

Supreme Court Guidance for Developing Minimum Standard Health Protocols

Under 2021-PR-048, all district and appellate courts in Kansas must develop and follow minimum standard health protocols to avoid exposing court users, staff, and judicial officers to COVID-19. Appropriate minimum standard health protocols may vary by judicial district based on local COVID-19 conditions. This guidance is meant to assist chief judges in drafting their minimum standard protocols.

Section A: Definitions

"Fully vaccinated" means two weeks after a person receives the second dose in a two-dose series of the Pfizer-BioNTech or Moderna vaccine or two weeks after a person receives a single dose of the Johnson & Johnson Janssen vaccine.

"Physical distancing" means keeping a specified distance between yourself and other people who are not members of your household. In setting the specified distance, courts should utilize a) the distance recommended by the Kansas Department of Health and Environment or b) the distance specified by the person responsible for developing minimum standard health protocols after consultation with the head of the local public health department or his or her designee.

Section B: COVID-19 screening and communication protocols

Under 2021-PR-048 chief judges must establish COVID-19 screening and communications protocols. The Office of Judicial Administration has developed screening questions that should be utilized for court users, staff, and judicial officers. The screening questions are available on a "Visitor Alert" notice that provides a section for a phone number or email address where any individual may seek assistance in rescheduling or otherwise completing his or her court business. Each chief judge should post the "Visitor Alert" at all entrances to the courthouse, any court office, or any other facility being used by the court for a proceeding within the judicial district. Chief judges should decide whether members of the public will self-screen or complete screening questions as directed by court personnel. The screening questions must also be answered by all judicial branch workforce members.

Supplemental screening questions for juror questionnaires are addressed in the Supreme Court Guidance Regarding Conducting Jury Proceedings.

Section C: Steps to be taken to avoid spread of the disease

Each chief judge should post a notice with the steps to take to avoid the spread of disease. A notice template is available from the Office of Judicial Administration.

Section D: Physical distancing

All Kansas district and appellate courts should take steps to ensure members of the public, court users, staff, and judicial officers exercise appropriate physical distancing in any court office, courtroom, or other portion of any facility being used for a court proceeding. These steps may include requiring appointments, marking appropriate physical distances in any area where people are likely to congregate, or utilizing engineering adjustments approved by a local health officer. Any public area that cannot be adapted for appropriate physical distancing should be or remain closed.

Section E: Face masks

The following example face masking policies are meant to assist chief judges in developing a policy consistent with local public health and safety conditions. Masking policies will be enforced on the honor system. The Kansas Supreme Court trusts that Kansas Judicial Branch workforce members will follow masking policies with honesty and integrity.

Example 1

- (a) Regardless of vaccination status, face masks or other face coverings are required in public areas of court offices, courtrooms, or any facility being used for a court proceeding.
- (b) In accordance with Centers for Disease Control Guidance issued on May 13, 2021, court employees in nonpublic areas who are fully vaccinated are no longer required to wear masks or other face coverings, except as stated in paragraph (a) or where required by federal, state, local, tribal, or territorial laws, rules, and regulations, including local business and workplace guidance. Should fully vaccinated individuals feel more comfortable wearing a mask, they are welcome to continue doing so.
- (c) Individuals who are unvaccinated, for any reason, must continue to wear a mask or other face covering and social distance for their own health and safety and the health and safety of the public.
- (d) The following people are exempt from the requirement to wear a mask or other face covering:
 - Persons aged five years or younger. Children aged two years and under in particular should not wear a face covering due to risk of suffocation.

- Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering. This includes persons with a medical condition for whom wearing a face covering could obstruct breathing or who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance.
- Persons who are deaf or hard of hearing or communicating with a person who is deaf or hard of hearing, where the ability to see the mouth is essential for communication.

Judicial discretion in the courtroom

- (e) Upon request or on the court's own motion, a judge may enter an order authorizing a waiver of the requirement to wear a mask or other face covering within the courtroom or other hearing room over which that judge is presiding. Judges are encouraged to require masks or other face coverings whenever required under subsections (a)-(d) of this policy and especially when individuals are moving around in the courtroom. Absent constitutional concerns, judges should permit individuals to wear masks if they feel more comfortable doing so.

Example 2

- (a) In accordance with Centers for Disease Control Guidance issued on May 13, 2021, all individuals who are fully vaccinated are no longer required to wear masks or other face coverings, except where required by federal, state, local, tribal, or territorial laws, rules, and regulations, including local business and workplace guidance. Should fully vaccinated individuals feel more comfortable wearing a mask, they are welcome to continue doing so.
- (b) Individuals who are unvaccinated, for any reason, must continue to wear a mask or other face covering and social distance for their own health and safety and the health and safety of the public.
- (c) The following people are exempt from the requirement to wear a mask or other face covering:
- Persons aged five years or younger. Children aged two years and under in particular should not wear a face covering due to risk of suffocation.
 - Persons with a medical condition, mental health condition, or disability that prevents wearing a face covering. This includes persons with a medical condition for whom wearing a face covering could obstruct breathing or

who are unconscious, incapacitated, or otherwise unable to remove a face covering without assistance.

- Persons who are deaf or hard of hearing or communicating with a person who is deaf or hard of hearing, where the ability to see the mouth is essential for communication.

Judicial discretion in the courtroom

(d) Upon request or on the court's own motion, a judge may enter an order authorizing a waiver of the requirement to wear a mask or other face covering within the courtroom or other hearing room over which that judge is presiding. Judges are encouraged to require masks or other face coverings whenever required under subsections (a)-(c) of this policy and especially when individuals are moving around in the courtroom. Absent constitutional concerns, judges should permit individuals to wear masks if they feel more comfortable doing so.