

1 Rule 4-202.02. Records classification.

2 Intent:

3 To classify records created or maintained by the judicial branch.

4 Applicability:

5 This rule applies to all courts of record and not of record and to the Administrative Office of
6 the Courts.

7 Statement of the Rule:

8 (1) Public administrative records. The following administrative records are public, except to
9 the extent they are classified otherwise or contain information classified otherwise by this or
10 other Council rule, or by conflicting state or federal statute, regulation or rule:

11 (1)(A) court rules, rules of judicial administration, and administrative orders;

12 (1)(B) the following publications from the administrative office: annual reports, fine/bail
13 schedule, records retention schedules, benchbooks, justice court manuals, staff manuals,
14 instructions to staff, statements of policy, personnel policies and procedures, special reports,
15 judicial nominating commission procedures, and final reports of special task forces, committees
16 or commissions after the same have been released by the Council or the court that requested the
17 study;

18 (1)(C) names, gender, gross compensation (reported as gross salary and benefits), job titles,
19 job descriptions, business addresses, business telephone numbers, number of hours worked per
20 pay period, dates of employment, and relevant education, previous employment, and similar job
21 qualifications of former and present employees and officers;

22 (1)(D) final opinions, including concurring and dissenting opinions, and orders that are made
23 in administrative or adjudicative proceedings, except that if the proceedings were properly closed
24 to the public, the opinion and order may be withheld to the extent that they contain information
25 that is private, controlled, or protected;

26 (1)(E) final interpretations of statutes or rules, unless they are prepared in anticipation of
27 litigation and are not subject to discovery, are attorney work product, or contain privileged
28 communications between the judicial branch and an attorney;

29 (1)(F) information contained in or compiled from a transcript, minutes, or report of the open
30 portions of a meeting of a governmental entity as provided by Utah Code Title 52, Chapter 4,
31 including the record of all votes;

32 (1)(G) data on individuals that would otherwise be private if the individual who is the subject
33 of the record has given written permission to make the records available to the public;

34 (1)(H) documentation of the compensation that is paid to a contractor or private provider;

35 (1)(I) summary data;

36 (1)(J) records documenting a contractor's or private provider's compliance with the terms of a
37 contract;

38 (1)(K) records documenting the services provided by a contractor or a private provider to the
39 extent the records would be public if prepared by the judicial branch;

40 (1)(L) contracts entered into by the judicial branch;

41 (1)(M) any account, voucher, or contract that deals with the receipt or expenditure of funds;

42 (1)(N) correspondence by and with the judicial branch in which the judicial branch
43 determines or states an opinion upon the rights of the state, a political subdivision, the public, or
44 any person;

45 (1)(O) empirical data contained in drafts if the empirical data is not reasonably available to
46 the requester elsewhere in similar form and if the judicial branch is given a reasonable
47 opportunity to correct any errors or make nonsubstantive changes before release;

48 (1)(P) drafts that are circulated to anyone other than a governmental entity, a political
49 subdivision, a federal agency if the judicial branch and the federal agency are jointly responsible
50 for implementation of a program or project that has been legislatively approved, a government-
51 managed corporation, or a contractor or private provider;

52 (1)(Q) drafts that have never been finalized but were relied upon in carrying out action or
53 policy;

54 (1)(R) original data in a computer program if the judicial branch chooses not to disclose the
55 program;

56 (1)(S) arrest warrants after issuance, except that, for good cause, a court may order restricted
57 access to arrest warrants prior to service;

58 (1)(T) search warrants after execution and filing of the return, except that a court, for good
59 cause, may order restricted access to search warrants prior to trial;

60 (1)(U) records that would disclose information relating to formal charges or disciplinary
61 actions against a past or present judicial branch employee if the disciplinary action has been

62 completed and all time periods for administrative appeal have expired, and if the formal charges
63 were sustained;

64 (1)(V) final audit reports;

65 (1)(W) a notice of violation, a notice of agency action under Section 63-46b-3, or similar
66 records used to initiate proceedings for discipline or sanctions against persons regulated by the
67 judicial branch, but not including records that initiate employee discipline.

68 (2) Public judicial records. The following judicial records are public, except to the extent
69 they are classified otherwise or contain information classified otherwise by this or other Council
70 rule, or by conflicting state or federal statute, regulation or rule:

71 (2)(A) casefiles;

72 (2)(B) a copy of the official court record or official minutes of an open court hearing and any
73 transcript of them; and

74 (2)(C) exhibits which have been offered, identified, marked and admitted in any proceeding
75 in accordance with Rule 4-206.

