

Twelfth Judicial District Remote and Hybrid Hearings Plan



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Prepared By: Angie K. Schneider, Chief Judge and Audrey Hukari, CEO

Contents

1. Introduction.....	3
1.1 Supreme Court Strategic Plan	3
1.2 Definitions	4
2. Twelfth Judicial District Approach to Remote and Hybrid Hearings	4
2.1 Remote Hearings & Remote Appearances in Hybrid Hearings Using Video	5
2.2 Remote Hearings	5
2.3 Hearings that may be Remote, Hybrid, or In-Person.....	5
2.4 In-Person Hearings	6
2.5 Traffic Hearings in Magistrate and Municipal Court	6
2.6 Requests by Parties to Appear Remotely and Responsibility of the Parties.....	6
3. Education and Training	7
3.1 Judicial Officers	7
3.2 Court Staff	8
3.3 Attorneys.....	8
3.4 Self Represented Parties.....	8
4. Technology.....	8
4.1 Internet Bandwidth.....	8
4.2 Courtroom Upgrades.....	9
4.3 Website.....	9
4.4 Remote Meeting Platform	10
4.5 Judicial Proceeding Guidelines.....	10
4.5.1 Remote Hearings Using Video	11
4.5.2 Telephonic Appearances.....	11
4.5.3 In-Person Hearings	11
4.5.4 Hybrid Hearings.....	11
4.5.5 Stipulated Hearing Type	11
5. “Justice Stations”	11

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1. Introduction

The COVID-19 pandemic prompted courts to rapidly adopt technology to permit remote appearances for all types of court hearings and proceedings. The New Mexico judiciary promptly adopted policies allowing parties, attorneys, and witnesses to appear in court proceedings by various video and telephonic platforms. This rapid adoption of remote technology increased access to justice, and conserved time and resources.

In response, the New Mexico Supreme Court established a Remote v. In-Person ad hoc Committee (Committee) to develop recommendations for all trial courts regarding what proceedings lend themselves to being held remotely, in-person, or in a hybrid setting.

In support of making the courts more accessible and predictable for the court users, including attorneys, parties, and witnesses, the Committee recommended that each judicial district adopt a plan for remote hearings based on the Committee's guidance contained in its January 4, 2023 Committee Report, and that the district-wide plans be submitted to the Supreme Court for review. This document represents the plan for the **Twelfth Judicial District**.

This plan will help ensure that the Twelfth Judicial District continues to incorporate remote proceedings and accommodate remote appearances for some parties and witnesses in hybrid proceedings. Additionally, this plan will continue to incorporate certain requirements for traffic cases, press and public access to hearings, exhibits, and criminal defendant identification to further improve and increase judicial efficiency.

1.1 Supreme Court Strategic Plan

The 2022-2026 New Mexico Judiciary Strategic Plan which provides a road map for long-term change, includes the following goal to expand remote hearings:

Theme 2: Enhance Public Access to New Mexico Courts Using Technology and Expanding Self-Represented Litigant (SRL) Services.

Objective 2.1: Establish a committee to review the benefits and challenges of the expanded use of remote hearings and make recommendations to the Supreme Court on what innovations in this area should be retained and how they should be administered statewide.

The Twelfth Judicial District Plan supports the strategic directives of the Supreme Court, incorporates the Recommendations of the Remote v. In-Person Committee, and outlines the essential elements required for successful remote and hybrid hearings.

1.2 Definitions

“Remote” refers to judicial proceedings wherein all parties and counsel appear through video or telephone.

“Hybrid” refers to judicial proceedings wherein at least one party or counsel appear remotely and at least one party or counsel appear in person¹.

“In-Person” refers to all parties and counsel appearing in person at the Court. Witnesses may appear remotely during an in-person proceeding.

