



Variant) issued on January 26, 2022, expires. <https://governor.hawaii.gov/newsroom/office-of-the-governor-news-release-governor-ige-announces-target-date-to-end-mask-requirement/>.

The federal Centers for Disease Control and Prevention (“CDC”) has issued guidelines to protect individuals from the potential transmission of COVID-19. These guidelines, last updated on February 25, 2022, recommend that individuals continue to wear a mask with the proper fit, be up-to-date on vaccinations, maintain a distance of at least six (6) feet from others, avoid poorly ventilated spaces and crowds, and wash their hands often with soap and water for at least twenty (20) seconds, among other recommendations. <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/prevention.html>.

Furthermore, because COVID-19 spreads “more readily indoors than outdoors,” the CDC has also issued guidelines on protection against transmission of COVID-19 in enclosed environments and continues to recommend a “layered approach to reduce exposures.” Specifically, the CDC recommends implementing multiple mitigation strategies at the same time to reduce the spread of COVID-19 indoors, which include wearing a face mask, maintaining a distance of at least six (6) feet from others, vaccination, and frequent hand washing. In addition, the CDC recommends improving ventilation to buildings, if possible, to help reduce viral particle concentration indoors to lower risks of transmission. Ventilation improvement strategies include but are not limited to: increasing the introduction of outdoor air by opening windows and doors, using fans to increase the effectiveness of open windows, and making upgrades to ventilation systems to increase the delivery of clean air and dilute potential contaminants. However, the CDC notes that while these ventilation improvement strategies can be applied universally across indoor environments, “applying them to different building types,

occupancies, and activities [...] can be challenging.” <https://www.cdc.gov/coronavirus/2019-ncov/community/ventilation.html>.

Normal Court operations in the First Circuit result in large volumes of court users and Judiciary employees moving in and out of Judiciary facilities each day, which increases the risk of transmitting COVID-19 for all individuals present. Implementing ventilation strategies at Judiciary facilities will be challenging and will not yield consistent and effective protection to court users and Judiciary employees. Most courthouses have windows that cannot be opened in a way that will facilitate sufficient introduction of fresh air to effectively diffuse viral particles. For safety reasons, courthouse doorways cannot be kept open for ventilation purposes. Upgrades and changes to ventilation or HVAC systems at courthouses are impractical as they will require significant resources. Consequently, a multi-layered approach that includes utilizing masks and maintaining a physical distance of six (6) feet from others continues to be the best practice to reduce the risk of transmission of COVID-19 in Judiciary facilities.

In light of the foregoing, in furtherance of this Court’s commitment to protect the health and safety of all court users and Judiciary employees, and pursuant to the Orders of Chief Justice Mark E. Recktenwald in SCMF No. 20-0000152, In re the Judiciary’s Response to the COVID-19 Outbreak, and with the authority as Chief Judge of the First Circuit, IT IS HEREBY ORDERED:

1. The following shall apply to all courthouses and Judiciary facilities within the First Circuit of the State of Hawai‘i.
2. **Face Masks:**
  - a) All court users and employees shall wear cloth or disposable masks with a proper fit over the nose and mouth as described and recommended by the CDC (posted at <https://www.cdc.gov/coronavirus/2019-ncov/prevent-getting-sick/masks.html>),

regardless of vaccination status, from the time they enter Judiciary facilities, while moving through common areas in each of these facilities (including, but not limited to, hallways, stairwells, elevators, escalators, restrooms, waiting areas, copy rooms, break rooms, conference rooms, and file areas), and in the presence of others.

- b) All Judiciary employees shall continue to wear masks even when distancing requirements are observed. This shall be observed at all times, including when employees are in their personal workspaces (including, but not limited to, courtroom benches, courtroom desks, offices, cubicles, employee work stations, and employee desks). Masks may be temporarily removed by employees when employees are actively eating and/or drinking. Masks may also be removed by employees when they are isolated in a workspace and are separated from others by walls extending from the floor to the ceiling.
3. **Social Distancing:** All court users and Judiciary employees shall continue to observe social distancing guidelines in all public areas, whenever possible, by maintaining at least six (6) feet of physical distance from other individuals, including inside and outside of courtrooms.
  4. **Entry into First Circuit Judiciary Facilities:** No person shall enter Judiciary facilities if they: (1) have tested positive for COVID-19 in the previous five (5) days; (2) have a fever, cough, shortness of breath or difficulty breathing, or other symptoms of respiratory illness or of COVID-19 as set forth by the CDC (posted at <https://www.cdc.gov/coronavirus/2019-ncov/symptoms-testing/symptoms.html>); (3) have been exposed to COVID-19 within the past ten (10) days and are not up-to-date on COVID-19 vaccinations; or (4) are subject to

an isolation or quarantine request or order by any public health official or licensed medical physician (the CDC and the Hawai'i Department of Health recommendations can be found at <https://www.cdc.gov/coronavirus/2019-ncov/your-health/quarantine-isolation.html>, and <https://health.hawaii.gov/news/newsroom/doh-revises-states-isolation-quarantine-policy/>).

- a) All persons ages five (5) to eleven (11) are considered up-to-date on their COVID-19 vaccinations when they have completed two doses of the Pfizer-BioNTech vaccine.
- b) All persons ages twelve (12) years or older are considered up-to-date on their vaccinations when they have received two doses of the Pfizer-BioNTech vaccine and a booster dose.
- c) All persons ages eighteen (18) years or older are considered up-to-date on their vaccinations when they have received two doses of the Moderna vaccine and a booster dose.
- d) All persons ages eighteen (18) years or older are considered up-to-date on their vaccinations when they have received one dose of the Johnson & Johnson vaccine and a booster dose.

(For more information, please visit <https://www.cdc.gov/coronavirus/2019-ncov/vaccines/stay-up-to-date.html>).

## **5. Exemptions:**

- a) Court users who cannot wear a mask or cannot safely wear a mask because of a disability, medical condition, or mental health condition, may request an exemption from the Chief Judge, the Chief Court Administrator, or their designees. Children younger than two (2) years of age are automatically exempt from the mask requirement.

- b) Employees who cannot wear a mask or cannot safely wear a mask because of a disability, medical condition, or mental health condition, may request an exemption from their respective supervisors, who shall consult with the respective Chief Court Administrator, Deputy Chief Court Administrator, or Department Head.
6. This Order does not restrict or otherwise abrogate the express and inherent authority of the court and its judges to provide for the orderly conduct of proceedings, control in the furtherance of justice the conduct of persons connected with judicial proceedings, or to control processes and orders so as to make them conform to law and justice. Specifically, if a judicial officer determines it is necessary to the furtherance of justice to wear or remove their face covering when on the bench or to direct an individual in their courtroom to wear or remove their face covering, they may do so.
7. This Order may be modified as circumstances warrant. Absent further action, this Order shall remain in effect until further order of the Court.

IT IS SO ORDERED.

DATED: Honolulu, Hawai'i, March 21, 2022.

/s/ R. Mark Browning



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Hon. R. Mark Browning, Chief Judge  
First Circuit Court, State of Hawai'i