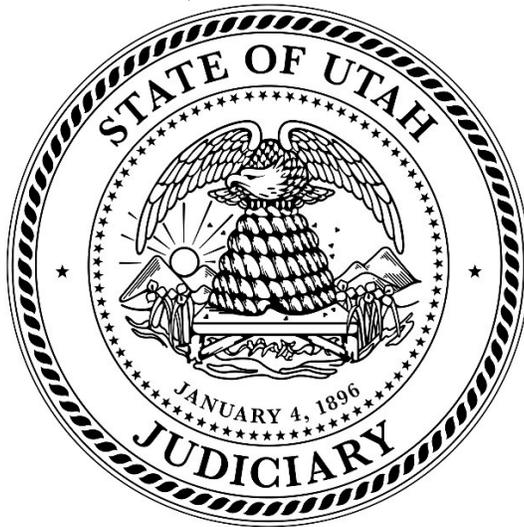




UTAH STATE COURTS

# State of Utah Judiciary Risk Phase Response Plan



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## Risk Phase Response Plan

### INTRODUCTION

The purpose of this plan is to establish requirements and guidelines for the courts to follow during the various phases of the COVID-19 pandemic. The Utah State Governor declared a state of emergency and adopted standards that determine risk levels that will guide the people of this state through stages of restrictions and recovery. The Judiciary recognizes the standards adopted by the Governor but also recognizes that those phases may not always align with the concerns of the Judiciary, which is in a unique position to compel individuals to come to court. The Judiciary's Pandemic Response Plan includes three risk phases: **Green (new normal), Yellow (low risk), and Red (moderate or high risk).**

In making decisions about when courts should operate in the Green, Yellow or Red phase, the Judicial Council will consider the Governor's risk standards, recommendations of the Center for Disease Control (CDC), and guidance from The Utah Department of Health and local health experts. The Judicial Council recognizes that different counties or court sites might be in different risk phases at any given time considering the spread of COVID-19 in a particular area. The risk phase response level for the courts may be designated in an Administrative Order for all courts, or in the absence of an Administrative Order, by the Management Committee of the Judicial Council. . This document will provide guidance to the courts on operations during each phase. The trial plans for each court level are included as appendices.

A checklist is provided to guide courts in creating their plans. The checklist is found in Appendix A. Courts must complete the checklist and certify they have completed the checked items. In instances where one or more of the requirements do not apply to the circumstances of a particular court, the submission must include a brief explanation about why those requirements do not apply and were not addressed. Courts may submit any written materials they have created to implement their plans. Courts should consult with local partners, such as attorneys, law enforcement, corrections officials, and service providers, in creating plans. Courts should continue to keep partners informed about court operations and changes that occur. The safety of court personnel and patrons is the most important consideration through all risk phases of recovery. In formulating plans each court should bear in mind that COVID-19 can be transmitted even by asymptomatic individuals.

The Judiciary will continue to abide by its Pandemic Response Plan, and the guidelines of the Centers for Disease Control, the Utah Health Department, and local health experts. The guidelines can be found at <https://www.cdc.gov/>, <https://health.utah.gov/>, .

### STANDARDS FOR THE YELLOW AND RED PHASES OF THE PLAN.

- 1. Physical Distancing.** Physical distancing means maintaining a distance of at least six feet from others. When physical distancing requirements are in effect, physical distancing must

be maintained throughout courthouses, including common areas, courtrooms, and workspaces. Floor markings, stanchions, and cones should be used in places where people might congregate, such as lines at security, waiting areas, or court counters.

**2. Personal Hygiene.** Courts should encourage patrons and require personnel to frequently wash their hands to prevent the spread of COVID-19. Hand sanitizer with at least 60% alcohol content may be used when frequent hand-washing is not feasible. Courts must stock all restrooms with the materials necessary for hand-washing, and courts must provide hand sanitizer near high use touch points and areas where court personnel interact with court patrons. Courts must certify that hand sanitizer, soap, and towels are available and will continue to be available throughout all risk phases.

