfectant spray or disposable wipe.

Presentation of Evidence

Counsel should exchange all documents in advanced of the hearing. Counsel shall display all documents and other evidence on a television or projection screen IF available and unless otherwise permitted by the presiding trial judge. If paper documents are permitted by the presiding trial judge, counsel shall ensure that there are sufficient copies for each person in the room to review including other counsel, witnesses, and the presiding trial judge. Judicial staff will distribute paper materials by utilizing rubber gloves and then handing documents to trial participants.

With the permission of the presiding trial judge, counsel may use poster boards/flip charts on an easel. Any such use must comply with social distancing requirements.

Sidebars are Strongly Discouraged

Sidebars are strongly discouraged during the proceeding. Counsel must raise all evidentiary and other hearing issues with the presiding trial judge before the proceeding commences, during any recess, or after the hearing adjourns for the day. In the limited circumstance when a sidebar is required during the examination of a witness, judicial staff shall announce a recess and remove the witness from the witness stand. The presiding trial judge should not confer with counsel during a sidebar in a manner that would violate social distance requirements.

Preparation for Proceedings by Counsel

Courtrooms have been reconfigured to comply with COVID-19 protocols. As such, counsel are encouraged to see the “trial” courtroom before the hearing commences by emailing Dwight Pettigrew at Dwight.pettigrew@courts.phila.gov.

Counsel must comply with the courtroom occupancy limits. Judicial staff will strictly monitor and enforce these occupancy limits during trial. Any persons that exceed the courtroom occupancy limits will not be admitted into the courtroom, and will be directed to sit outside of courtroom or wait outside of courtroom to observe the trial through the livestream on YouTube **where permitted**. The livestream is available at: <https://www.courts.phila.gov/livestreams/>

Breaks and Lunch Recess

No hearing participant may eat inside or **outside the courtrooms** within City Hall. All hearing participants includes lawyers, parties, court reporters, jurors, judicial staff and judges. All of these individuals must eat **outside of City Hall**.

During any breaks or recesses, hearing participants must remain in their seat in the courtroom or leave City Hall; no person may loiter in the hallways of City Hall.

No unvaccinated person may remove their face mask while they are on a break or recess in City Hall. Persons may only remove their face mask when they are outside of City Hall.

Courtroom participants must abide by all posted City of Philadelphia guidance regarding the use of public bathrooms. Such guidance is publicly posted outside of each public bathroom.

Courtroom participants are not permitted to use any bathrooms located within a courtroom complex, *i.e.*, in the robing room area.

Use of Cell Phones During the Hearing

In order to reduce the time between witnesses who are called to testify, counsel **with permission of the presiding judge** may use their cell phones during the hearing to text or email with any other counsel, legal support staff or witnesses. Such communication with witnesses shall be limited to instructing when the witness should enter City Hall. Counsel also may use cell phones to text or email with any other counsel during the proceeding about stipulations, scheduling issues and other hearing related issues.

Conclusion of Proceeding

At the conclusion of the proceeding, all seats and chairs that may have been moved in the “well” of the court with the presiding trial judge’s permission shall be returned to their original location as outlined on the floor with tape.

COVID-19 PROTOCOLS DURING HEARINGS

EVERY HEARING PARTICIPANT WHO IS UNVACCINATED MUST WEAR A FACE MASK AT ALL TIMES WHEN INSIDE CITY HALL AND WHILE IN THE COURTROOMS OR COURT OFFICES

At all times when inside City Hall, every hearing participant who is unvaccinated must wear a CDC compliant face mask that is properly fitted over the nose and mouth. This requirement applies to counsel, parties, parties’ representatives, witnesses, experts, AV technicians, court reporters, judicial staff and the presiding trial judges. The wearing of a face mask is optional for vaccinated individuals unless the presiding judge based on extenuating circumstances decides otherwise.

No unvaccinated hearing participant may remove their face mask at any point while they are inside City Hall. Thus, counsel who is not vaccinated may not remove their face mask when conducting examination of a witness; similarly, a witness may not remove their face mask when testifying from the witness chair.

