

Rule 104

CONTINUITY OF OPERATIONS PLAN

- (a) **Purpose.** This rule sets forth a district court’s responsibility to develop and maintain an all-hazards continuity of operations plan.
- (b) **Definitions.**
 - (1) **“Continuity incident”** means injury, illness, or death; damage to equipment, infrastructure, services, or property; and functional degradation to social, economic, or environmental aspects due to an environmental or a human-caused hazard.
 - (2) **“Continuity of operations (COOP)”** means an effort to ensure a court can continue to perform its essential functions in the event of a continuity incident.
 - (3) **“Hazard”** means an accident; natural disaster; space weather; domestic or foreign-sponsored terrorist attack; act of war; weapon of mass destruction; technological, chemical, biological, radiological, nuclear, or explosive event; and any other circumstance that might disrupt continuity of operations.
- (c) **Requirement.** A court must develop and maintain a COOP plan for each facility where judicial branch personnel work.
- (d) **Elements.** A court must address the following elements in each COOP plan.
 - (1) **Essential Functions.** Essential functions are critical activities that a court must continue to perform after a disruption of normal activities caused by a continuity incident. A court’s essential functions directly relate to accomplishing its mission as set forth in the United States Constitution, the Kansas Constitution, a statute, a rule, or another source. The following activities are examples of essential functions: issuing a writ of habeas corpus or mandamus, holding a juvenile detention hearing, and issuing a restraining order or search warrant.
 - (2) **Essential Supporting Activities.** A court’s essential supporting activities (ESA) support performance of essential functions but do not reach the threshold of essential functions. ESA are important facilitating activities that most courts perform; however, a court’s performance of ESA alone does not directly accomplish its mission. The following activities are examples of ESA: security, human resources management, and information technology management.
 - (3) **Delegation of Authority Planning.** A court’s delegation of authority planning provides legal authorization for an individual to act on behalf of a key official for a specified purpose and to carry out specific duties. A delegation of authority will specify

a particular function that the individual is authorized to perform and include any restriction of that authority. A delegation of authority should have sufficient breadth to ensure the court can perform its essential functions. The following are examples of duties that a court might delegate: purchasing, leave authorization, and execution of contractual agreements.

- (4) **Succession Planning.** A court's succession planning identifies a successor who will ensure there is no lapse in essential decision-making authority in the event an incumbent is unable or unavailable to fulfill essential duties. A court's order of succession should include accompanying authorities. An example of succession planning is replacing a member of the district court's leadership team, such as the chief judge, court administrator, chief clerk, or chief court services officer.
- (5) **Alternate Facility.** An alternate facility is a location other than the primary facility that a court will use to carry out essential functions and ESA in a continuity incident. An alternate facility refers not only to a physical location but also to teleworking, telecommuting, mobile-office concepts, and other nontraditional options.
- (6) **Continuity or Interoperable Communications Planning.** A court's continuity or interoperable communications planning provides the court the capability to perform essential functions and ESA in conjunction with other organizations in a continuity incident. A court might include specialized equipment or systems such as phones, radios, or mass notification systems in its continuity or interoperable communications planning.
- (7) **Vital Records and Databases Management Planning.** A court's vital records and databases management planning identifies documents, references, records, information systems, data management software, and equipment needed to support essential functions and ESA during a continuity incident. A court's planning should address the availability of all forms of vital records and databases.
- (8) **Human Capital Planning.** A court's human capital planning identifies the essential staff, COOP team members, and other special categories of employees who are assigned response duties during a continuity incident and COOP activation.
- (9) **Test, Training, and Exercise Program.** A court's test, training, and exercise program describes measures to ensure that the court's COOP plan can support the continued execution of its essential functions throughout the duration of a continuity incident.

- (10) **Devolution Planning.** A court’s devolution planning describes the court’s ability to transfer statutory authority and responsibility for essential functions from its primary operating staff and facilities to other court or organization employees and facilities.
- (11) **Reconstitution Planning.** A court’s reconstitution planning describes the process by which surviving or replacement personnel resume normal court operations from the original or replacement primary operating facility.
- (12) **Pandemic Planning.** A court’s planning must ensure the court can continue to perform its essential functions in the event of a pandemic.
- (e) **COOP Manager.** A chief judge must appoint a judicial district COOP manager and submit that person’s name to the Office of Judicial Administration (OJA) by November 1, 2021.
 - (1) **Responsibility.** A judicial district COOP manager will be responsible for coordinating COOP planning for each facility where court personnel work.
 - (2) **Training.** OJA will provide or facilitate initial and ongoing COOP training. A judicial district COOP manager must attend COOP training as directed by OJA.
- (f) **Submittal; Timing.**
 - (1) **Initial Plan.** A court must submit all initial COOP plans to OJA no later than December 1, 2023.
 - (2) **Annual Update.** A court must annually review and submit updated COOP plans to OJA no later than December 1 of each year beginning in 2024.
- (g) **Review and Approval.**
 - (1) **Initial Plan.** OJA will review initial COOP plans for required elements and completeness by February 1, 2024.
 - (2) **Annual Update.** OJA will review updated COOP plans annually by February 1.
 - (3) **Notice.** Once reviewed, OJA will provide each court a notice of approval status.
- (h) **COOP Planning Resources.** COOP planning systems, templates, and other resources are available from OJA at <https://www.kscourts.org>.

[**History:** New rule adopted effective October 25, 2021; [Am. effective November 16, 2022.](#)]