

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 or
6 petition under Rule 4-202.04.

7 **Statement of the Rule:**

8 (1) **Access – Extraordinary circumstances.** A person requesting access to a court record may
9 appeal a denial of the request, a claim of extraordinary circumstances, or the time claimed
10 necessary to address the extraordinary circumstances. A person whose interests are protected
11 by closure may appeal a decision to permit access to a court record.

12 **(2) Classification.** A person requesting that a court record be classified as private or protected
13 may appeal a denial of the request. ~~A person whose interests are protected by closure may~~
14 ~~appeal a decision to permit access to a court record.~~

15 **(3) Time for filing appeal.** An appeal ~~must~~shall be made in writing within 30 days after the
16 decision giving rise to the appeal, or within 30 days after a request is deemed denied under
17 Rule 4-202.06(6). ~~A person described in this subsection may petition for judicial review as~~
18 ~~provided by statute.~~

19 **(4) Notice of appeal.**

20 ~~(43)~~**(A)** The notice of appeal ~~must~~shall contain the appellant's name, email address,
21 mailing address, daytime telephone number, the relief sought, and a statement of facts,
22 authority and argument in support of the appeal.

23 ~~(42)~~**(B)** If the original request was to the custodian of the record, the appeal is to the
24 state court administrator. If the original request was to the state court administrator, the
25 appeal is to the Management Committee ~~of the Judicial Council.~~ The appeal of a
26 decision by the state court administrator is to the Management Committee.

27 ~~(4)~~**(C)** The notice of appeal must be delivered to the state court administrator, including
28 appeals to the Management Committee.

29 ~~(54)~~ **State court administrator.** An appeal to Tthe state court administrator may mail a decision
30 within 5 business days after receiving the appeal, or within 15 business days after mailing a
31 notice under Rule 4-202.05(2)(B). ~~If the state court administrator does not mail a decision~~
32 ~~is deemed denied unless a decision on the appeal is mailed within 5 business days after receiving~~
33 ~~the appeal or within 15 business days after mailing notice under Rule 4-202.05(2)(B), the appeal~~
34 ~~is deemed denied.~~

35 **(6) Management Committee.**

36 ~~(6)~~**(A) Initial review.** The Management Committee will review an appeal at its first
37 meeting held no fewer than 15 business days, but not more than 45 business days, after
38 receiving the appeal. After reviewing the appeal, the Management Committee will

39 determine whether to issue a decision denying the appeal, schedule a hearing on the
 40 appeal, or take no action on the appeal, in which case the appeal is deemed denied. An
 41 appeal to the Management Committee is deemed denied unless a decision on the
 42 appeal is mailed within 5 business days after ~~the first meeting of the~~ Management
 43 Committee's initial review ~~held more than 15 business days after receiving the appeal.~~

44 (6)(B) Notice of hearing. If the Management Committee determines to hold a hearing
 45 on the appeal, the state court administrator will:

46 (6)(B)(i) notify the Office of General Counsel no fewer than 15 business days
 47 before the hearing to submit a written statement of facts, authority and argument
 48 in opposition to the appeal and to appear before the Management Committee to
 49 present its argument. The Office of General Counsel shall submit its written
 50 statement of facts, authority and argument to the state court administrator and
 51 the Petitionerappellant at least 7 business days before the meeting; and

52 (6)(B)(ii) notify the Petitionerappellant no fewer than 5 business days after the
 53 initial review that a hearing will be held. 15 business days before the hearing to
 54 appear before the Management Committee to present their argument.

55 (6)(C)(5) Hearing. ~~The state court administrator shall mail notice of the Management~~
 56 ~~Committee meeting to all participants at least 10 business days before the meeting. At~~
 57 ~~least 7 business days before the meeting, all participants shall mail to the state court~~
 58 ~~administrator and to the other participants a written statement of facts, authority and~~
 59 ~~argument in support of or opposition to the appeal.~~

60 (6)(C)(i) The Management Committee may permit any other person whose
 61 interests are substantially affected by a decision to participate. The order of
 62 presentation will be decided by the Management Committee.

63 (6)(C)(ii) Discovery is prohibited, but the Management Committee may compel
 64 the production of evidence. The Management Committee may review a record in
 65 a closed meeting.

66 (6)(C)(iii) The deliberations of the Management Committee are closed, but the
 67 ~~balance of the~~ hearing on the appeal is an open and public meeting of which
 68 notice will be given in accordance with Rule 2-103.

69
 70 ~~(6) The Management Committee shall allow the participants a reasonable opportunity to present~~
 71 ~~facts, authority and argument in support of or opposition to the appeal. The order of~~
 72 ~~presentation shall be decided by the Management Committee. The Management Committee~~
 73 ~~may review the record in a closed meeting. Discovery is prohibited, but the Management~~
 74 ~~Committee may compel the production of evidence.~~

75 (6)(D)(7) Decision. Following the hearing or the initial review of the appeal, the
 76 Management Committee may issue a written decision on the appeal. The state court
 77 administrator ~~will~~ shall mail ~~the decision~~ written decisions on an appeal to all participants.
 78 ~~The decision shall:~~

- 79 ~~(7)(A) describe the record or portions of the record to which access is granted or denied~~
80 ~~in a manner that does not disclose information other than public information;~~
- 81 ~~(7)(B) refer to the authority under which access to the record or portions of the record~~
82 ~~the request is being denied;~~
- 83 ~~(7)(C) make findings and conclusions about specific records;~~
- 84 ~~(7)(D) identify and balance the interests favoring opening and closing the record; and, if~~
85 ~~the record is closed, determine there are no reasonable alternatives to closure sufficient~~
86 ~~to protect the interests favoring closure;~~
- 87 ~~(7)(E) state that the requester may appeal or seek judicial review; and~~
- 88 ~~(7)(F) state the time limits for filing an appeal or petition for judicial review, and the name~~
89 ~~and address of the person to whom the appeal or petition must be directed.~~

90 ~~(87)~~ **Time.** The time periods in this rule may be extended by mutual agreement. A document
91 required to be sent by mail may be sent by email, fax or hand-delivery. The duties of the state
92 court administrator may be delegated.

93

94 ~~**(8) Judicial review.** Nothing in this rule prevents an individual from filing a petition for judicial~~
95 ~~review as provided by statute.~~

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97 ~~*Effective: November 1, 2018*~~ May 1, 2025