2. Twelfth Judicial District Approach to Remote and Hybrid Hearings

The Twelfth Judicial District adopts the recommendation of the Remote v. In-Person Committee and avoids an exhaustive list of specific hearings that must be held remotely versus hybrid versus in-person. Additionally, but for jury selection and jury trials which will only be conducted in-person, there are a myriad of factors that may warrant remote versus hybrid versus in-person hearings and the Twelfth Judicial District seeks to provide presumptive guidelines as outlined herein.

The Twelfth Judicial District guidelines for remote, hybrid, and in-person hearings apply to both district and magistrate courts.

¹ There are a significant number of proceedings wherein one or more witnesses appear remotely, but all litigants and counsel are in-person. If such proceedings were considered hybrid, that would over-represent the number of judicial proceedings that are not occurring primarily in person. For instance, if a witness appears remotely to authenticate a document, but all other participants are in person, the hearing would not be defined as hybrid.

The Twelfth Judicial District will use the length and complexity of the hearing as the guidepost for whether it should be held remotely, hybrid, or in-person. Judicial officers will take into consideration the agreement of the parties, if any, to the manner of appearance and other relevant factors. The presiding judge will have the discretion to weigh unique considerations and requests on a case-by-case basis, without requiring the approval of the Chief Judge.

In criminal cases and civil cases involving parties who are incarcerated, judges will take into consideration the ability of detention facilities to effectively and efficiently conduct remote and hybrid hearings.

2.1 Remote Hearings & Remote Appearances in Hybrid Hearings Using Video

It will be presumed that all remote and hybrid proceedings will be conducted by video appearance. The presiding judge will have the discretion to allow a telephonic appearance by counsel, parties or witnesses in exceptional circumstances. Counsel, parties and witnesses when testifying will be required to have their camera open unless the court finds exceptional circumstances to allow the camera to be closed.

2.2 Remote Hearings

It will be presumed that short, non-evidentiary hearings such as discovery disputes, initial appearances, arraignments, temporary restraining orders, name changes, and non-evidentiary default hearings will be conducted remotely. Longer hearings that are argument only, such as summary judgment hearings may also be conducted remotely. The presiding judge has the discretion to require such hearings to be conducted in-person or by hybrid format and will take into consideration the positions of the parties and other relevant factors.

2.3 Hearings that may be Remote, Hybrid, or In-Person

It will be presumed that evidentiary hearings, bench trials, expungement, restraining orders, and adult guardianship hearings may be conducted remotely, by hybrid format, or in-person. The presiding judge has the discretion to determine whether the hearing will be remote, hybrid, or in-person and will take into consideration the positions of the parties and other relevant factors.

2.4 In-Person Hearings

Jury selection and jury trials will be in-person only.

It will be presumed that contempt hearings, termination of parental rights proceedings, adoptions, final kinship guardian hearings, and criminal hearings where evidence is being taken or a defendant is being sentenced will be conducted in-person. The presiding judge has the discretion to grant a remote or hybrid hearing with a finding that exceptional circumstances exists to do so. The presiding judge will take into consideration the positions of the parties and other relevant factors.

When the presiding judge grants a remote or hybrid proceeding, an order outlining the exceptional circumstances will be required.

2.5 Traffic Hearings in Magistrate and Municipal Court

Pursuant to New Mexico Supreme Court Order No. 23-8500-013, the presumption is that all criminal traffic hearings, including traffic bench trials, shall be conducted remotely unless the presiding judge, in consultation with the Chief Judge orders otherwise, on a case by case basis.

2.6 Requests by Parties to Appear Remotely and Responsibility of the Parties

With the exception of jury selection and jury trials, parties may request to appear remotely or in-person at any proceeding and such requests will be handled on a case-by-case basis by the presiding judge. It will be the duty of counsel and parties to appear for their hearing in the format stated on the hearing notice. Notices will provide a Google Meet link if the hearing is a remote proceeding. In-person hearings will not have a Google Meet link on the notice. Attorneys may make a request for a party or a witness to appear remotely during an in-person hearing and such requests will be considered by the presiding judge on a case-by-case basis.

