



**Judge Ben Woodward**  
Tom Green County Courthouse  
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San Angelo, Texas 76903

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Nikki Bruton, Administrator

119<sup>th</sup> District Court  
Concho, Runnels & Tom Green  
Counties, Texas

December 29, 2020

Judge Dean Rucker

Via email: DRucker@mcounty.com

Re: Recertification of Covid-19 Plan, Concho  
County

Dear Judge Rucker,

Attached are documents for the recertification of the COVID-19 Operating Plan for Concho County, Texas. I am attaching:

1. Statement Of The Objective Criteria To Determine When An In-Person Hearing Will Be Necessary.
2. Statement Of the Objective Criteria To Be Used To Determine Whether A Judge Has Used All Reasonable Efforts To Conduct A Proceeding Remotely.
3. Emails of my consultation with the Local Health Authority, Dr. Nneka Papillion, who expressed her approval of the existing plan.
4. Emails of my consultation with County Judge David Dillard, Justice of the Peace Scott Spoons, Associate Judge Gary Banks, and Associate Judge Pamala Talley.

Sincerely yours,

A handwritten signature in blue ink that reads "Ben Woodward".

Ben Woodward  
Judge, 119<sup>th</sup> District Court

## **STATEMENT OF THE OBJECTIVE CRITERIA TO DETERMINE WHEN AN IN-PERSON HEARING WILL BE NECESSARY**

**All judges in Concho County, before conducting an in-person hearing shall first determine if an in-person hearing is necessary by following this procedure.**

1. The Court shall inform each counsel and pro se litigant that the hearing shall be conducted remotely over zoom. The Court shall provide each counsel and pro se litigant a phone number or email address to inform the Court if they believe any counsel, their clients, a pro se litigant, any witness, or an interpreter/translator, or other participant (all referred to below as "Participant") cannot participate remotely. The Court or Court Staff shall then determine whether a Participant is unable to participate in the hearing due to any one or more of the following:

- a. lack of technology which precludes or impedes their ability to participate in the hearing via the Zoom videoconferencing app. Examples of the lack of such technology include:
  - i. lack of access to a computer, tablet or other device with internet video capability.
  - ii. lack of access to a cell phone; or
  - iii. lack of access to an internet connection.
- b. A physical, mental, or other disability that prevents a Participant from being able to effectively operate or utilize the required technology. Examples of such a disability include:
  - i. a physical or mental disability that precludes them from effectively operating the technology necessary to access the Zoom videoconferencing app; or
  - ii. a physical disability that precludes them from effectively seeing, hearing, or otherwise participating in a Zoom video hearing.
  - iii. the lack or unavailability of an interpreter who can assist the individual in communicating during a Zoom hearing.
  - iv. incarceration and the incarcerating facility's lack of technological resources or facilities to allow the inmate to participate remotely in the hearing or confer privately with their legal counsel.

2. If an individual is unable to participate for one of these reasons, prior to holding an in-person hearing, the Court shall make reasonable efforts to accommodate the individual as set forth in the *Statement Of the Objective Criteria To Be Used To Determine Whether A Judge Has Used All Reasonable Efforts To Conduct A Proceeding Remotely*.

**STATEMENT OF THE OBJECTIVE CRITERIA TO BE USED TO  
DETERMINE WHETHER A JUDGE HAS USED ALL  
REASONABLE EFFORTS TO CONDUCT A PROCEEDING  
REMOTELY**

When an individual is found to be unable to participate in a Zoom videoconference for one of the reasons stated in the *Statement Of The Objective Criteria To Determine When An In-Person Hearing Will Be Necessary*, prior to holding an in-person hearing, the judge of the court in which the matter is pending shall make all reasonable efforts to make accommodations that will allow the individual to participate. The accommodations that the judges of the County shall consider include:

1. When an individual does not have adequate technological resources on their own to participate in a Zoom videoconference hearing, a judge shall:
  - a. determine whether the court has the ability to provide the individual with a laptop or other device which would allow the individual to participate in the hearing from some segregated location within the court facility while following appropriate COVID protocol.
  - b. determine if such technological resources can be provided to the individual by some other source (e.g., a participating attorney, a party, family member, friend, public library, or an appropriate agency of the State of Texas); and
  - c. determine whether the individual could participate in a meaningful manner by telephone (audio only).
2. When an individual has physical or mental disabilities that would prevent them from effectively operating the technology required, a judge shall:
  - a. determine if the individual has legal counsel, family or friends who can assist in operating the required technology; and
  - b. inquire as to what, if any, accommodations could be made which would allow the individual with a disability to participate.
3. When an individual is incarcerated, a judge shall:
  - a. determine whether the facility has the technological resources or facilities to allow the incarcerated individual to participate in the hearing;
  - b. if the facility does not have the technological resources to allow the inmate to participate in a Zoom videoconference, determine whether the inmate could participate in a meaningful manner by telephone (audio only).
4. When an individual is otherwise unable to participate in a hearing via videoconference or by audio only, a judge shall determine whether they can effectively participate in the proceeding by a sworn statement made out of court as permitted by the Emergency Orders of the Texas Supreme Court.
5. If no accommodation is available, the Court shall determine if a continuance is warranted, balancing the risk to public health and safety with the need to resolve this particular case.