

**Approved effective February 25, 2008 as an expedited amendment
under Rule 2-205. Subject to change after the comment period.**

1 Rule 4-202.02. Records classification.

2 Intent:

3 To classify court records as public or non-public.

4 Applicability:

5 This rule applies to the judicial branch.

6 Statement of the Rule:

7 (1) Court records are public unless otherwise classified by this rule.

8 (2) Public court records include but are not limited to:

9 (2)(A) aggregate records without non-public information and without personal
10 identifying information;

11 (2)(B) arrest warrants, but a court may restrict access before service;

12 (2)(C) audit reports;

13 (2)(D) case files;

14 (2)(E) committee reports after release by the Judicial Council or the court that
15 requested the study;

16 (2)(F) contracts entered into by the judicial branch and records of compliance with
17 the terms of a contract;

18 (2)(G) drafts that were never finalized but were relied upon in carrying out an action
19 or policy;

20 (2)(H) exhibits, but the judge may regulate or deny access to ensure the integrity of
21 the exhibit, a fair trial or interests favoring closure;

22 (2)(I) financial records;

23 (2)(J) indexes approved by the Management Committee of the Judicial Council,
24 including the following, in courts other than the juvenile court; an index may contain any
25 other index information:

26 (2)(J)(i) amount in controversy;

27 (2)(J)(ii) attorney name;

28 (2)(J)(iii) case number;

29 (2)(J)(iv) case status;

30 (2)(J)(v) civil case type or criminal violation;

31 (2)(J)(vi) civil judgment or criminal disposition;

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32 (2)(J)(vii) daily calendar;

33 (2)(J)(viii) file date;

34 (2)(J)(ix) party name;

35 (2)(K) name of a person other than a party, but the name of a juror or prospective
36 juror is private until released by the judge;

37 (2)(L) name, address, date of birth, driver's license number and last four digits of a
38 social security number of a party;

39 (2)(M) name, business address, business telephone number, and business email
40 address of a lawyer appearing in a case;

41 (2)(N) name, business address, business telephone number, and business email
42 address of court personnel other than judges;

43 (2)(O) name, business address, and business telephone number of judges;

44 (2)(P) name, gender, gross salary and benefits, job title and description, number of
45 hours worked per pay period, dates of employment, and relevant qualifications of a
46 current or former court personnel;

47 (2)(Q) opinions, including concurring and dissenting opinions, and orders entered in
48 open hearings;

49 (2)(R) order or decision classifying a record as not public;

50 (2)(S) private record if the subject of the record has given written permission to make
51 the record public;

52 (2)(T) publications of the administrative office of the courts;

53 (2)(U) record in which the judicial branch determines or states an opinion on the
54 rights of the state, a political subdivision, the public, or a person;

55 (2)(V) record of the receipt or expenditure of public funds;

56 (2)(W) record or minutes of an open meeting or hearing and the transcript of them;

57 (2)(X) record of formal discipline of current or former court personnel or of a person
58 regulated by the judicial branch if the disciplinary action has been completed, and all
59 time periods for administrative appeal have expired, and the disciplinary action was
60 sustained;

61 (2)(Y) record of a request for a record;

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62 (2)(Z) reports used by the judiciary if all of the data in the report is public or the
63 Judicial Council designates the report as a public record;

64 (2)(AA) rules of the Supreme Court and Judicial Council;

65 (2)(BB) search warrants and search warrant affidavits after filing of the return, but a
66 court may restrict access before trial;

67 (2)(CC) statistical data derived from public and non-public records but that disclose
68 only public data;

69 (2)(DD) Notwithstanding subsections (6) and (7), if a petition, indictment, or
70 information is filed charging a person 14 years of age or older with a felony or an
71 offense that would be a felony if committed by an adult, the petition, indictment or
72 information, the adjudication order, the disposition order, and the delinquency history
73 summary of the person are public records. The delinquency history summary shall
74 contain the name of the person, a listing of the offenses for which the person was
75 adjudged to be within the jurisdiction of the juvenile court, and the disposition of the
76 court in each of those offenses.

77 (3) The following court records are sealed:

78 (3)(A) adoption records, which are private until sealed;

79 (3)(B) expunged records;

80 (3)(C) orders authorizing installation of pen register or trap and trace device under
81 Utah Code Section 77-23a-15;

82 (3)(D) records showing the identity of a confidential informant;

83 (3)(E) records relating to the possession of a financial institution by the
84 commissioner of financial institutions under Utah Code Section 7-2-6;

85 (3)(F) wills deposited for safe keeping under Utah Code Section 75-2-901;

86 (3)(G) records designated as sealed by rule of the Supreme Court; and

87 (3)(H) other records as ordered by the court under Rule 4-202.04.

88 (4) The following court records are private:

89 (4)(A) adoption records until sealed;

90 (4)(B) aggregate records other than public aggregate records under subsection (2);

91 (4)(C) alternative dispute resolution records;

92 (4)(D) applications for accommodation under the Americans with Disabilities Act;

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93 (4)(E) custody evaluations;

94 (4)(F) eligibility for benefits or services or the determination of the benefit level;

95 (4)(G) home studies;

96 (4)(H) the following personal identifying information about a party: email address,
97 telephone number; account description and number, password, identification number,
98 maiden name and mother's maiden name;

99 (4)(I) the following personal identifying information about a person other than a party:
100 address, email address, telephone number; date of birth, driver's license number, social
101 security number, account description and number, password, identification number,
102 maiden name and mother's maiden name;

103 (4)(J) guardianship cases and conservatorship cases, except the order of
104 appointment and letter of appointment, which are public;

105 ~~(4)(J)~~ ~~(4)(K)~~ medical, psychiatric, or psychological records;

