

GRANT COUNTY SUPERIOR COURT PROCEDURE FOR REQUESTING ACCESS TO JUDICIAL ADMINISTRATIVE RECORDS

Policy and Purpose.

Consistent with the principles of open administration of justice as provided in article I, section 10 of the Washington State Constitution, it is the policy of the judiciary to facilitate access to administrative records. A presumption of access applies to the judiciary's administrative records. Access to administrative records, however, is not absolute and shall be consistent with exemptions for personal privacy, restrictions in statutes, restrictions in court rules, and as required for the integrity of judicial decision-making. Access shall not unduly burden the business of the judiciary.

Overview of Judicial Records.

There are three categories of judicial records.

(1) Case records are records that relate to in-court proceedings, including case files, dockets, calendars, and the like. Public access to these records is governed by General Rule 31 (GR 31), which refers to these records as "court records," and not by the *Procedure for Requesting Access to Judicial Administrative Records* (PRAJAR) set forth herein. Under GR 31, these records are presumptively open to public access, subject to stated exceptions. A copy of GR 31 is attached to this PRAJAR.

(2) Administrative records are records that relate to the management, supervision, or administration of a court or judicial agency. A more specific definition of "administrative records" is set forth commencing on Page 3 of this PRAJAR. Administrative records are presumptively open to public access, subject to exceptions set forth in this PRAJAR.

(3) Chambers records are records that are controlled and maintained by a judge's chambers. A more specific definition of this term is set forth on Page 6 of this PRAJAR. Chambers records are not open to public access.

Designation of Public Records Officer.

For purposes of this PRAJAR, the public records officer is:

Tom Middleton Court Commissioner
Grant County Superior Court
P.O. Box 37
Ephrata, WA 98823

Telephone No. 754-2011

Procedure for Requesting Judicial Administrative Records.

Every request for judicial administrative records shall be submitted *in writing* to the public records officer designated previously at the address listed herein. The request must identify the individual or entity requesting access to judicial administrative records, and must reasonably describe the judicial administrative record(s) requested.

Within five (5) working days following receipt of the request, the public records officer shall initially respond to the request. The initial response shall acknowledge receipt of the request, and provide a good-faith estimate of the time needed to adequately respond to the request. The good-faith estimate may be later revised, if necessary. A "working day" for purposes of this section shall mean a day when the court is open.

Any initial response, or later response, may seek clarification of the records being requested, and/or may suggest additional or other records that may be more responsive to the request than the records actually requested.

The public records officer shall respond to the request, and/or any amendments thereto, within the time frame set out on the good-faith estimate or any revisions thereto. In the event full compliance is not possible, compliance shall be to the extent reasonably practicable, and a new good-faith time estimate shall be provided. In the event full compliance with the request cannot be made, a written justification must be provided in writing to the requester that explains any deviation from the initial request.

If a particular request is of a magnitude that the court or judicial agency cannot fully comply within a reasonable time due to constraints on the court's or judicial agency's time, resources, and personnel, the court or judicial agency shall communicate this information to the requester. The court or judicial agency must attempt to reach agreement with the requester as to narrowing the request to a more manageable scope and as to a timeframe for the court's or judicial agency's response, which may include a schedule of installment responses. If the court or judicial agency and requester are unable to reach agreement, then the court or judicial agency shall respond to the extent practicable and inform the requester that the court or judicial agency has completed its response.

A court or judicial agency may deny a records request if it determines that: the request was made to harass or intimidate the court or judicial agency or its employees; fulfilling the request would likely threaten the security of the court or judicial agency; fulfilling the request would likely threaten the safety or security of judicial officers, staff, family members of judicial officers or staff, or any other person; or fulfilling the request may assist criminal activity.

Notifications of Persons Who Are Subjects of Records.

Unless otherwise required or prohibited by law, a court or judicial agency has the option of notifying a person named in a record or to whom a record specifically pertains, that access to the record has been requested.

Charging of Fees.

A fee may not be charged to view administrative records, except the requester may be charged for research required to locate, obtain, or prepare the records at the rate set forth below.

