



STATE OF DELAWARE
THE JUSTICE OF THE PEACE COURT

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ALAN G. DAVIS
CHIEF MAGISTRATE

POLICY DIRECTIVE 22-270

**TO: ALL JUSTICES OF THE PEACE
ALL NON-JUDICIAL COURT EMPLOYEES**

FROM: ALAN G. DAVIS, CHIEF MAGISTRATE *ASD*

DATE: JANUARY 17, 2023

RE: GUIDELINES FOR POST-PANDEMIC OPERATIONS

Scope:

The purpose of this policy directive is to provide specific guidelines and procedures for consistent post-pandemic operations in all JP Court locations.

Justice of the Peace Court Policy:

The Justice of the Peace Court is one Court with many locations. It is therefore incumbent upon the Justice of the Peace Court to maintain consistency across all locations, to the extent possible, incorporating new technologies and processes utilized during the COVID-19 crisis.

Policy Directives/Legal Memoranda Affected:

There are no Policy Directives or Legal Memoranda affected by this Policy Directive. "Best Practices for Justice of the Peace Court Zoom Hearings" should be utilized as a reference for implementing these guidelines.

This Policy Directive supersedes Standing Orders issued between March 13, 2020, and July 15, 2021, related to the COVID-19 pandemic.

Effective Date:

This policy shall take effect immediately upon issuance and shall continue until further notice.

Discussion:

The Justice of the Peace Court recognizes that, while court locations may differ in their hours of operation, physical space configurations, and staffing, processes and procedures should remain consistent across all locations. Diversions from established guidelines should be documented as set forth below to ascertain the issues which create inconsistency. To that end, the guidelines established by this policy may be amended periodically to provide the most efficient service to the public and efficient processes for the Justice of the Peace Court. This policy aims to utilize available technology to reduce travel and wait time for all parties and to manage the volume of people in court lobbies.

Responsibilities:

Judicial officers and all employees of the Justice of the Peace Court must follow the provisions of this policy. Any diversion from these established guidelines shall be documented and reported to managers/supervisors.

A team, appointed by the Chief Magistrate, will periodically review the established guidelines, statistical data, and any diversion reports and make recommendations for changes.

Procedure:

Specific guidelines for criminal, civil, and truancy court locations follow. Absent a specific guideline, the Court shall utilize a documented procedure which offers the most efficient service to the public and efficient processes for the Justice of the Peace Court.

Any deviation from this policy in Civil Court shall be articulated and approved by a judge and docketed with a unique code.

Any deviation from this policy in Criminal Court shall be documented in writing by a judge and included in case notes. Clerical staff shall complete the attached form, including the date, name of approving judge, case number, reason for deviation, and in the case of Truancy Court shall also include the date virtual hearings will resume. This form shall be provided to the Court Manager/Supervisor. Court Managers shall submit the forms to their Operations Manager on the last day of each month. These guidelines may be updated and distributed as changes are made:

VAC: Shall remain virtual in all cases.

Criminal/Traffic Trials: Shall be held in person.

Red Light Trials: Shall be held in person.

Police Prosecution: Shall be held in person unless:

1. the Defendant resides distant from the court location where the hearing is scheduled to be held and has requested a virtual hearing, in which case such request usually should be granted; or
2. the matter is a Plea in Absentia.

Plea agreements shall be submitted either in person during the call of the calendar, or prior to the call, at the law enforcement agency's discretion.

Hispanic Police Prosecution: Shall be held in person in all cases.

Truancy: Shall be held virtually unless:

1. A child protective issue has been identified which requires a face-to-face interview, screening, care coordination/support, referral, or other intervention. Such cases would likely include the involvement of other relevant parties, including a DFS representative, clinician, social worker, or law enforcement officer;
2. Clinical complexity rises to a level where an in-person hearing is the most efficient way of evaluating student/family needs and collecting accurate information for immediate case planning and management;
3. Significant case deterioration has been identified. Such a situation may follow multiple virtual hearings, requiring a change in approach (likely inclusive of an increase in the intensity of Court oversight and intervention). Judges may see benefit in a face-to-face review of bond conditions, offering the opportunity for a more detailed court order to address apparent changes in clinical necessity;
4. There is a need for comprehensive screening. Red flag items or significant risk factors have been identified such as homelessness substance abuse, or other traumas and the family may benefit from an in-person hearing for a comprehensive screening and interview by the judge; or
5. There is a history of unjustified FTAs.

Once the above-mentioned issues have been adequately addressed, the case should return to virtual hearings. Hybrid scenarios shall also be encouraged for in-person hearings. For example, Visiting Teachers and other parties may participate virtually while the Defendant appears in-person. For scheduling purposes and assuming a limited number of in-person hearings (3-4 cases for a given truancy date), the Court may designate a specific portion of the calendar (in the morning or afternoon) for hearing these events. Otherwise, every effort should be made to distribute larger numbers of in-person hearings throughout the day.