**3. Sanitation.** Courts must clean high use touch points throughout the courthouse on a regular basis. In courtrooms, this includes chairs, tables, door handles, lecterns, counters and microphones. In workspaces, this includes door handles, tables, copiers, printers, other shared equipment, chairs, benches, and desks. In other areas of the courthouse this includes security bins, door handles, handrails, computers, benches, elevator panels, restrooms, and counter areas. During a Yellow phase courts should take steps to minimize high use touch points, such as by propping doors open in certain areas, removing unnecessary furniture, closing break rooms, removing drink stations, and eliminating shared use of equipment. All areas in courthouses must be cleaned every night. During a Red phase courts should also eliminate high use touch points that can reasonably be eliminated.

**4. Capacity Limits.** Each phase may involve limits on the size of gatherings. Courthouses must adhere to those limits in all areas, including courtrooms, meeting rooms, lobbies, breakrooms, and workspaces. The limits will be based on the amount of net occupiable space – which excludes built-in furnishings – necessary to maintain physical distancing. The capacity limits can be determined by dividing the square footage in a particular area by half and then dividing that number by 36. The capacity limits must be posted outside those areas.

**5. COVID-19 Screening and Entering the Courthouse.**

- a. Except as provided in paragraph 5(c), an individual who exhibits symptoms of COVID-19 may not be admitted to a courthouse. The symptoms of COVID-19 can be found on the above websites and include: fever, chills, cough, shortness of breath or difficulty breathing, abnormal fatigue, abnormal muscle or body aches, new loss of taste or smell, sore throat, congestion, or runny nose.
- b. For purposes of this paragraph, “sustained close contact” means being within 6 feet or less of someone who had a positive COVID-19 test for a total of 15 minutes or more over a 24-hour period. An individual who has sustained close contact with someone who has COVID-19 – even if those persons themselves are asymptomatic – may not enter a courthouse for 14 days after the last day of the exposure. The 14-day prohibition for entering the courthouse may be reduced or eliminated under the following circumstances:
  - i. If the exposed individual is unvaccinated, the unvaccinated individual may enter the courthouse 10 days after the last day of exposure if the unvaccinated individual has no symptoms of COVID-19 and presents proof of a negative PCR COVID-19 test that was administered on or after 7 days from the last

date of exposure.

- ii. If the exposed individual provides proof of vaccination, the vaccinated individual may remain at or enter the courthouse if the exposed individual:
  - currently has no symptom of COVID-19;
  - daily monitors for any symptoms of COVID-19 for 14 days after exposure and stays home if there are any symptoms; and
  - agrees to get a PCR COVID test on day 5 after exposure, or as soon as possible after day 5, and presents proof of a negative PCR COVID-19 test. If the exposed individual does not present proof of a negative COVID-19 test the individual may not enter the courthouse for the remainder of the 14 days after the last date of exposure.

- c. A person who has had a positive COVID-19 test may enter the courthouse after:
  - i. 10 days have passed since the on-set of symptoms;
  - ii. 24 hours with no fever without the use of fever reducing medication; and
  - iii. other symptoms of COVID-19 are improving (loss of taste and smell may persist for weeks or months after recovery and need not delay the end of isolation.)

**d.** Courts must conduct COVID-19 screenings of patrons who enter courthouses. Courts must identify who will conduct those screenings. The screenings will include asking standard questions and may include using touchless thermometers if they are available. The list of standard questions is found in Appendix B. Courts must post notice of the requirements in conspicuous areas where people enter. If a person is denied access to the courthouse, the person must exit through a path where contact does not occur with others. The person must be given information on how they may contact the court for further instructions. Court security must alert the presiding judge, TCE, or local court administrator when a person has been denied access. Personnel will be required to conduct a self-check before coming to work. Personnel who have COVID-19 or are required to quarantine must contact their supervisor and must not report to work until the supervisor authorizes a return to work. The information about personnel and patrons must be kept confidential.