A fee may be charged for the photocopying or scanning of administrative records. If another court rule or statute specifies the amount of the fee for a particular type of record, that rule or statute shall control. Otherwise, the amount of the fee may not exceed the amount that is authorized in the Public Records Act, chapter 42.56 RCW.

The court or judicial agency may require a deposit in an amount not to exceed the estimated cost of providing copies for a request. If a court or judicial agency makes a request available on a partial or installment basis, the court or judicial, agency may charge for each part of the request as it is provided. If an installment of a records request is not claimed or reviewed within 30 days, the court or judicial agency is not obligated to fulfill the balance of the request.

A fee not to exceed \$30 per hour may be charged for research and preparation services required to fulfill a request taking longer than one hour. The fee shall be assessed from the second hour onward.

A court or judicial agency may require prepayment of fees.

Definition of Judicial Administrative Records.

This procedure applies to all administrative records, regardless of the physical form of the record, the method of recording the record, or the method of storage of the record.

Definitions:

- (1) "Access" means the ability to view or obtain a copy of an administrative record.
- (2) "Administrative record" means a public record created by or maintained by a court or judicial agency and related to the management, supervision, or administration of the court or judicial agency.
- (3) "Court record" is defined in General Rule 31.
- (4) "Judge" means a judicial officer as defined in the Code of Judicial Conduct (CJC) Application of the Code of Judicial Conduct Section (A).

(5) "Public" includes an individual, partnership, joint venture, public or private corporation, association, federal, state, or local governmental entity or agency, however constituted, or any other organization or group of persons, however organized.

(6) "Public record" includes any writing, except chambers records and court records, containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used, or retained by any court or judicial agency regardless of physical form or characteristics. "Public record" also includes metadata for electronic administrative records.

(7) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation including, but not limited to, letters, words, pictures, sounds, or symbols, or combination thereof, and all papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including existing data compilations from which information may be obtained or translated.

Administrative Records--General Right of Access.

Court and judicial agency administrative records are open to public access unless access is exempted or prohibited under this rule, other court rules, federal statutes, state statutes, court orders, or case law. To the extent that records access would be exempt or prohibited if the Public Records Act applied to the judiciary's administrative records, access is also exempt or prohibited under this rule. To the extent that an ambiguity exists as to whether records access would be exempt or prohibited under this rule or other enumerated sources, responders and reviewing authorities shall be guided by the Public Records Act, chapter 42.56 RCW, in making interpretations under this rule. In addition, to the extent required to prevent a significant risk to individual privacy or safety interests, a court or judicial agency shall delete identifying details in a manner consistent with this rule when it makes available or publishes any public record; however, in each instance, the justification for the deletion shall be provided fully in writing.

Entities not Subject to Procedure.

A judicial officer is not a court or judicial agency for purposes of this procedure.

An attorney or entity appointed by a court or judicial agency to provide legal representation to a litigant in a judicial or administrative proceeding does not become a judicial agency by virtue of that appointment.

A person or entity entrusted by a judicial officer, court, or judicial agency with the storage and maintenance of its public records, whether part of a judicial agency or a third party, is not a judicial agency. Such person or agency may not respond to a request for access to administrative records, absent express written authority from the court or judicial agency or separate authority in court rule to grant access to the documents.

Exemptions.

In addition to exemptions referred to above, the following categories of administrative records are exempt from public access:

Requests for judicial ethics opinions;

Minutes of meetings held exclusively among judges, along with any staff;

Preliminary drafts, notes, recommendations, and intra-agency memorandums in which opinions are expressed or policies formulated or recommended are exempt under this rule, except that a specific record is not exempt when publicly cited by a court or agency in connection with any court or agency action. This exemption applies to a record only while a final decision is pending on the issue that is being addressed in that record; once the final decision has been made, the record is no longer covered by this exemption. For purposes of documents related to budget negotiations with a budgetary authority, the "final decision" is the decision by the budgetary authority to adopt the budget for that year or biennium.

