

Rule 4-202.04. Request to access a record associated with a case; request to classify a record associated with a case.

Intent:

To establish the process for accessing a court record associated with a case.

Applicability:

This rule applies to court records associated with a case.

Statement of the Rule:

(1) A request to access a public court record shall be presented in writing to the clerk of the court unless the clerk 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 clerk of the court. A written request shall contain the requester's name, 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)(A) If a written request to access a court record is denied by the clerk of court, the person making the request may file a motion to access the record.

(2)(B) A person not authorized to access a non-public court record may file a motion to access the record. If the court allows access, the court may impose any reasonable conditions to protect the interests favoring closure.

~~(2)(C)(3)(A)~~ If the court record is associated with a case over which the court has jurisdiction, a person with an interest in a court record may file a motion to classify the record as private, protected, ~~or sealed, safeguarded, juvenile court legal, or juvenile court social; or to have information redacted from the record.~~ The court shall deny access to the record until the court enters an order ~~is entered~~.

~~(3)(B)~~ If the court record is associated with a case over which the court no longer has jurisdiction, a person with an interest in the record may file a petition to classify the record as private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social; or to have information redacted from the record. The court shall deny access to the record until the court enters an order.

~~(4)~~ The court may classify the record as private, protected, or sealed, if it: safeguarded, juvenile court legal, or juvenile court social, or redact information from the record if the record or information :

~~(2)(C)(i)(4)(A)~~ is so classified as private, protected, sealed, safeguarded, juvenile court legal, or juvenile court social under Rule 4-202.02;

~~(2)(C)(ii)(4)(B)~~ is classified as private, controlled, or protected by a governmental entity and shared with the court under the Government Records Access and Management Act;

~~(2)(C)(iii)(4)(C)~~ is a record regarding the character or competence of an individual; or

~~(2)(C)(iv)(4)(D)~~ is a record containing information the disclosure of which constitutes an unwarranted invasion of personal privacy.

~~(2)(D)(5)~~ As appropriate for the nature of the case with which the record is associated, the motion or petition ~~Motions shall be filed and proceedings shall be conducted under Utah Rule of Civil Procedure 7 and served under Utah Rule of Civil Procedure 5~~ the rules of civil procedure, criminal procedure, juvenile procedure, or appellate procedure. The person filing the motion or petition shall serve any representative of the press who has requested notice in the case. The court shall conduct a closure hearing when a motion or petition to close a record is contested, when the press has requested notice of closure motions or petitions in the particular case, or when the judge ~~court~~ decides public interest in the record warrants a hearing.

43 ~~(3)(6)~~ In deciding whether to allow access to a court record or whether to classify a court record as
44 private, protected, ~~or sealed, safeguarded, juvenile court legal, or juvenile court social, or to redact~~
45 information from the record, the court may consider any relevant factor, interest, or policy ~~presented by~~
46 ~~the parties~~, including but not limited to the interests described in Rule 4-202. In ruling on a motion or
47 petition under this rule the ~~judge~~court shall:

48 ~~(3)(6)~~(A) make findings and conclusions about specific records;

49 ~~(3)(6)~~(B) identify and balance the interests favoring opening and closing the record; and

50 ~~(3)(6)~~(C) if the record is ordered closed, determine there are no reasonable alternatives to closure
51 sufficient to protect the interests favoring closure.

52 (7)(A) If an appellate brief is sealed, the clerk of the court shall seal the brief under Rule 4-205. If an
53 appellate brief is classified as private, protected, safeguarded, juvenile court legal, or juvenile court social,
54 the clerk of the court shall allow access only to persons authorized by Rule 4-202.03. If the court orders
55 information redacted from the brief, the clerk of the court shall remove the information and allow public
56 access to the edited brief.

57 (7)(B) If the petitioner serves the order on the director of the State Law Library, the director shall
58 comply with the order in the same manner as the clerk of the court under paragraph (7)(A).

59 (7)(C) Unless otherwise ordered by the court, the order is binding only on the court, the parties to the
60 petition, and the state law library. Compliance with the order by any other person is voluntary.

61 (48) A request under this rule is governed also by Rule 4-202.06. A motion or petition under this rule
62 is not governed by Rule 4-202.06 or Rule 4-202.07.