**6. Vulnerable Persons.** Courts may provide accommodations to vulnerable persons including employees, patrons, and judges. Vulnerable persons include those who are 65 or older and those of any age who have any of the following underlying health conditions:

- chronic lung disease,
- moderate to severe asthma,
- heart conditions,
- immunocompromised, including cancer treatment, smoking, bone marrow or organ transplantation, immune deficiencies, poorly controlled HIV or AIDS, and prolonged use of corticosteroids and other immune weakening medications,
- severe obesity (body mass index [BMI] of 40 or higher),
- diabetes,

- chronic kidney disease,
- liver disease,
- thalassemia,
- COPD,
- pregnancy,
- sickle cell disease,
- smoking,
- cerebrovascular disease,
- cystic fibrosis,
- hypertension or high blood pressure, or
- neurologic conditions such as dementia.

Accommodations for patrons may include allowing them to appear remotely or having their cases continued. Accommodations for employees may include allowing them to work remotely or having their work schedules altered or workspaces rearranged. Courts should consider accommodations on a case-by-case basis after consultation with the vulnerable person, and assisted by the human resources department. Any action taken should be consistent with the Americans with Disabilities Act (ADA) (42 U.S.C., § 12101 et seq.).

**7. Masks and Other PPE.** Masks are not a substitute for physical distancing. Masks are to be used in conjunction with physical distancing. When masks are required by Administrative Order, masks that cover the nose and mouth must be used in compliance with the Administrative Order and any individual entering the courthouse must comply with the order. If an employee is unable to wear a mask due to underlying health condition, the employee must contact HR to request an accommodation.

When masks are not required by an Administrative Order, individuals entering the courthouse are encouraged to wear a mask over their nose and mouth and court personnel must wear a mask over their nose and mouth when assisting someone who is wearing a mask and physical distancing cannot be maintained.

Employees and patrons will be encouraged to provide their own masks. Courts must have masks available for those who do not have one. Courts should also have gloves available for employees who want them. Courts must certify that sufficient personal protective equipment is available and will remain available throughout the Yellow and Red phases.

**8. Mail and Other Papers.** Courts must provide written directions to court personnel on how mail, packages, and other materials received from others will be received and distributed. Options include having the mail or other documents sit for a period of time before handling, or distributing masks and gloves and requiring frequent hand-washing.

**9. Signage.** Courts must post notices at courthouse entrances and throughout courthouses informing patrons and employees of restrictions, requirements, and advisories and guiding them as they navigate through the courthouse.

**10. Contact Tracing.** Contact tracing is used to help reduce the spread of COVID-19. When a person tests positive for COVID-19, efforts are undertaken to determine where that

person has been and the persons with whom the individual may have been near. When it is discovered that a person who has tested positive for COVID-19 has been in the courthouse, the court should immediately begin contact tracing to determine where that person may have traveled in the courthouse and who may have been in contact with that person. The court must use its best efforts to trace employee contacts within the courthouse. Courts should provide employees with their contact tracing policy to provide assurances that steps will be taken in the event someone tests positive.

**11. Vaccination.** The state is engaged in a concerted effort to administer vaccines as quickly as possible to those who wish to be vaccinated. State and local governments may ease restrictions when total vaccinations reach certain numbers. The courts will not automatically ease restrictions when state and local restrictions are eased. The courts will consider the unique nature of court operations, the safety of personnel and patrons, and the recommendation of health officials in deciding when to ease restrictions. The restrictions that apply to personnel and patrons may be impacted by whether those individuals are fully vaccinated. The courts will follow the CDC’s guidance in determining when a person is considered fully vaccinated. The courts will not require individuals to be vaccinated but they may inquire about an individual’s vaccination status when necessary for COVID screening. If an individual chooses to not disclose their vaccination status, then the individual will be treated as if not vaccinated.

**GREEN PHASE**

Court operations are in a “new normal” during this phase. **Advised but not required:**

- a. Consider using remote proceedings when it is the most effective use of time and resources;
- b. Employees may be offered more telework options;
- c. Courts will maintain a heightened awareness of hygiene and sanitation for patrons and personnel;
- d. Courts will continue to consider the needs and requests of vulnerable persons and provide reasonable accommodations;
- e. Business travel to an area where the CDC, WHO, or the Utah Department of Health recommends self-quarantine upon return is prohibited; and
- f. Personnel should notify supervisors when they will be traveling for personal reasons. to an area where the CDC, WHO, or the Utah Department of Health recommends self-quarantine upon return. Personnel who have not been fully vaccinated will be required to self-quarantine upon return for the period recommended by those entities.