Attorneys may also request to appear remotely for in-person proceedings. The Twelfth Judicial District is mindful that some attorneys carry dockets across districts. For example, attorneys in CYFD child protection cases often cover cases in multiple jurisdictions and may request to appear remotely for this reason. The Twelfth Judicial District also recognizes originally scheduled in-person hearings

may ultimately be converted to hybrid hearings based on issues such as transportation or weather.

3. Education and Training

Education and training are essential components in the successful implementation of remote and hybrid hearings. All parties involved in a proceeding should understand their role and expectations. Initial training includes both a technology focus (what is available and how does it function) and a process focus (who does what). Periodic training is necessary both as a refresher and to address new technology functions and how that may impact roles and responsibilities.

At this time, the Twelfth Judicial District does not have a need for additional training. Our judicial officers and staff operate Google Meet proficiently and without issue. As technology advances, our IT staff will provide additional hands-on training as needed.

3.1 Judicial Officers

The Twelfth Judicial District recognizes that judicial officers must control virtual courtrooms with the same efficiency as in-person courtrooms. Presently, the judicial officers in the Twelfth Judicial District are proficient at admitting, muting and removing participants to ensure access to justice and maintain courtroom decorum. Our TCAA's are also proficient at admitting, muting and removing participants as well as in creating and ending breakout rooms for participants. Additionally, our staff has created a pathway for simultaneous interpretation through the use of headsets and secondary phone calls so that our non-English speaking litigants are able to meaningfully and equitably participate. Our TCAs and court monitors simultaneously monitor court proceedings to provide further assistance whenever needed.

In the event of high-profile cases with many attendees for remote proceedings, our bailiffs can be trained to monitor and admit parties to the Google Meet. The TCAA or court monitor will create a breakout room that will function as the court session. A bailiff can then admit individuals from the main link into the court proceedings after the spectator has been provided instructions and apprised of courtroom decorum requirements.

3.2 Court Staff

Court staff in multiple roles will need training to ensure they are familiar with scheduling and managing remote and hybrid hearings.

Role	Responsible
TCAA/Docket clerk	Scheduling hearings
Court monitor	Test FTR, validate all microphones are working
Bailiff	Activate Courtroom display for the Google Meet; Sets up all microphones, headsets, etc. for interpreters.

3.3 Attorneys

Attorneys will have access to the judiciary's Standard Instruction Guide to help set expectations for both attorneys and their clients for remote and hybrid procedures. The TCAAs in the Twelfth Judicial District update the attorneys daily with a calendar and also email any changes to the calendar, sometimes multiple times throughout the day. The calendar specifies what hearings are via Google Meet.

3.4 Self Represented Parties

The Twelfth Judicial District has a one-page handout outlining procedures for remote hearings and for submitting exhibits in advance of the hearing. The handout is sent to self-represented litigants with their notice of hearing. The document is also available at the courthouse for individuals who come in to request a hearing.

4. Technology

4.1 Internet Bandwidth

Robust internet service that can support the increasing demands of multiple, simultaneous video hearings is essential to the success of remote and hybrid hearings. In the Twelfth Judicial District we currently have varying amounts of bandwidth in every District and Magistrate Court. In some instances, the amount of bandwidth is insufficient, especially when you consider that most individuals' home internet is 100 megabits. After consultation with our local IT staff, we are requesting an upgrade to the following:

Otero County District Court – 1 Gigabit
Otero County Magistrate Court – 300 Megabit

The Lincoln County courthouses have sufficient bandwidth at this time.

4.2 Courtroom Upgrades

In the Otero County District Court, we presently have two jury-ready courtrooms and one non-jury ready courtroom. In the Otero County Magistrate Court there are two jury-ready courtrooms. The co-located Lincoln County District Court and Magistrate Court in Carrizozo has two jury-ready courtrooms. The Lincoln County Magistrate Court in Ruidoso has one jury-ready courtroom and one non-jury courtroom.