106 ~~(4)(K)~~ ~~(4)(L)~~ personnel file of a current or former court personnel or applicant for
107 employment;

108 ~~(4)(L)~~ ~~(4)(M)~~ photograph, film or video of a crime victim or of the petitioner in a
109 cohabitant abuse action or civil stalking action;

110 ~~(4)(M)~~ ~~(4)(N)~~ presentence investigation report;

111 ~~(4)(N)~~ ~~(4)(O)~~ record classified as private or controlled by a governmental entity and
112 shared with the court under Utah Code Section 63-2-206;

113 ~~(4)(O)~~ ~~(4)(P)~~ non-public record provided by a governmental entity of a state or the
114 United States;

115 ~~(4)(P)~~ ~~(4)(Q)~~ record regarding the character or competence of an individual;

116 ~~(4)(Q)~~ ~~(4)(R)~~ record containing information the disclosure of which constitutes an
117 unwarranted invasion of personal privacy;

118 ~~(4)(R)~~ ~~(4)(S)~~ record involving the commitment of a person under Title 62A, Chapter
119 15, Substance Abuse and Mental Health Act;

120 ~~(4)(S)~~ ~~(4)(T)~~ record of a court hearing closed to the public or of a child's testimony
121 taken under URCrP 15.5;

122 ~~(4)(S)(i)~~ ~~(4)(T)(i)~~ permanently if the hearing is not traditionally open to the public and
123 public access does not play a significant positive role in the process; or

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124 ~~(4)(S)(ii)~~–~~(4)(T)(ii)~~ if the hearing is traditionally open to the public, until the judge
125 determines it is possible to release the record without prejudice to the interests that
126 justified the closure;

127 ~~(4)(T)~~–~~(4)(U)~~ record of a delinquency proceeding against an insurer under Utah Code
128 Section 31a-27-203;

129 ~~(4)(U)~~–~~(4)(V)~~ record submitted by a judge regarding judicial performance evaluation
130 and certification other than records showing whether the judge has met a standard of
131 performance;

132 ~~(4)(V)~~–~~(4)(W)~~ record submitted for in camera review until its public availability is
133 determined;

134 ~~(4)(W)~~–~~(4)(X)~~ other records as ordered by the court under Rule 4-202.04.

135 (5) The following court records are protected:

136 (5)(A) attorney's work product, including the mental impressions or legal theories of
137 an attorney or other representative of the courts concerning litigation, privileged
138 communication between the courts and an attorney representing, retained, or employed
139 by the courts, and records prepared solely in anticipation of litigation and not subject to
140 discovery;

141 (5)(B) bids or proposals until the deadline for submitting them has closed;

142 (5)(C) budget analyses, revenue estimates, and fiscal notes of proposed legislation
143 before issuance of the final recommendations in these areas;

144 (5)(D) budget recommendations, legislative proposals, and policy statements, that if
145 disclosed would reveal the court's contemplated policies or contemplated courses of
146 action;

147 (5)(E) court security plans;

148 (5)(F) investigation and analysis of loss covered by the risk management fund;

149 (5)(G) investigative subpoenas under Utah Code Section 77-22-2;

150 (5)(H) memorandum prepared by staff for a member of any body charged by law
151 with performing a judicial function and used in the decision-making process;

152 (5)(I) confidential business records under Utah Code Section 63-2-308;

153 (5)(J) a record classified as protected by a governmental entity and shared with the
154 court under Utah Code Section 63-2-206;

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155 (5)(K) record created or maintained for civil, criminal, or administrative enforcement
156 purposes, audit or discipline purposes, or licensing, certification or registration
157 purposes, if the record reasonably could be expected to:

158 (5)(K)(i) interfere with an investigation;

159 (5)(K)(ii) interfere with a fair hearing or trial; or

160 (5)(K)(ii) disclose the identity of a confidential source;

161 (5)(L) record identifying property under consideration for sale or acquisition by the
162 court or its appraised or estimated value unless the information has been disclosed to
163 someone not under a duty of confidentiality to the courts;

164 (5)(M) record that would reveal the contents of settlement negotiations other than
165 the final settlement agreement;

166 (5)(N) record the disclosure of which would impair governmental procurement or
167 give an unfair advantage to any person;

168 (5)(O) record the disclosure of which would interfere with supervision of an
169 offender's incarceration, probation or parole;

170 (5)(P) record the disclosure of which would jeopardize life, safety or property;

171 (5)(Q) search warrants and search warrant affidavits before the filing of the return;

172 (5)(R) strategy about collective bargaining or pending litigation;

173 (5)(S) test questions and answers;

174 (5)(T) trade secrets as defined in Utah Code Section 13-24-2; and

175 (5)(U) other records as ordered by the court under Rule 4-202.04

176 (6) The following are juvenile court social records:

177 (6)(A) correspondence relating to juvenile social records;

178 (6)(B) custody evaluations, parent-time evaluations, parental fitness evaluations,
179 substance abuse evaluations, domestic violence evaluations;

180 (6)(C) medical, psychological, psychiatric evaluations;

181 (6)(D) pre-disposition and social summary reports;

182 (6)(E) probation agency and institutional reports or evaluations;

183 (6)(F) referral reports;

184 (6)(G) report of preliminary inquiries; and

185 (6)(H) treatment or service plans.

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- 186 (7) The following are juvenile court legal records:
187 (7)(A) accounting records;
188 (7)(B) discovery filed with the court;
189 (7)(C) pleadings, summonses, subpoenas, motions, affidavits, calendars, minutes,
190 findings, orders, decrees;
191 (7)(D) name of a party or minor;
192 (7)(E) record of a court hearing;
193 (7)(F) referral and offense histories
194 (7)(G) and any other juvenile court record regarding a minor that is not designated
195 as a social record.
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