Evaluations and recommendations concerning candidates seeking appointment or employment within a court or judicial agency;

Personal identifying information, including individuals' home contact information, Social Security numbers, date of birth, driver's license numbers, and identification/security photographs;

Documents related to an attorney's request for a trial or appellate court defense expert, investigator, or other services, any report or findings submitted to the attorney or court or judicial agency by the expert, investigator, or other service provider, and the invoicing of the expert, investigator or other service provider during the pendency of the case in any court. Payment records are not exempt, provided that they do not include medical records, attorney work product, information protected by attorney-client privilege, information sealed by a court, or otherwise exempt information;

Documents, records, files, investigative notes and reports, including the complaint and the identity of the complainant, associated with a court's or judicial agency's internal investigation of a complaint against the court or judicial agency or its contractors during the course of the investigation. The outcome of the court's or judicial agency's investigation is not exempt;

Family court mediation files; and

Juvenile court probation social files.

Those portions of records containing specific and unique vulnerability assessments or specific and unique emergency and escape response plans, the disclosure of which would have a substantial likelihood of threatening the security of a judicial facility or any individual's safety.

CHAMBERS RECORDS

Chambers Records. Chambers records are not administrative records and are not subject to disclosure.

“Chambers record” means any writing that is created by or maintained by any judicial officer or chambers staff, and is maintained under chambers control, whether directly related to an official judicial proceeding, the management of the court, or other chambers activities. “Chambers staff” means a judicial officer's law clerk, a judicial officer's administrative staff, and any other staff, when providing support directly to the judicial officer at chambers.

INTERNAL REVIEW OF PUBLIC RECORD OFFICER’S DECISIONS IN CONFORMITY TO GR 31.1(d)

The requesting party may initiate an internal review of the Public Record Officer’s (hereinafter PRO) decision(s) as follows:

Unless otherwise unavailable in a reasonable amount of time, the Presiding Judge of the Superior Court of Grant County shall be the Reviewing Official. If the Presiding Judge, in his or her sole discretion, is otherwise unavailable to hear this matter in a timely manner, the Presiding Judge shall designate another Judge of the Superior Court of Grant County to be the Reviewing Official for this matter.

Within 90 days of the PRO’s written decision, the requesting party shall mail or deliver in person to the Grant County Superior Court Administrator the required Request for Review of Public Record Officer’s Decision (hereinafter RRPROD). The requesting party must include his or her contact information on the RRPROD; failure to do so will result in a summary dismissal of the RRPROD. This form is attached at the end of this policy.

This RRPROD shall explain the basis for the requesting party’s disagreement with each of the PRO’s decisions. This is an informal process, the RRPROD only needs to explain why the requesting party thinks the PRO’s decision was wrong. The requesting party may attach any documents or authorities that the requesting party wishes the Reviewing Official to consider when reviewing the PRO’s decision.


Within five (5) working days (days when the Superior Court is open), the Reviewing Official, shall review the RRPROD and issue a ruling. If that is not possible (for instance the Reviewing Official is in trial, on vacation, or otherwise unavailable), the review shall be scheduled out to the earliest practical date by the Superior Court Administrator’s office. Notice of this scheduled date shall be given to the requesting party at the address supplied in the RRPROD by the Superior Court Administrator.

The review is done in chambers and on the record submitted by the requesting party in his or her RRPROD and the written correspondence of the PRO. There is no oral argument or further testimony/evidence given. Pursuant to GR 31.1(d)(3), the review process is informal and summary.

The Reviewing Official's decision shall be mailed to the requesting party as well as delivered to the PRO. The Superior Court Administrator shall keep a copy of these documents.

If the requesting party disagrees with the Reviewing Official's review of the PRO's decision(s), external review can be sought under GR 31.1(d)(4).

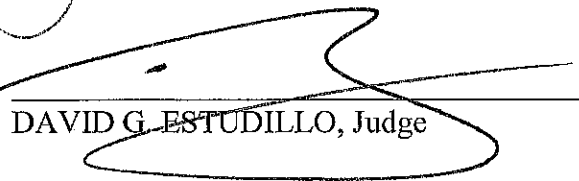
This Procedure for Requesting Access to Judicial Administrative Records is adopted pursuant to General Rule 31.1 this 4th day of October 4, 2018.



JOHN M. ANTOSZ, Presiding Judge



JOHN D. KNODELL, Judge



DAVID G. ESTUDILLO, Judge