**YELLOW PHASE**

When the courts transition to the Yellow phase each district must create a COVID-19 operation plan for every building within their district or, if the building is shared with other entities, for the portion of the building under the court’s authority. In the juvenile courts, this includes probation

offices. In the Second, Third, and Fourth Districts the juvenile courts and the district courts must create separate plans. Each justice court must create a plan for areas under the control of the court, recognizing that many justice courts are in multi-use buildings. Justice courts should consult with other building occupants in creating their plans. The appellate courts must create a plan addressing the areas for both appellate courts. The Administrative Office of the Courts must create a plan for the space it occupies, and the Office of Guardian ad Litem must create plans for their offices. In buildings with multiple court levels, such as the Matheson Courthouse or the Provo Courthouse, the court levels should consult with each other as they create their plans.

The Standards for the Yellow and Red Phase of the Plan in this document must be followed.

**1. Workspaces**

- a. Personnel may work in the courthouses, but telecommuting is encouraged. Physical distancing should be maintained when possible. This may require reconfiguring workstations to ensure that all employees work at least six feet apart. Where possible, courts should consider allowing some personnel to work remotely. Courts should also consider creating teams to rotate between remote work and work at the courthouse if necessary to minimize the risk of a large number of employees being exposed to COVID-19 at the same time, or to at least create separate teams that do not interact with each other. The purpose is to help ensure the availability of employees in the event there is an outbreak of COVID-19 at the courthouse.
- b. Furniture and equipment should be rearranged or removed as appropriate to facilitate physical distancing.
- c. There may be no more than four people in an employee elevator at one time, except members of the same family or household may ride together.

**2. Accommodations.** Personnel should follow Paragraph (6) of the STANDARDS FOR THE YELLOW AND RED PHASE of the Plan.

**3. Work Hours.** Courts should stagger work hours if possible to avoid having many employees arriving for work at the same time and to minimize the number of employees in workspaces at any given time.

**4. Markings and Signs**

- a. Courts should consider creating one-way travel paths and waiting queues for areas such as hallways, restrooms, and breakrooms using signage and floor markings to guide personnel.
- b. Signs must be posted in restrooms and work areas reminding personnel of physical distancing requirements and proper hygiene.

**5. Meetings.** If a court is located in a county that is designated by the Utah Department of Health as a low transmission county, meetings may be conducted in person if physical distancing can be maintained, and subject to any Administrative Order that requires a mask. If the court is located in a county that is designated by the Utah Department of Health as a moderate or high transmission county, personnel shall use remote meetings if feasible.

6. **Testing.** Courts may consult their local health authorities to determine whether arrangements can be made for regular testing of employees.
7. **Travel**
  - a. All business travel is restricted to that which is necessary.
  - b. If a person travels for personal or business reasons, the person should monitor for symptoms each day for 14 days following their return from travel, and should not enter the courthouse if they have any symptoms of COVID-19. If symptoms of COVID-19 develop, the person should obtain a PCR Covid-19 test no sooner than 5 days after the return from travel.
8. **Court Visitor Program.** The court may authorize in-person visits subject to mask and physical distancing requirements.
9. **Guardian ad Litem.** The Guardian ad Litem director may authorize in-person visits subject to mask and physical distancing requirements.

## **Courthouses**

1. **Screening.** Court security must screen everyone who enters the courthouse. Security may accomplish this by asking the standard questions or posting notice of the restrictions and asking the person whether the person read them. Security may use touchless thermometers if available.
2. **Physical Distancing**
  - a. Courthouses should facilitate physical distancing between all persons in enclosed spaces such as conference and meeting rooms, jury assembly rooms, courtrooms, and other areas where people gather.
  - b. When possible and appropriate, courts should create barriers of at least six feet between patrons and employees. Plexiglass may be used but is not a substitute for physical distancing.
  - c. Courts must use signage and markers to create travel paths and waiting areas as appropriate, such as dividing common areas with tape, barriers, stanchions, or cones, and providing directions to patrons about expectations. For areas in which patrons may be standing in line, such as court entrances or service counters, courts must place markers six feet apart where people must stand while waiting.
  - d. There may be no more than four people in an elevator at one time, except members of the same family or household may ride together.
3. **Contractors.** When mask requirements are in effect, court contractors are required to wear masks and courts must have screening processes for contractors before they enter court buildings. In buildings where contractors occupy space, such as a café or a legal aid office, courts must ensure those contractors follow the requirements of their courthouse plans and require those contractors to submit their own plans.
4. **Accepting Payments and Papers.** Employees should be offered the use of gloves, with appropriate instructions on their use and removal, in order to accept payments and papers.

