

Critical Event Preparation and Response for Local Courts¹

1.0 Purpose

This document addresses local court continuity of judicial branch functions and services during an event creating a significant or unexpected disruption to the workforce or the performance of the court's mission-essential functions. This document is intended to provide guidance to local courts during such an event.

2.0 Policy

Local courts are responsible for providing the *mission-essential functions* upon which Ohio citizens rely. Any *critical event* has the potential to result in a significant or unexpected disruption to a local court's workforce and operations, therefore impacting those essential functions. During these types of events, mission-essential functions must be maintained or resumed quickly in order to prevent an interruption in services. Local courts must plan for and prepare a response to any situation that could result in a decrease (potentially significant decrease) in the number of employees available to perform judicial branch functions and services. This document outlines the decision points local courts should consider during a critical event.

- 2.1 **Preparation Steps:** The ability to respond to a critical event that impacts a local court's workforce and operations is dependent on that court's level of preparedness and planned action steps. Local courts should consider the following steps to ensure they are prepared for potential interruptions in staffing and judicial functions and services.
- 2.1.1 **Maintain a Continuity of Operations Plan.** Sup.R. 9 requires each local court to develop and maintain a court security plan, which includes a Continuity of Operations Plan (COOP). The COOP plan dictates the local court's response to an event that could impact mission-essential functions. In an effort to ensure mission-essential functions are maintained, a local court's COOP plan should be reviewed and updated regularly. Planning templates, tools, and guidance may be found on the Supreme Court of Ohio's [Court Security Services webpage](#). (see Appendix B - Resources for more information).
 - 2.1.2 **Maintain Pandemic Plan.** Local courts should develop and maintain a Pandemic Plan, in addition to a COOP. A Pandemic Plan is meant to supplement a local court's COOP and address the specific issues the court may face in the event of a pandemic, which may include a significant decrease in available workforce or increase in absenteeism.
 - 2.1.3 **Review Local Court Workforce Plan.** Local courts must regularly engage in workforce planning to identify potential gaps in staffing that would impact the ability to perform essential functions if there was a significant and/or unexpected disruption in the workforce. Identifying gaps in advance can allow a local court to develop alternative plans to fill that gap in the event of an emergency or critical event.

¹ This document is largely based on State of Ohio Administrative Policy HR-49 and was modified by the staff of the Supreme Court of Ohio to provide guidance to local courts throughout Ohio.

- Local courts should identify which mission-essential functions exist and who would perform those functions if needed. This may include advance preparedness by cross-training appropriate employees, documenting work and business processes, and identifying employees that can be appropriately reassigned in the event of employee absence.

2.1.4 **Review Applicable Policies.** Local courts must review policies that address specific critical events. These policies include, but may not be limited to:

- Family and Medical Leave Act (FMLA)
- Local-court-specific work hours as well as leave, work-from-home, and attendance policies.

2.1.5 **Establish/Maintain Notification System.** Local courts should have a system and procedure in place for notifying their employees in the event of an emergency or critical event. Local courts should communicate the notification process and procedures to employees. For example, local courts should tell employees whether they should check for updates and information on the court website, call a designated telephone number, or any other utilized method of communication.

2.2 **Human Resources Considerations:** Any event that impacts a local court's ability to provide services and perform mission-essential functions should be treated on a case-by-case basis, including the response. However, there are some basic considerations that can be made during any event in order to determine how a local court should respond in order to maintain functions and services.

2.2.1 **Designate Employees Required to Work During a Public Safety Emergency.** Local courts should maintain a list of employees who are expected to work during a public safety emergency (commonly referred to as "essential employees"). These are employees who have been designated as critical to maintaining operations and essential judicial branch services and functions during a declared public safety emergency. In the event a public safety emergency is declared, these designations will be used to determine which employees are required to report to work.

- The process of designating essential employees will also require a local court to identify operations, services, and functions that must continue during a critical event.

2.2.2 **Alternative Work Locations.** In advance of an event that impedes employees' ability to report to their normal work location, local courts should designate alternative work locations where applicable. If employees are unable to report to their normal work location, an alternative work location will allow employees to continue working during a critical event.

- Once a local court has a designated alternative work location, the location should be communicated to employees so they know where to go in the event they need to report to that location.
- When faced with a situation where employees cannot report to their normal location, such as a building closure or power outage, local courts should promptly communicate with employees on whether they should report to their alternative work location.

2.2.3 **Teleworking.** Local courts may consider implementing a teleworking policy that could be used during a critical event to ensure the maintenance of mission-essential functions. (See **Attachment 1** for a template telework notice)

- A teleworking policy can be limited to a case-by-case basis (e.g. only utilized in the event of an emergency or health crisis).
- In the event an eligible employee cannot report to work during an unexpected event, such as exposure to illness, the local court could utilize teleworking in some instances.
- When a local court designates essential employees, it should also designate which employees are eligible to telework during a critical event. This will ensure that these employees are not only identified but have the capabilities in place to telework unexpectedly (e.g. remote network access).