76 (2)(D) Notwithstanding Rule 4-202.02(9) and Rule 4-202.03(9), if a petition, indictment, or
77 information is filed charging a person 14 years of age or older with a felony or an offense that
78 would be a felony if committed by an adult, the petition, indictment or information, the
79 adjudication order, the disposition order, and the delinquency history summary of the juvenile
80 are public records in accordance with Section 78-3a-206. The delinquency history summary shall
81 contain:

82 (2)(D)(i) the name of the juvenile;

83 (2)(D)(ii) a listing in chronological order of the infractions, misdemeanors, and felonies for
84 which the juvenile was adjudged to be within the jurisdiction of the juvenile court; and

85 (2)(D)(iii) the disposition of the court in each of those offenses.

86 (3) Private administrative records. The following administrative records are private:

87 (3)(A) records concerning an individual's eligibility for unemployment insurance benefits,
88 social services, welfare benefits, or the determination of benefit levels;

89 (3)(B) records containing data on individuals describing medical history, diagnosis,
90 condition, treatment, evaluation, or similar medical data;

91 (3)(C) the personnel file of a current or former employee or applicant for employment;

92 (3)(D) records associated with the informal reprimand of an individual;

93 (E) records describing an individual's finances;

94 (3)(F) other records containing data on individuals the disclosure of which constitutes an
95 unwarranted invasion of personal privacy;

96 (3)(G) records submitted by a judge to the Judicial Council in support of certification for
97 retention election other than records showing whether the judge has met a standard of
98 performance;

99 (3)(H) records provided by the United States or by a government entity outside the state that
100 are given with the requirement that the records be managed as private records, if the providing
101 entity states in writing that the record would not be subject to public disclosure if retained by it.

102 (4) Private judicial records. The following judicial records are private:

103 (4)(A) sealed divorce records;

104 (4)(B) driver's license histories;

105 (4)(C) records involving the commitment of a person under Utah Code, Title 62A, Chapter
106 12; and

107 (4)(D)(i) records containing the name, address or telephone number of a juror or prospective
108 juror or other information from which a juror or prospective juror could be identified or located.

109 (4)(D)(ii) The judge may order the jurors' records released to the parties or counsel upon the
110 trial of the case, provided the judge orders the parties and counsel not to copy the records or
111 permit the records to be viewed or copied by any other person.

112 (4)(D)(iii) After the judge has discharged the jurors, the names of the jurors who tried the
113 case shall be a public record, unless a juror requests that his or her name be a private record and
114 the judge finds that the interests favoring privacy outweigh the interests favoring public access.
115 In the interests of justice the judge may delay release of the names for up to 5 business days after
116 discharging the jurors.

117 (4)(D)(iv) The judge may seal the records of the jurors' names upon its own or a party's
118 motion if the judge:

119 (4)(D)(iv)(a) provides advance written notice to any media representative who requests such
120 notice in that case, to the parties, and to the jurors;

121 (4)(D)(iv)(b) holds a hearing, which must be open to the greatest extent possible;

122 (4)(D)(iv)(c) permits any responsible person to participate in the hearing to the extent
123 consistent with orderly court procedures;

124 (4)(D)(iv)(d) determines there are compelling countervailing interests that support sealing the
125 records;

126 (4)(D)(iv)(e) determines there are no reasonable alternatives to sealing the records sufficient
127 to protect the countervailing interests; and

128 (4)(D)(iv)(f) supports the order to seal the records with written findings and conclusions.

129 (5) Controlled administrative records. The following administrative records are controlled:

130 (5)(A) records which contain medical, psychiatric, or psychological data about an individual;

131 (5)(B) any record which the judicial branch reasonably believes would be detrimental to the
132 subject's mental health or to the safety of an individual if released;

133 (5)(C) any record which the judicial branch reasonably believes would constitute a violation
134 of normal professional practice or medical ethics if released.