5. **Juvenile Court Probation Officers.** Juvenile court probation officers must comply with the Juvenile Court Probation Operations plan attached as Appendix F.
6. **Ventilation Systems.** Ventilation and filtration systems must be in working order to facilitate clean air and circulation.

## **Court Proceedings**

### **1. In-Person and Remote Hearings**

- a.
  - i. Except as provided in paragraphs 1.a.ii, courts shall conduct remote proceedings as much as feasible. When an in-person proceeding, is necessary, the in-person proceedings may be conducted provided physical distancing can be maintained and masks requirements are followed. Courts should limit the number of people in the courtroom to those who are required to be present for that proceeding, subject to capacity limits. The court may allow remote participation by those who are able to participate remotely. If others wish to view the proceedings they should be given remote access. If possible, courts should provide an area in the courthouse where proceedings can be viewed remotely, provided physical distancing can be maintained and touch areas are cleaned after use.
  - ii. It is assumed that it is not feasible to conduct the following proceedings remotely; jury trials in district and justice courts, trials in juvenile court, evidentiary hearings in juvenile and district court, and first appearance calendars.
- b. Vulnerable persons may not be required to attend any court proceedings and, if feasible, courts may allow anyone who expresses health concerns to appear remotely.
- c. The Judicial Council and the Supreme Court will issue administrative orders as necessary to establish criteria for those hearings and to provide other guidance to courts.
- d. Courts should provide a computer in a room in the courthouse where those who do not have a computer can conduct business, including remote participation in court hearings. See Appendix E.
- e. The number of people in a courtroom may not exceed capacity limits, which is one person for each 36 square feet of net occupiable space, which excludes built-in furnishings. Courts should provide waiting areas where physical distancing can be maintained.
- f. Courts must have signs or staff available to provide instructions and direct patrons through travel paths and to waiting areas.
- g. Courts should use signage, markers, stanchions, or cones to create travel paths. Patrons should be instructed on where they may walk, sit or wait.
- h. Furniture must be arranged as much as possible to facilitate physical distancing.
- i. Courts should minimize the shared use of equipment.
- j. Surfaces and equipment must be sanitized after each hearing, or at least at regular intervals, to help ensure that individuals are not required to touch areas that have not been cleaned after use by others. Hand sanitizer must be available in each courtroom

near high use touch points, such as tables and doors. Courts must identify who will be responsible for sanitation after hearings. Courts should eliminate high use touch points as much as possible.

**2. Jury Trials and Juvenile Court Trials**

- a. Each court must comply with the requirements and guidelines developed for their court level. The district court and justice court plan are in Appendix C. The juvenile court plan is in Appendix D. If a provision in any of those plans' conflicts with this plan, the provision in this plan must be followed.
- b. The mask and physical distance requirements for jurors are the same as court personnel during the Yellow phase. For example, when mask requirements are in effect, jurors may nevertheless remove their masks for eating and drinking provided physical distancing is maintained and the jurors limit their time together with masks removed.

**3. Prioritizing Proceedings and Scheduling**

- a. Courts must create plans prioritizing case types for in-person proceedings.
- b. Courts should schedule specific hearings at specific times, as opposed to large general calendars, to minimize the number of people in the courthouse at any given time and to avoid people congregating in waiting areas.
- c. Courts should consider using texting, paging, or other technology to allow people to wait for their proceedings outside the courthouse or in other areas where physical distancing is possible and to be notified when their hearing will begin.
- d. Courts must consider the availability of interpreters when scheduling proceedings and must ensure an interpreter will be available prior to scheduling a proceeding requiring an interpreter.

