

1 **Rule 4-202.11. Vexatious record requester**

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3 **Intent:**

4 To establish the rights and procedures governing requests for relief from a vexatious record
5 requester.

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7 **Applicability:**

8 This rule applies to the judicial branch.

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10 **Statement of the Rule:**

11 **(1) Definitions.**

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13 (1)(A) “Committee” means the Management Committee of the Council.

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15 (1)(B) “Executive secretary” means an individual designated as executive secretary by the
16 Committee for purposes of this rule.

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18 (1)(C) “Respondent” means a person the petitioner claims is a vexatious record requester.

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20 **(2) Petition.** The Office of General Counsel may submit a petition to the Committee requesting
21 relief from a person alleged to be a vexatious record requester.

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23 (2)(A) A copy of the petition shall be sent to the state court administrator and the
24 respondent on the day the petition is submitted to the Committee in accordance with
25 paragraph (3)(B). Service by mail or electronic means is complete upon sending.

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27 (2)(B) The petition shall include:

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29 (2)(B)(i) the respondent’s name, email address, and mailing address submitted
30 by the respondent in his or her most recent record request;

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32 (2)(B)(ii) a description of the conduct that demonstrates the respondent is a
33 vexatious record requester; and

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35 (2)(B)(iii) a statement of the relief the petitioner seeks.

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37 **(3) Scheduling and notice.**

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39 **(3)(A) Scheduling.** Except as provided in (3)(C), no later than 7 business days after
40 receiving the petition, the executive secretary shall send a copy of the petition to the
41 Committee chair and schedule a hearing for the Committee to consider the petition:

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43 (3)(A)(i) at the next regularly scheduled Committee meeting falling at least 15,
44 but no later than 30, business days after the petition is submitted; or

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46 (3)(A)(ii) at a regularly scheduled Committee meeting more than 30 business
47 days after the petition is submitted, if the Committee chair determines the
48 Committee will not have sufficient time to hold a hearing at an earlier meeting
49 date.

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51 (3)(B) Notice. The executive secretary shall send notice of the date, time, and location
52 of the Committee meeting at which the petition will be heard to the Office of General
53 Counsel, respondent, and state court administrator. Notice may be sent to the
54 respondent via email at the email address last used by the respondent in
55 communications with the court. If the respondent is incarcerated or is otherwise unable
56 to communicate by email, notice shall be sent to the respondent via the last known
57 method of communication used by the respondent. Public notice will be posted in
58 accordance with paragraph (6).

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60 (3)(C) Denial without a hearing. The Committee chair may direct the executive
61 secretary not to schedule a hearing if the Committee chair and at least one other
62 member of the Committee determine that the petition is without merit. In making that
63 determination, the Committee chair may request that the respondent submit a written
64 response to the petition.

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66 (3)(C)(i) If the Committee chair declines to schedule a hearing, the executive
67 secretary shall send notice to the Office of General Counsel, respondent, and
68 state court administrator that the petition has been denied and the reasons for
69 the denial. Notice shall be sent in accordance with paragraph (3)(B).

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71 (3)(C)(ii) The petition, a response if received under paragraph (3)(C), and the
72 Committee chair's denial decision shall be provided to the Committee in advance
73 of the next regularly scheduled Committee meeting. If a majority of the
74 Committee disagrees with the chair's decision to deny the petition, the
75 Committee shall direct the executive secretary to schedule a hearing. Committee
76 discussions about the chair's denial decision may be held in an executive
77 session.

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79 (4) Response. No later than 5 business days before the hearing, the respondent shall submit to
80 the executive secretary and the Office of General Counsel a written statement in response to
81 the petition. The written statement may be the same document as the respondent's written
82 response under paragraph (3)(C).

83
84 (5) Hearing. The Committee will allow the Office of General Counsel and respondent a
85 reasonable opportunity to present facts, authority, and argument at the hearing. The order of
86 presentation and time permitted to each party shall be decided by the Committee. The
87 Committee may permit any other person whose interests might be substantially affected by a
88 decision to participate in the hearing. Discovery is prohibited, but the Committee may require
89 either party to produce additional evidence in support of their claim or position. If the respondent
90 fails to appear at the hearing, the Committee may cancel the hearing and deliberate the petition,
91 or hold the hearing without the respondent.

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93 (6) Open and closed meeting. Committee deliberations are closed and may be held in an
94 executive session. Presentations by the Office of General Counsel, respondent, and any other
95 person permitted to appear at the hearing are open to the public and notice of the hearing shall
96 be given in accordance with Rule 2-103.

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98 (7) Order. No later than 10 business days after the hearing, or the date on which the hearing
99 was canceled under paragraph (5) was scheduled to be held, the Committee shall determine

100 whether the Office of General Counsel has demonstrated that the respondent is a vexatious
101 record requester and issue a signed order that grants or denies the petition in whole or in part.

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103 (7)(A) In determining whether the Office of General Counsel has demonstrated that the
104 respondent is a vexatious record requester, the Committee may consider:

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106 (7)(A)(i) the interests described in Rule 4-202;

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108 (7)(A)(ii) the total number of record requests the respondent has submitted to the
109 judicial branch, including:

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111 (7)(A)(ii)(a) the number of pending record requests;

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113 (7)(A)(ii)(b) the number of record requests approved;

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115 (7)(A)(ii)(c) the number of record requests denied; and

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117 (7)(A)(ii)(d) the number of appeals taken from record request denials,
118 including information related to the results of such appeals.

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120 (7)(A)(iii) the scope, content, and subject matter of record requests the
121 respondent has submitted to the judicial branch;

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123 (7)(A)(iv) the nature of any communications from the respondent to court
124 employees or judicial officers related to a record request;

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126 (7)(A)(v) any pattern of conduct that the Committee determines to constitute:

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128 (7)(A)(v)(a) an abuse of the right of access to information; or

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130 (7)(A)(v)(b) substantial interference with the operations of the judicial
131 branch;

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133 (7)(A)(vi) any prior petitions, findings, and orders regarding respondent as a
134 vexatious record requester; and

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136 (7)(A)(vii) any other factor or information the Committee considers relevant.

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138 (7)(B) If the Committee grants the petition in whole or in part, it may order any relief
139 requested by the Office of General Counsel, or any other relief the Committee deems
140 appropriate.

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142 (7)(C) The Committee's order granting the petition in whole or in part shall contain a
143 statement of the reasons for the Committee's decision, and a statement that the
144 respondent may petition for judicial review of the Committee's decision by filing a
145 complaint in the Third Judicial District Court in accordance with the Utah Rules of Civil
146 Procedure. If the Committee denies the petition, in whole or in part, the Office of General
147 Counsel may also seek judicial review of the Committee's decision in accordance with
148 this subsection. Any complaint filed under this subsection shall be filed no later than 30
149 calendar days from the date of the Committee's order.

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151 (8) Appeals. A record request that the Office of General Counsel is not required to fulfill in
152 accordance with an order issued under this rule may not be the subject of an appeal under Rule
153 4-202.07.

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155 (9) The time periods in this rule may be extended by mutual agreement.

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157 Effective: November 1, 2023