Each jury-ready courtroom in the Twelfth Judicial District includes an integrated Elmo Document Camera for presentation (size varies from 60 inches to 80 inches). The non-jury courtrooms also include either laptop or desktop computers for the Court to conduct remote hearings as well as integrated Elmo Document Cameras.

Every courtroom in the district is capable of holding either remote or hybrid hearings instantly.

All courtrooms in the Twelfth Judicial District are also equipped with a Q-System to amplify sound. The court monitor logs into the Google Meet, which feeds audio through the FTR to ensure good, quality, audio recordings.

The Twelfth Judicial District is a pilot court for the Judicial Information Division's rollout of FTR Real Time Speech to Text. As many of our courtrooms as possible will be equipped with the technology and we will ensure that the new equipment integrates seamlessly with our current systems; including the ability to host hybrid hearings.

4.3 Website

The Twelfth Judicial District Court's website is contained within the NMCourts.gov site. Our plan is to include the following on the website:

- (1) the informational remote hearing handout for self-represented litigants;

- (2) email links for each Court’s “proposed text” for the submission of exhibits;
- (3) daily updated court dockets; ~~and~~
- (4) instructions for new attorneys in the Twelfth Judicial District; and
- (5) an instructional video for attorneys and Self Represented Litigants on uploading exhibits to Google Drive to share with opposing parties prior to hearings.

The Twelfth Judicial District also has updated, electronic daily docket displays outside of almost every courtroom and hearing room. Courtrooms currently without docket displays will have them added in FY24.

There have not been any major, ongoing decorum issues with attorneys on Google Meet in the Twelfth Judicial District.

Description	Role(s) Responsible for Content	Role(s) Responsible for Website Updates
Judicial officer dockets published	TCAAs and Court staff	IT – currently working with JID to automate the process
Links available for public access to watch or listen	TCAAs and Court staff	Available in daily emails and upon request
Instructions for attorneys	Judges will Create	IT
Instructions for self-represented parties	Judges	IT

4.4 Remote Meeting Platform

The Twelfth Judicial District will use the Google Meet platform for remote and hybrid proceedings.

4.5 Judicial Proceeding Guidelines

The length and complexity of the hearing is the guidepost for whether it should be held remotely, hybrid, or in-person. Judicial officers will also take into consideration agreements by the parties and other relevant factors.

The Twelfth Judicial District is in the best position to ascertain what works best for the community we serve, as well as our unique facilities and technology.

4.5.1 Remote Hearings Using Video

Remote hearings using video will be conducted using Google Meet. Each judge will sign on to their Google Meet link. The Court can view video participants either on their desktop or laptop computer.

4.5.2 Telephonic Appearances

It will be presumed that all remote and hybrid proceedings will be conducted by video appearance. The presiding judge will have the discretion to allow a telephonic appearance by counsel, parties or witnesses in exceptional circumstances.

4.5.3 In-Person Hearings

In-person hearings will be used as outlined in Section 2.4 and require no additional planning.

4.5.4 Hybrid Hearings

Hybrid hearings will be used as necessary and when requested, subject to the provisions outlined in Section 2.3. The Twelfth Judicial District is currently adept at adding parties to the Google Meet, calling participants when they need to appear, adding them to break out rooms to sequester parties, etc.

4.5.5 Stipulated Hearing Type

The Twelfth Judicial District understands that parties may submit stipulations as to the hearing format and seek the court's approval. When this occurs the presiding judge will consider such requests as outlined in Section 2.

5. Justice Stations

In alignment with the New Mexico Judiciary Strategic Campaign's Objective 2.4, the Judiciary will develop robust self-help "Justice Stations" throughout the state that utilize innovative technology and house other self-help services to assist litigants navigating their court interactions. In furtherance of this judicial priority, the Twelfth Judicial District Court has a self-help desk in each and can be available,

by appointment, at any court location. Additionally, our courts are equipped with computer kiosks for public use. Our “justice stations” can be used for remote hearing appearances and for jurors to complete and submit their juror questionnaires.