135 (6) Controlled judicial records. The following judicial records are controlled:

136 (6)(A) records which contain medical, psychiatric, or psychological data about an individual;

137 (6)(B) custodial evaluations or home studies;

138 ~~(6)(C) presentence reports;~~

139 ~~(D)-(6)(C)~~ the official court record or official minutes of court sessions closed to the public
140 and any transcript of them:

141 ~~(6)(C)~~(i) permanently if the hearing is not traditionally open to the public and public access
142 does not play a significant positive role in the process; or

143 ~~(6)(C)~~(ii) if the hearing is traditionally open to the public, until the judge determines it is
144 possible to release the record to the public without prejudice to the interests that justified the
145 closure of the hearing;

146 ~~(6)(E)-(6)(D)~~ any record which the judicial branch reasonably believes would be detrimental
147 to the subject's mental health or to the safety of an individual if released;

148 ~~(6)(F)-(6)(E)~~ any record which the judicial branch reasonably believes would constitute a
149 violation of normal professional practice or medical ethics if released.

150 (7) Protected administrative records. The following administrative records are protected:

151 (7)(A) trade secrets as defined in Utah Code Section 13-24-2 if the person submitting the
152 trade secret has provided the judicial branch with the information specified in Utah Code Section
153 63-2-308;

154 (7)(B) commercial information or nonindividual financial information obtained from a
155 person if disclosure of the information could reasonably be expected to result in unfair
156 competitive injury to the person submitting the information or would impair the ability of the
157 governmental entity to obtain necessary information in the future, the person submitting the
158 information has a greater interest in prohibiting access than the public in obtaining access, and
159 the person submitting the information has provided the judicial branch with the information
160 specified in Utah Code Section 63-2-308;

161 (7)(C) test questions and answers to be used in future license, certification, registration,
162 employment, or academic examinations;

163 (7)(D) records the disclosure of which would impair governmental procurement proceedings
164 or give an unfair advantage to any person proposing to enter into a contract or agreement with
165 the judicial branch, except that this subparagraph does not restrict the right of a person to see
166 bids submitted to or by the judicial branch after bidding has closed;

167 (7)(E) records that would identify real property or the appraisal or estimated value of real or
168 personal property, including intellectual property, under consideration for public acquisition
169 before any rights to the property are acquired unless: public interest in obtaining access to the
170 information outweighs the judicial branch's need to acquire the property on the best terms
171 possible; the information has already been disclosed to persons not employed by or under a duty
172 of confidentiality to the entity; in the case of records that would identify property, potential
173 sellers of the described property have already learned of the judicial branch's plans to acquire the
174 property; or, in the case of records that would identify the appraisal or estimated value of
175 property, the potential sellers have already learned of the judicial branch's estimated value of the
176 property;

177 (7)(F) records prepared in contemplation of sale, exchange, lease, rental, or other
178 compensated transaction of real or personal property including intellectual property, before the
179 transaction is completed, which, if disclosed prior to completion of the transaction, would reveal
180 the appraisal or estimated value of the subject property, unless: the public interest in access
181 outweighs the interests in restricting access, including the judicial branch's interest in
182 maximizing the financial benefit of the transaction; or when prepared by or on behalf of the
183 judicial branch, appraisals or estimates of the value of the subject property have already been
184 disclosed to persons not employed by or under a duty of confidentiality to the judicial branch.

185 (7)(G) records created or maintained for civil, criminal, or administrative enforcement
186 purposes or audit purposes, or for discipline, licensing, certification, or registration purposes, if
187 release of the records:

188 (7)(G)(i) reasonably could be expected to interfere with investigations undertaken for
189 enforcement, discipline, licensing, certification, or registration purposes;

190 (7)(G)(ii) reasonably could be expected to interfere with audits, or disciplinary or
191 enforcement proceedings;

192 (7)(G)(iii) would create a danger of depriving a person of a right to a fair trial or impartial
193 hearing;

194 (7)(G)(iv) reasonably could be expected to disclose the identity of a source who is not
195 generally known outside of government and, in the case of a record compiled in the course of an
196 investigation, disclose information furnished by a source not generally known outside of
197 government if disclosure would compromise the source; or

198 (7)(G)(v) reasonably could be expected to disclose investigative or audit techniques,
199 procedures, policies, or orders not generally known outside of government if disclosure would
200 interfere with enforcement or audit efforts;

201 (H) records the disclosure of which would jeopardize the life or safety of an individual,
202 including court security plans;

203 (7)(I) records the disclosure of which would jeopardize the security of governmental
204 property, governmental programs, or governmental record-keeping systems from damage, theft,
205 or other appropriation or use contrary to law or public policy;

