

**Rule 4-202.05. Request to access an administrative record; research; request to classify an administrative record; request to create an index.**

**Intent:**

To establish the process for accessing an administrative court record, aggregate records and court records for the purpose of research.

**Applicability:**

This rule applies to court records associated with the administration of the judiciary, aggregate records and indexes, and requests to access non-public records for the purpose of research.

**Statement of the Rule:**

(1) ~~Writing. A request to access a public court record shall be presented in writing to the custodian of the record unless the custodian waives the requirement. A request to access a non-public court record to which a person is authorized access shall be presented in writing to the custodian of the record.~~ All requests under this rule must be presented in writing to the custodian of the record, unless the custodian waives the requirement. ~~written~~ Requests shall contain the requester's name, email address, mailing address, daytime telephone number and a description of the record requested. If the record is a non-public record, the person making the request shall present identification.

**(2) Private or protected records.**

(2)(A) A request to access a private or protected court record, including aggregate records, to which the person is not authorized access shall be presented ~~in writing~~ to the state court administrator. The request shall ~~contain the requester's name, mailing address, daytime telephone number, a description of the record and~~ include a statement of facts, authority and argument in support of the request. If the state court administrator allows access, the state court administrator may impose any reasonable conditions to protect the interests favoring closure. The person making the request shall sign an agreement to be bound by the conditions.

(2)(B) Before allowing access to a private or protected record to someone not authorized access, the state court administrator shall mail send notice of the request for access to any person whose interests are protected by closure and allow 10 business days for that person to submit a statement of facts, authority and argument in support of closure.

**(2)(C) Research.**

~~(2)(C)~~(i) The state court administrator may disclose non-public court records, including records associated with a case, ~~other than sealed records~~, for research purposes without the notice required in this rule if the state court administrator decides that the research is bona fide and cannot reasonably be completed without disclosure of the records, and the interests favoring the research are greater than or equal to the interests favoring closure. The state court administrator may not disclose sealed records unless the requester is authorized access under Rule 4-202.03.

(2)(C)(ii) If the state court administrator discloses non-public court records or a combination of public and non-public records ("records") for research purposes, the researcher shall sign a written statement acknowledging that violating the agreement may be grounds for criminal prosecution under Utah Code Section

63G-2-801. The agreement may include any reasonable condition to protect the interests favoring closure, including an agreement to:

(2)(C)(ii)(a) maintain the integrity, confidentiality and security of the records;

(2)(C)(ii)(b) return or destroy records from which a person can be identified as soon as the research has been completed;

(2)(C)(ii)(c) not include any individual's name or identifying information in any product of the research;

(2)(C)(ii)(d) where applicable, include a disclosure in any product resulting from the research that expunged records were used for research purposes;

(2)(C)(ii)(~~ee~~) not disclose the record, except for the purpose of auditing or evaluating the research and the auditor or evaluator agrees not to disclose the record;

(2)(C)(ii)(~~fe~~) use the record only for the described research;

(2)(C)(ii)(~~ge~~) indemnify the courts for any damages awarded as a result of injury caused by the research; and

(2)(C)(ii)(~~hf~~) if the research involves human subjects, comply with state and federal laws regulating research involving human subjects.

(2)(C)(iii) A request to access a court record under this rule is also governed by Rule 4-202.06 and Rule 4-202.07.

(3) **Requests to classify a record.** A request to classify a court record as private or protected shall be presented ~~in-writing~~ to the state court administrator. The request shall ~~contain-include~~ the relief sought and a statement of facts, authority and argument in support of the request. The state court administrator may deny access to the record until the determination is entered.

(4) **Factors.** In deciding whether to allow access to a court record or whether to classify a court record as private or protected, the decision maker may consider any relevant factor, interest or policy presented by the parties, including but not limited to the interests described in Rule 4-202.

(5) **Index.** A request to identify a data element as an index shall be presented ~~in-writing~~ to the state court administrator. The request shall ~~contain-include~~ the relief sought and a statement of facts, authority and argument in support of the request. The state court administrator shall present the request to the Management Committee, which shall consider the request in the same manner as provided for appeals in Rule 4-202.07.

Effective: ~~November~~April 1, 2023~~13~~