

1       **Rule 4-202.05. Request to access an administrative record; research; request**  
2 **to classify an administrative record; request to create an index.**

3       Intent:

4       To establish the process for accessing an administrative court record, aggregate  
5 records and court records for the purpose of research.

6       Applicability:

7       This rule applies to court records associated with the administration of the judiciary,  
8 aggregate records and indexes, and requests to access non-public records for the  
9 purpose of research.

10       Statement of the Rule:

11       (1) A request to access a public court record shall be presented in writing to the  
12 custodian of the record unless the custodian waives the requirement. A request to  
13 access a non-public court record to which a person is authorized access shall be  
14 presented in writing to the custodian of the record. A written request shall contain the  
15 requester's name, mailing address, daytime telephone number and a description of the  
16 record requested. If the record is a non-public record, the person making the request  
17 shall present identification.

18       (2)(A) A request to access a private or protected court record, including aggregate  
19 records, to which the person is not authorized access shall be presented in writing to  
20 the state court administrator. The request shall contain the requester's name, mailing  
21 address, daytime telephone number, a description of the record and a statement of  
22 facts, authority and argument in support of the request. If the state court administrator  
23 allows access, the state court administrator may impose any reasonable conditions to  
24 protect the interests favoring closure. The person making the request shall sign an  
25 agreement to be bound by the conditions.

26       (2)(B) Before allowing access to a private or protected record to someone not  
27 authorized access, the state court administrator shall mail notice of the request for  
28 access to any person whose interests are protected by closure and allow 10 business  
29 days for that person to submit a statement of facts, authority and argument in support of  
30 closure.

31 (2)(C)(i) The state court administrator may disclose non-public court records,  
32 including records associated with a case other than sealed records, for research  
33 purposes without the notice required in this rule if the state court administrator decides  
34 that the research is bona fide and cannot reasonably be completed without disclosure of  
35 the records, and the interests favoring the research ~~outweigh~~ are greater than or equal  
36 to the interests favoring closure.

37 (2)(C)(ii) If the state court administrator discloses non-public court records for  
38 research purposes, the researcher shall sign a written statement acknowledging that  
39 violating the agreement may be grounds for criminal prosecution under Utah Code  
40 Section 63-2-801. The agreement may include any reasonable condition to protect the  
41 interests favoring closure, including an agreement to:

42 (2)(C)(ii)(a) maintain the integrity, confidentiality and security of the records;

43 (2)(C)(ii)(b) return or destroy records from which a person can be identified as soon  
44 as the research has been completed;

45 (2)(C)(ii)(c) not disclose the record, except for the purpose of auditing or evaluating  
46 the research and the auditor or evaluator agrees not to disclose the record;

47 (2)(C)(ii)(d) use the record only for the described research;

48 (2)(C)(ii)(e) indemnify the courts for any damages awarded as a result of injury  
49 caused by the research; and

50 (2)(C)(ii)(f) if the research involves human subjects, comply with state and federal  
51 laws regulating research involving human subjects.

52 (2)(C)(iii) A request to access a court record under this rule is also governed by Rule  
53 4-202.06 and Rule 4-202.07.

54 (3) A request to classify a court record as private or protected shall be presented in  
55 writing to the state court administrator. The request shall contain the relief sought and a  
56 statement of facts, authority and argument in support of the request. The state court  
57 administrator may deny access to the record until the determination is entered.

58 (4) In deciding whether to allow access to a court record or whether to classify a  
59 court record as private or protected, the decision maker may consider any relevant

60 factor, interest or policy presented by the parties, including but not limited to the  
61 interests described in Rule 4-202.

62 (5) A request to identify a data element as an index shall be presented in writing to  
63 the state court administrator. The request shall contain the relief sought and a statement  
64 of facts, authority and argument in support of the request. The state court administrator  
65 shall present the request to the Management Committee, which shall consider the  
66 request in the same manner as provided for appeals in Rule 4-202.07.

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