Unvaccinated Hearing participants are encouraged (but not required) to wear two face masks, *e.g.*, one surgical face mask and one cloth face mask. The wearing of two face masks approximates a single N95 face mask that filters more than 95% of particulates carrying the COVID-19 virus.

Participants may wear a face mask that has a clear window provided that the face mask is CDC compliant and properly fitted over the nose and mouth. Finally, a plastic face shield is not a replacement for a face mask but may be worn in **combination** with a face mask.

Operable windows shall remain partially open during the entire proceeding

Every courtroom has operable windows that shall remain partially open during the entire proceeding in order to increase ventilation and bring fresh outside air into the courtroom.

Hearing participants are encouraged to wear layers of warm clothes as the temperature inside the courtroom may not reach a comfortable level during trial if the outside temperature is particularly cold.

Cleaning and disinfecting protocols

Each courtroom has enhanced cleaning and disinfecting protocols that will be performed by City employees in accordance with CDC guidelines.

Hand sanitizer dispensers will be placed immediately inside the entrance to each courtroom as well as on the judicial staff's desk inside the courtroom. Disinfectant spray or disposable wipe will be used by judicial staff to disinfect the witness chair after each witness testifies and as appropriate for other surfaces throughout the proceeding.

Water coolers have been removed; small water bottles are available upon request

All water coolers have been removed from courtrooms; hearing participants will be provided small bottles of water upon request.

Judicial staff must enforce the agreed upon occupancy limit for each courtroom

Each courtroom has a strict occupancy limit. During a pre-trial conference, counsel must agree to the occupancy limit for the assigned "trial" courtroom. As a result, the only persons permitted inside the courtroom during the proceedings are the previously agreed upon number of counsel, parties and client representatives. Any persons that exceed the number previously agreed by counsel at the pre-trial conference cannot be admitted into the courtroom, and shall be directed to observe the trial through the livestream on YouTube where allowed.

COVID-19 SCREENING AND CONTACT TRACING

The Court has contact tracing protocols that must be followed by all participants. Counsel are required to conduct a daily COVID-19 screening for every person that they require to participate in-person during the proceeding. If any person answers "yes" to any of the screening questions, counsel must advise the presiding trial judge's staff so that appropriate action can be taken. For each person that counsel requires to participate in-person during trial, counsel shall maintain a list of each person's name, email address and cell phone number, which shall be provided to judicial staff upon request.

Judicial staff shall maintain a daily record of every court employee who was in the courtroom including the court reporter and interpreters. A sign in sheet or log with contact information shall be maintained of everyone who enters the courtroom.

LIVESTREAMING OF HEARING VIA YouTube

Where appropriate and permitted under the law Orphans' Court rules, proceedings will be livestreamed via YouTube, which complies with the Court's public access policy as well as provides the opportunity for non-essential persons to observe the trial, *e.g.*, paralegals, additional client representatives and family of the parties.

Judicial staff shall ensure that the audio and visual components of the livestream are operational before starting the hearing, preferably when they first arrive in the courtroom. Judicial staff shall also ensure that the livestream is broadcast only when the hearing is occurring and not during recesses or side bars.

Judicial staff are encouraged to announce to all hearing participants that the hearing is being livestreamed via YouTube, and that no recording of the hearing is permitted. Any recording of a court proceeding is a violation of the Court and will subject individuals to sanctions.

Judicial staff shall remind counsel that – to the extent that a sequestration order is in effect – all hearing participants must abide by that sequestration order by not watching the livestream of the hearing on YouTube. The livestream is available at: <https://www.courts.phila.gov/livestreams/>

FAILURE TO COMPLY WITH COVID-19 PROTOCOLS

All persons participating in any proceedings in City Hall shall comply with all COVID-19 protocols as published on the Court's website (<http://www.courts.phila.gov/covid-19/>) and as directed by the presiding trial judge.

Counsel is under a continuing obligation to review all COVID-19 protocols, which are published and updated from time to time. Any failure to comply with the Court's COVID-19 protocols may result in the imposition of sanctions.

Following the review of all protocols, counsel shall direct any questions regarding hearing procedures to the chambers of the presiding trial judge.