206 (7)(J) records that, if disclosed, would jeopardize the security or safety of a correctional
207 facility, or records relating to incarceration, treatment, probation, or parole, that would interfere
208 with the control and supervision of an offender's incarceration, treatment, probation, or parole;

209 (7)(K) records relating to an ongoing or planned audit until the final audit is released;

210 (7)(L) records prepared by or on behalf of the judicial branch solely in anticipation of
211 litigation that are not available under the rules of discovery;

212 (7)(M) records disclosing an attorney's work product, including the mental impressions or
213 legal theories of an attorney or other representative of the judicial branch concerning litigation;

214 (7)(N) records of communications between the judicial branch and an attorney representing,
215 retained, or employed by the judicial branch if the communications would be considered
216 privileged;

217 (7)(O) drafts, unless otherwise classified as public;

218 (7)(P) records concerning the judicial branch's strategy about collective bargaining or
219 pending litigation;

220 (7)(Q) records of investigations of loss occurrences and analyses of loss occurrences that
221 may be covered by the Risk Management Fund, the Employers' Reinsurance Fund, the
222 Uninsured Employers' Fund, or similar divisions;

223 (7)(R) records, other than personnel evaluations, that contain a personal recommendation
224 concerning an individual if disclosure would constitute an unwarranted invasion of personal
225 privacy, or disclosure is not in the public interest;

226 (7)(S) reports by a presiding judge or other designated judge about a judge's performance
227 and requests by a judge to exclude a lawyer from that judge's attorney survey respondent pool;

228 (7)(T) budget recommendations, legislative proposals, and policy statements, that if disclosed
229 would reveal the judicial branch's contemplated policies or contemplated courses of action before
230 the judicial branch has implemented or rejected those policies or courses of action or made them
231 public;

232 (7)(U) budget analyses, revenue estimates, and fiscal notes of proposed legislation before
233 issuance of the final recommendations in these areas;

234 (7)(V) records provided by the United States or by a government entity outside the state that
235 are given to the judicial branch with a requirement that they be managed as protected records if
236 the providing entity certifies that the record would not be subject to public disclosure if retained
237 by it;

238 (7)(W) transcripts, minutes, or reports of the closed portion of a meeting of a public body
239 except as provided in Utah Code Section 52-4-7;

240 (7)(X) records that would reveal the contents of settlement negotiations but not including
241 final settlements or empirical data to the extent that they are not otherwise exempt from
242 disclosure;

243 (7)(Y) memoranda prepared by staff and used in the decision-making process by a member
244 of any body charged by law with performing a quasi-judicial function.

245 (8) Protected judicial records. The following judicial records are protected:

246 (8)(A) personal notes or memoranda prepared by a judge or any person charged by law with
247 performing a judicial function and used in the decision-making process;

248 (8)(B) drafts of opinions or orders;

249 (8)(C) memoranda prepared by staff for a member of any body charged by law with
250 performing a judicial function and used in the decision-making process;

251 (8)(D) presentence reports.

252 (9) Juvenile court legal records. The following judicial records are juvenile court legal
253 records:

254 (9)(A) all petitions, pleadings, summonses, subpoenas, motions, affidavits, minutes, findings,
255 orders, decrees;

256 (9)(B) accounting records;

257 (9)(C) referral and offense histories;

258 (9)(D) exhibits and other documents introduced and admitted into evidence in a hearing;

259 (9)(E) electronic recordings or reporter recordings of testimony in court proceedings;

260 (9)(F) depositions or interrogatories filed in a case;

261 (9)(G) transcripts of court proceedings.

262 (10) Juvenile court social and probation records. The following judicial records are juvenile
263 court social and probation records:

264 (10)(A) referral reports or forms;

265 (10)(B) reports of preliminary inquiries;

266 (10)(C) pre-disposition and social summary reports;

267 (10)(D) home studies and custody evaluations;

268 (10)(E) psychological, psychiatric and medical evaluations;

269 (10)(F) probation, agency and institutional reports or evaluations;

270 (10)(G) treatment or service plans;

271 (10)(H) correspondence relating to the foregoing records or reports.

272 (11) Sealed judicial records. The following judicial records are sealed:

273 (11)(A) adoption casefiles.

274 (12) Expunged judicial records. The following judicial records are expunged:

275 (12)(A) casefiles which have been expunged by court order pursuant to Council rules and
276 applicable statutes.
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