

1 **Rule 4-202.07. Appeals.**

2 **Intent:**

3 To establish the rights and procedures in an appeal of a record request.

4 **Applicability:**

5 This rule applies to requests to access or to classify a court record other than a motion under Rule 4-202.04.

6 **Statement of the Rule:**

7 (1) A person requesting access to a court record may appeal a denial of the request, a response that the  
8 record does not exist or is not maintained by the court, a claim of extraordinary circumstances or the time  
9 claimed necessary to address the extraordinary circumstances. A person requesting that a court record be  
10 classified as private or protected may appeal a denial of the request. A person whose interests are  
11 protected by closure may appeal a decision to permit access to a court record. An appeal shall be made in  
12 writing within ~~30~~28 days after the decision giving rise to the appeal. A person described in this subsection  
13 may petition for judicial review as provided by statute.

14 (2) If the original request was to the custodian of the record, the appeal is to the state court administrator. If  
15 the original request was to the state court administrator, the appeal is to the Management Committee of the  
16 Judicial Council. The appeal of a decision by the state court administrator is to the Management Committee.

17 (3) The notice of appeal shall contain the appellant's name, mailing address, daytime telephone number,  
18 the relief sought, and a statement of facts, authority and argument in support of the appeal.

19 (4) An appeal to the state court administrator is deemed denied unless a decision on the appeal is mailed  
20 within ~~5~~ 14 days after receiving the appeal or within ~~45 business~~21 days after mailing notice under Rule  
21 4-202.05(2)(B). An appeal to the Management Committee is deemed denied unless a decision on the  
22 appeal is mailed within ~~5~~14 days after the first meeting of the Committee held more ~~that than~~ 15 business21  
23 days after receiving the appeal.

24 (5) The state court administrator shall mail notice of the Management Committee meeting to all participants  
25 at least ~~40 business~~14 days before the meeting. At least ~~7 business~~ days before the meeting, all  
26 participants shall mail to the state court administrator and to the other participants a written statement of  
27 facts, authority and argument in support of or opposition to the appeal. The Management Committee may  
28 permit any person whose interests are substantially affected by a decision to participate. The deliberations  
29 of the Management Committee are closed, but the balance of the hearing on the appeal is an open and  
30 public meeting of which notice will be given in accordance with Rule 2-103.

31 (6) The Management Committee shall allow the participants a reasonable opportunity to present facts,  
32 authority and argument in support of or opposition to the appeal. The order of presentation shall be decided  
33 by the Management Committee. The Management Committee may review the record in a closed meeting.  
34 Discovery is prohibited, but the Management Committee may compel the production of evidence.

35 (7) The state court administrator shall mail the decision on an appeal to all participants. The decision shall:

36 (7)(A) describe the record or portions of the record to which access is denied in a manner that does not

- 37 disclose information other than public information;
- 38 (7)(B) refer to the authority under which the request is being denied;
- 39 (7)(C) make findings and conclusions about specific records;
- 40 (7)(D) identify and balance the interests favoring opening and closing the record; and, if the record is
- 41 closed, determine there are no reasonable alternatives to closure sufficient to protect the interests favoring
- 42 closure;
- 43 (7)(E) state that the requester may appeal or seek judicial review; and
- 44 (7)(F) state the time limits for filing an appeal or petition for judicial review, and the name and address of the
- 45 person to whom the appeal or petition must be directed.
- 46 (8) The time periods in this rule may be extended by mutual agreement. A document required to be sent by
- 47 mail may be sent by email, fax or hand-delivery. The duties of the state court administrator may be
- 48 delegated.
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- 50 Effective November 1, 2018