2.2.4 **Increased Interruption to Services Due to Illness.** Seasonal outbreaks, such as the common cold or influenza, or a more serious scenario, such as a pandemic, can have a significant impact on the workforce. Local courts may have an increased number of employees away from the workplace due to illness or in the event of a more severe outbreak or pandemic. The following considerations and steps may be used to respond during this type of situation.

- **Employee Education.** Local courts should educate employees on preventative recommendations for avoiding getting sick and staying healthy. The following measures are applicable:
 - Wash hands often with soap and water or use alcohol-based sanitizer when unable to wash.
 - Try to not touch eyes, nose and mouth as germs are often spread this way.
 - Get plenty of rest, as sleep is shown to help the body fight off illness.
 - If an employee is sick, they should stay home to prevent spreading illness to others.
- **Employee Concerns.** Any time there are increased instances of illness at home, work, or in the community, employees may have increased stress and/or fear during the event. Local courts should communicate with their employees as appropriate.
 - Distribute illness prevention and control guidelines as discussed above.
 - Distribute educational materials provided by the Ohio Department of Health, Center for Disease Control, and/or other reputable government sources.
 - Remind employees of their support resources, such as a contact in the human resources division, their health care provider, Employee Assistance Program, etc.
- **Addressing Symptoms as they Arise.** During an event such as an outbreak or pandemic, if symptoms arise, encourage employees to contact their health care provider and consider using telemedicine options to prevent the spread of illness to others. Employees who are at work when symptoms arise should

be instructed to return to their work area and contact their health care provider.

- **Social Distancing.** In the event of a pandemic or other similar health crisis, there may be situations where local courts need to physically separate employees from one another, especially when working in close proximity to each other, in order to reduce the risk of transmitting illness.
 - Local courts are recommended to use teleworking, alternative work locations, flexible scheduling, and alternative work schedules to implement social distancing practices.
 - Local courts may also use phone conferencing, video conferencing, webinars, and email to conduct hearings, meetings and business as much as possible.
 - Consider avoiding non-essential activities where employees might come into close contact with individuals who may be ill.
- **Business Travel.** Depending on the nature of the event, local courts should consider whether employee business travel is necessary for mission critical functions during that time. Such functions that should be considered may include non-essential meetings, gatherings, workshops, or training sessions. When making these determinations, local courts should consider both national and international indicators of whether travel is essential, such as travel health notices and/or airline response.
- **Time and Attendance.** During a seasonal outbreak, pandemic, or other health issue, there is an increased risk that a higher number of employees than normal will be absent from work. As with any absence from work, employees should continue to be responsible for following local court policies on leave request and time reporting.
 - Employees could be absent due to personal illness, illness of a family member, school/building closures, public transportation closures, etc.
 - Depending on the severity of an event (e.g. pandemic or increased vulnerability to the populations), local courts may want to consider monitoring the absence of sick employees.

2.3 **Applicable Leave Provisions.** In the case of a critical event, employees may need to be absent from the workplace to care for themselves or a family member. There are many types of accrued leave and leave benefit programs that employees may be eligible to use during and after a critical event. Below is an overview of the most common types of leave that may be applicable in a critical event situation. For specific information on each type of leave, reference local court policies, applicable collective bargaining agreements, applicable administrative rules, or applicable Revised Code provisions.²

² In addition to the types of employee leave listed in this section, there may be circumstances where it may be appropriate for an appointing authority to consider a leave status that is otherwise not listed here.

