



State of New Mexico
Court of Appeals

Resumption of Court Operations Plan

For the Court of Appeals (COA), a plan to “resume and expand court operations” is a bit of a misnomer because, due to the nature of appellate court work, the COA has not halted or reduced any operations. Of course, the COA has implemented policies and procedures to minimize exposure to COVID-19, the continuation of which is addressed in this plan.

I. Safety: minimizing risk of exposure to COVID-19

A. Oral Arguments

Only a small percentage of COA cases receive oral argument and, since the onset of the public health emergency, no oral arguments or hearings have been held. Should the need for an oral argument or hearing arise, the COA will utilize video conferencing.

The COA does not intend to hold an in-person hearing until the COVID-19 threat is deemed negated by public health officials. The nature of COA hearings are amenable to video or teleconferencing. In the unlikely event an in-person hearing is necessary despite an on-going public health threat, the COA will seek guidance from the Emergency Response Team and will follow the most current guidelines available. If the past is any indicator, the guidelines are likely to change between now and the time the COA actually holds an in-person hearing.

In any event, and for present purposes, the COA notes that the size of its courtroom allows for the currently recommended distance of six feet for all participants. Any notice of an in-person oral argument or hearing will include the most current COVID-19 screening questions with instructions to call the clerk’s office if a participant answers any of the questions in the affirmative. In such circumstances, that COA will make appropriate arrangements, including postponement and/or video conferencing for the particular person. Spectator seating will be assigned according to distance guidelines, currently six feet. A sign-in log of participants of spectators will be maintained. Temperature checks

and screening questions will be performed the clerk of the court and court manager. Should an in-person hearing generate high public interest, the hearing will occur in Santa Fe to utilize the security staffing in the Supreme Court Building as the COA does not have security in its Albuquerque building. The COA will work with the Supreme Court to use existing technology and broadcast the hearing into the Supreme Court courtroom to allow for proper distancing of spectators. The COA will encourage one participating attorney per party. Should more than one attorney for a party be necessary, the COA will utilize Plexiglas partition at the counsel tables. Of course, masks will be required for everyone entering the building

B. Filing

Except for self-represented litigants, all filings with the COA are electronic. For self-represented litigants, email and fax filing for all cases is available and will continue indefinitely. The COA website prominently advertises email and fax filing and COA staff encourages pro se parties to file by email during phone conversations.

C. Scheduling

Scheduling is not an issue at the COA as visits from the public are rare and the COA is not holding in-person hearings.

D. Keeping Public, Employees, and Judges Safe

All people entering the COA must wear a face covering. The COA has disposable masks and provides them to anyone without one. Anyone refusing to wear a face covering is directed to leave and given the number of the clerk's office for remote service.

The COA only has a few specified areas accessible to the public and very few visits. This makes it possible for the COA custodian in Albuquerque to clean the public counters at least every two hours. While more than one visitor at a time is rare, six-foot separation has been marked on the floor in front of the clerk's office. Supreme Court Building Commission staff cleans the single public counter in Santa Fe.

The COA staff is almost entirely in telework status. The only staff members required to be in the office on a consistent basis are (1) the chief judge in Albuquerque, (2) the chief clerk in Albuquerque or Santa Fe, (3) one judicial specialist in Albuquerque on a rotating basis, (4) the custodian in Albuquerque and (5) one judicial specialist in Santa Fe on a rotating basis. With less than 5% of the COA staff in the office, distancing is not an issue. Nevertheless, face coverings for staff are required when not alone in a personal office. Multiple

masks have been provided to employees, not more than one employee at a time utilizes the elevator in Albuquerque, and COA bathrooms only accommodate one person at a time.

The COA building in Albuquerque is consistently cleaned and sanitized by the full time custodian and the Santa Fe Office is cleaned and sanitized by the Supreme Court Building staff. Hand sanitizer is readily available in multiple locations in each office.

COA employees entering the workplace self-screen. Touchless, infrared thermometers have been purchased and will be placed at entrances along with the current screening questions, sanitizing wipes, and instructions. With only 5 to 7 employees in the office on any given day (total for both COA locations), having designated screeners is impracticable and would needlessly bring people within 6 feet of distance to perform the screening. In other words, anything other than employee self-screening for the COA's particular situation would be counterproductive as the only reason to be within six feet would be to perform the screening.

Screening of visitors to the Santa Fe location is handled by the Supreme Court building security staff. The COA has no security staff in Albuquerque but visitors to the Albuquerque office only have access to the building lobby and exclusively communicate with court staff through a full, glass wall partition. Therefore, the screening of visitors to the Albuquerque COA office would be counterproductive because it would needlessly bring people within 6 feet of distance. Further, signs are posted outside the courthouse doors that direct people not to enter if they answer any of the screening questions in the affirmative.

II. Docket Management and Scheduling

The COA continues to process appeals and has no COVID related backlog. Thus far, the COA has not experienced a discernable increase or decrease in appeals. The COA does not anticipate an influx of cases.

III. Resources

The COA has currently needed resources. Disinfectant wipes seem to always be in short supply. If they become unavailable, maintaining proper sanitization will be a challenge.