

1 **Rule 4-202.06. Response to request to access or classify a court record.**

2 Intent:

3 To establish the steps required for responding to a request.

4 Applicability:

5 This rule applies to requests to access or to classify a court record other than a
6 motion under Rule 4-202.04.

7 Statement of the Rule:

8 (1) The court shall take all steps necessary for responding to a request for records
9 as soon as reasonably possible. The judge presiding over a trial may withhold the
10 names of jurors for up to 5 business days after trial.

11 (2) The person to whom a written request is submitted shall respond within 10
12 business days, or within 5 business days if the request demonstrates that:

13 (2)(A) an expedited response benefits the public rather than the requester; or

14 (2)(B) the record is for a story or report for publication or broadcast to the general
15 public.

16 (3) If a requester claims the request qualifies for an expedited response, the person
17 to whom the request is submitted shall, within five business days after receiving the
18 request, respond to the request or notify the requester that they have not demonstrated
19 that the request benefits the public rather than the person and that the response will not
20 be expedited.

21 ~~(3)(4)~~ The person to whom the request is submitted shall respond by:

22 ~~(3)(A)-(4)(A)~~ providing the record;

23 ~~(3)(B)-(4)(B)~~ denying the request; or

24 ~~(3)(C)-(4)(C)~~ notifying the requester that the court does not maintain the record and
25 providing, if known, the name and address of the governmental entity that does
26 maintain the record.

27 ~~(4)-(5)~~ Under extraordinary circumstances, the person to whom the request is
28 submitted may respond by identifying the circumstance that prevents the request from
29 being timely approved or denied and the estimated date when the final response will be
30 made. The following constitute extraordinary circumstances:

31 ~~(4)(A)-(5)(A)~~ another governmental entity is using the record;

32 ~~(4)(B)~~-~~(5)(B)~~ the request is for a large number of records;

33 ~~(4)(C)~~-~~(5)(C)~~ the court is currently processing a large number of requests for records;

34 ~~(4)(D)~~-~~(5)(D)~~ the court must locate the records;

35 ~~(4)(E)~~-~~(5)(E)~~ the court must separate records that the requester may access from
36 records the requester may not access;

37 ~~(4)(F)~~-~~(5)(F)~~ the court must provide notice of the request to a person whose interests
38 are protected by closure; or

39 ~~(4)(G)~~-~~(5)(G)~~ the court must seek legal advice on whether to allow access.

40 ~~(5)~~-~~(6)~~ A written request to access a court record or to classify a court record as
41 private or protected is deemed denied if the initial response is not mailed within 10
42 business days after receiving the written request or the final response is not mailed
43 within the time estimated in the initial or subsequent response.

44 ~~(6)~~-~~(7)~~ The response shall be mailed to the requester. If the request is denied, the
45 response shall:

46 ~~(6)(A)~~-~~(7)(A)~~ describe the record or portions of the record to which access is denied
47 in a manner that does not disclose information other than public information;

48 ~~(6)(B)~~-~~(7)(B)~~ refer to the authority under which the request is being denied;

49 ~~(6)(C)~~-~~(7)(C)~~ make findings and conclusions about specific records;

50 ~~(6)(D)~~-~~(7)(D)~~ identify and balance the interests favoring opening and closing the
51 record; and, if the record is closed, determine there are no reasonable alternatives to
52 closure sufficient to protect the interests favoring closure;

53 ~~(6)(E)~~-~~(7)(E)~~ state that the requester may appeal or seek judicial review; and

54 ~~(6)(F)~~-~~(7)(F)~~ state the time limits for filing an appeal or petition for judicial review and
55 the name and address of the person to whom the appeal or petition must be directed.

56 ~~(7)(A)~~-~~(8)(A)~~ If the request is to access an adoption record, the person to whom the
57 request is submitted shall respond by providing only the case number.

58 ~~(7)(B)~~-~~(8)(B)~~ If the request is to access a sealed record or a record in which the
59 name of a person is the interest protected by closure, the person to whom the request is
60 submitted shall respond, without indicating whether the record exists, that such records
61 are not accessible.

62 (8)(C) If the request is to access a record of a Children's Justice Center investigative
63 interview, the person to whom the request is submitted shall follow the procedures in
64 Section 77-37-4.

65 ~~(8)~~(9) The court shall retain custody of and keep safe any record to which access is
66 denied until the period for an appeal has expired or the appeal process has concluded.

67 ~~(9)~~(10) A document required to be sent by mail may be sent by email, fax or hand-
68 delivery.

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