- 2.3.1 **Sick Leave.** Employees may use available sick leave for absence due to personal illness, illness of a member of the employee's immediate family, exposure to contagious disease that could be communicated to other employees, and illness, injury, or death³ in the employee's family. If a critical event occurs, managers should be reasonable in approving sick leave for employees.
- If an employee does not have available sick leave, the local court may have discretion to allow an employee to use other types of accrued leave in lieu of sick leave (e.g. vacation in lieu of sick leave).
- 2.3.2 **Discretionary Leave.** Depending on the circumstances of the critical event, use of accrued vacation, personal leave, or compensatory time off may be more appropriate than sick leave or used in lieu of sick leave if available sick leave has been exhausted. If an employee is serving as a caregiver for an individual who is not within the employee's immediate family (as defined in some sick leave provisions), it may be appropriate to grant an employee's request for vacation, personal leave, or compensatory time off.
- In certain situations (e.g. power outage, building closure), it may be appropriate for the local court to grant discretionary leave to employees who are not performing mission-essential functions instead of using an alternative work location.
- 2.3.3 **Family and Medical Leave Act.** Employees who have been employed by the local court for at least twelve (12) months, and have actually worked at least 1,250 hours during the past twelve (12) months, are eligible for twelve (12) work weeks of leave for the serious health condition of the employee, employee's spouse, employee's children, or employee's parents under the FMLA. Employees must follow their local court's policy regarding appropriate notice and documentation. FMLA is used concurrently with accrued leave. An employee who is eligible for FMLA must exhaust all accrued sick, vacation, personal, and, in some cases, compensatory time balances prior to going on unpaid leave.
- 2.3.4 **Leave Donation.** A local court may consider developing an employee leave donation program. In some instances, employees may be eligible to receive donated leave during or after a critical event. Such a policy may provide that an employee may be eligible for donated leave if the employee or a member of the employee's immediate family has a serious illness, has no accrued leave, has not been approved to receive other state-paid benefits, and has applied for any paid leave or benefits program for which the employee is eligible. In those instances, an employee would receive donated leave up to the number of hours the employee is scheduled to work each pay period.
- 2.3.5 **Leave of Absence without Pay.** A local court may have the ability grant an employee leave of absence without pay. The local court should review its employment policies, applicable collective bargaining agreements administrative rules, or applicable Revised Code provisions.

³ Death in the employee's immediate family may also qualify for bereavement leave.

Appendix A - Definitions

- a. Continuity of Operations. An effort to ensure that the local court's mission-essential functions continue to be performed during any critical event.
- b. Critical Event. Any event that could cause a significant and/or unexpected disruption in the performance of mission-essential functions. For example, a declared public safety emergency, power outage, building closure, pandemic, act of nature, active aggressor, accidents, technological attacks, or increased absences due to illness that all have the potential to cause significant and/or unexpected disruptions to the normal business of a local court.
- c. Public Safety Emergency. A term of art which refers to all formal declarations or proclamations which may limit a local court employee's obligation to travel to and from work for a specific period of time.
- d. Mission-Essential Functions. Activities directly related to accomplishing a local court's core judicial functions and services. It is generally expected that mission-essential functions must be performed continuously or resumed within twelve (12) hours of a critical event.
- e. Pandemic. An epidemic of disease that has spread across a large region or world- wide. Often caused by a virus that is either entirely new or not circulated recently and widely in the human population which results in an almost universal vulnerability to infection in humans.

Appendix B - Resources

Ohio Department of Health https://odh.ohio.gov/wps/portal/gov/odh/home https://coronavirus.ohio.gov Centers for Disease Control and Prevention https://www.cdc.gov/
For Continuity of Operations Plan template: The Supreme Court of Ohio, Office of Court Security https://www.supremecourt.ohio.gov/courtSecurity/default.asp
Supreme Court of Ohio Judicial Guide to Public Health http://www.supremecourt.ohio.gov/Publications/JCS/publicHealthJudicialGuide.pdf
National Center for State Courts, Preparing for a Pandemic https://ncsc.contentdm.oclc.org/digital/collection/facilities/id/194

Attachment 1

Teleworking Notice

(To be provided to employee before, or as soon as practicable after a verbal teleworking authorization)

[Employee name], has been authorized to telework during an emergency event to ensure the maintenance of the mission-essential function of the [Name of Court] hereinafter "court", beginning on [Insert Date]. The decision to authorize teleworking is solely within the discretion of the court and can be modified or terminated at any time. When the court terminates the teleworking authorization, you will be notified and will be required to report to your normal work location.

For the duration of the teleworking authorization, the following provisions are applicable to you:

- Teleworking authorization does not affect basic terms and conditions of employment with the court. This includes your rate of pay, retirement benefits, and court sponsored insurance coverage, if applicable.
- You are still obligated to comply with court rules, policies, practices and instructions. A violation of such may result in a revocation of the teleworking authorization and discipline, up to and including removal.
- If you need to use any form of employee leave during the time you are teleworking, you must comply with all court call off policies and procedures for obtaining approval prior to using leave.
- You are authorized to telework during your normally scheduled work hours, [insert hours here] (e.g. 8:00 am to 5:00 pm). Your supervisor will notify you if you are required to work outside of those hours. All court overtime and compensatory time policies apply during the teleworking authorization.
- You are responsible for accurately reporting your time worked for the duration of the teleworking authorization.
- For the extent of the teleworking authorization, you and your supervisor must establish a method of communication and you must be available for contact by anyone at the court during your normal work hours.
- In accordance with court policy, you are still responsible for protecting all sensitive data and personally identifiable information.

Employee Signature

Date

Judge/Supervisor Signature

Date