Judges shall not conduct group arraignments in Truancy cases. As such, large groups of defendants should not be scheduled to appear at the same time for any Truancy Court location. Guidelines for the management of truancy court calendars is attached.

Civil Hearings/Trials: Shall be held virtually unless:

A specific reason is articulated, approved, and docketed by a judge.

An attorney with a high volume of debt cases, many of which are resolved just before entering the courtroom, has received permission from the Chief Magistrate or his designee.

ATTACHED: Truancy Court Guidelines for the Management of Truancy Court Calendars
Truancy Exceptions to Virtual Hearings Form
Criminal Court Exceptions to In-Person Hearings Form

cc: Honorable Collins J. Seitz, Jr.
Honorable Kathaleen S. McCormick
Honorable Jan R. Jurden
Honorable Carl C. Danberg
Honorable Michael K. Newell
Gayle P. Lafferty, State Court Administrator
Elizabeth Petrick, Justice of the Peace Court Deputy Administrator
Rebecca Trifillis, Justice of the Peace Court Staff Attorney
Regina Elliott, Operations Manager
Stephanie Parker, Operations Manager
Kevin Jackson, Chief of Uniformed Services
Law Libraries: New Castle County, Kent County, Sussex County,
Widener University School of Law

Guidelines for the Management of Truancy Court Calendars

- In the interest of utilizing available technology, accommodating travel and time restrictions of Visiting Teachers and defendants, and managing the volume of people in court lobbies, truancy judges are strongly encouraged to prioritize virtual hearings over in-person hearings.
- In-person hearings should be reserved for the following circumstances:
 - A child protective issue has been identified (by way of Visiting Teacher report or feedback from a community or state agency), which requires a face-to-face interview, screening, care coordination/support, referral, and/or other intervention. Such cases would likely include the involvement of other relevant parties, including a DFS representative, clinician, social worker, and/or law enforcement official.
 - Clinical complexity rises to a level where an in-person hearing is the most efficient way of evaluating student/family needs and collecting accurate information for immediate case planning and management.
 - Significant case deterioration has been identified. Such a situation may follow multiple virtual hearings, requiring a change in approach (likely inclusive of an increase in the intensity of Court oversight and intervention). Judges may see benefit in a face-to-face review of bond conditions, offering the opportunity for a more detailed court order to address apparent changes in clinical necessity.
 - Other red flags items or significant risk factors have been identified. Throughout the course of the pandemic, many families active with Truancy Court have experienced increased issues with homelessness, substance abuse, other traumas, and limited availability of critical resources. Assuming reasonable access to transportation, some of these families may benefit from an in-person hearing for a comprehensive screening and interview by the sitting judge.
 - The defendant has failed to appear for multiple virtual hearings (assuming the absence of reasonable excuses for the FTAs).
 - *Once the above-mentioned issues have been adequately addressed, a return to virtual hearings is recommended.*
- For in-person hearings, judges should not conduct group arraignments. As such, large groups of defendants should not be scheduled to appear at the same time at any of the Truancy Court locations.

- *While group arraignments may appear to be an efficient means of addressing high volume caseloads, the sensitive nature of the content inherent to truancy proceedings precludes the discussion of information beyond the basic presentment of the charge.*
- For situations where cases meet the criteria for in-person hearings, a hybrid scenario is encouraged. Visiting Teachers and other parties may participate virtually, while selected defendants appear in-person. For scheduling purposes and assuming a limited number of in-person hearings (3-4 cases for a given truancy date), the Court may designate a specific portion of the calendar (in the morning or afternoon) for hearing these events. Otherwise, every effort should be made to distribute larger numbers of in-person hearings throughout the day.
- Generally, maximum benefit regarding the use of virtual hearings will be achieved when the practice is utilized in the following circumstances:
 - The defendant has consistently appeared for scheduled events.
 - Only a check-in/status update is needed. The case is otherwise stable, requiring only basic monitoring.
 - A request has been submitted by the VT and/or defendant (assuming the risk factors outlined above do not apply).
 - The scheduling of a virtual hearing accommodates a specific hardship.
 - A virtual event supports the effective management of calendar volume.
- Any diversion from these recommendations should be documented in the defendant's case file.

Truancy Court Exceptions to Virtual Hearings

Date	Approving Judge	Case #	Reason for Exception	Date Returned to Virtual

Scan a copy of this form to the Operations Manager at the end of each month.

Criminal Court
Exceptions to In-Person Hearings
JP Court _____

Date	Approving Judge	Case #	Reason for Exception

Scan a copy of this form to the Operations Manager at the end of each month.