**4. Notices to Attorneys and Patrons**

- a. Court notices must inform patrons of prevention measures and court contact information by referring patrons to the web page where the court's plan can be found.
- b. Courts should notify prosecutors, defense counsel, and other participants that the court expects strict compliance with court schedules.

**5. Interpreters**

- a. When an interpreter is needed, the court should first consider allowing remote interpretation in order to facilitate physical distancing. Remote equipment can include cell phones and headsets.
- b. If remote interpretation is not feasible, an interpreter may be in the courtroom and physical distancing must be maintained. If necessary for effective interpreting, the court should not require the interpreter or the person for whom interpretation is being done to wear a mask.
- c. If an observer, such as a victim, requires an interpreter and the courtroom has reached capacity limits, that person should be provided a room in the courthouse where the proceedings may be observed, and remote interpretation should be provided.

6. **Exhibits.** Judges should consider requiring parties to provide opposing parties with exhibits and handouts in advance of hearings to avoid the exchange of materials in the courtroom. If paper is to be transferred during a proceeding there should not be hand-to-hand transfer and should instead be placed in an area for others to retrieve. Hand sanitizer or gloves should be available in those areas.
7. **Self-Represented Litigants.** Courts must permit self-represented litigants to file documents by email. If a document is a pleading to initiate a case, the court should encourage the person to file the pleading by mail or in-person, but the court must accept the filing by email if the person chooses to do so.

<b>RED PHASE</b>
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1. **Continuation of Yellow Phase Restrictions.** Subject to the provisions below, the restrictions and requirements in the yellow phase will apply when personnel and patrons are required to be in the courthouse.
2. **Personnel**
  - a. Personnel will work remotely except those who have been designated as essential to maintain a minimum courthouse presence for public service and those who are assisting with Red phase jury trials.
  - b. Personnel will be granted leave or required to use accumulated leave according to local human resources department policies as circumstances dictate.
3. **Courthouses.** All court patrons, including parties and attorneys, will interact with the court system remotely unless exigent circumstances or a Red phase jury trial require in-person contact. A person may file documents in existing cases electronically, including by email.
4. **Court Proceedings**
  - a. Courts must continue all mission-critical functions. All court hearings will be conducted remotely unless the court determines there are other exigent circumstances that require an in-person hearing. A court may conduct jury trials with permission from the Management Committee and Supreme Court.
  - b. At their discretion, judges may continue any matter into the future except for in-custody criminal cases and mission-critical juvenile court cases.
  - c. The Judicial Council and the Supreme Court will issue administrative orders as necessary to establish criteria for those hearings and to provide other guidance to courts.
  - d. If exigent circumstances require an in-person hearing, or if a Red phase jury trial is held the proceeding must be limited to those who are required to attend and the requirements in the Yellow phase apply. Physical distancing must be maintained and surfaces and equipment must be thoroughly sanitized after each use. Anyone who is able to participate remotely must be allowed to do so.

5. **Juvenile Court Probation Officers.** Juvenile Court probation officers must comply with the Juvenile Court Probation Operations plan attached as Appendix F.

## Resources

Utah Judiciary Alerts Webpage includes:

- All state and local judicial orders
- Individual courthouse status
- Information regarding filing documents
- COVID-19 information
- Notices regarding domestic cases
- Community information flyers for partners and partner organizations
- Frequently asked questions

<https://www.utcourts.gov/alerts/>

Utah Judiciary Pandemic Influenza Response Plan

[https://www.utcourts.gov/intranet/security/docs/Pandemic\\_Response\\_Plan.pdf](https://www.utcourts.gov/intranet/security/docs/Pandemic_Response_Plan.pdf)

Governor Spencer Cox's Coronavirus Website

<https://coronavirus.utah.gov/>

Utah state and local orders and directives

<https://coronavirus.utah.gov/special-orders/>

CDC guidance on COVID-19

<https://www.cdc.gov/coronavirus/2019-ncov/index.html>

CDC guidance on self-care during a pandemic

<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>

CDC guidance for social distancing

<https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/social-distancing.html>

CDC guidance on vulnerable persons during a pandemic

<https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/index.html>

CDC guidance for businesses and workplaces

<https://www.cdc.gov/coronavirus/2019-ncov/community/organizations/businesses-employers.html>