

## Washington Courts: Press Release Detail

### Supreme Court Makes Revisions to Proposed Rule on Access to Judicial Administrative Records; Extends Public Comment

September 10, 2012

The Washington Supreme Court has revised a proposed rule on access to judicial administrative records based on public input and will republish the revised GR 31.1 for further public comment until December 31, 2012. The revised rule can be found online by [clicking here](#).

The Court held a televised public hearing on the proposed rule in February, during which several changes to the proposal were requested. Due to the significance and scope of the changes the Court adopted in response, the Court is republishing the new proposal for additional comment.

The proposed rule defines the types of records it pertains to, procedures for obtaining access to the records, sanctions on courts or agencies for non-compliance, exemptions, creation of best practices, tools for handling particularly burdensome requests and an effective date that would give courts and judicial agencies time to train staff and develop best practices.

Revisions made by the Court include (but are not limited) to:

- Reorganization: The rule now addresses the following topics in the following order: statements of general principles; records procedures; the rule's application for administrative records, chamber records; and implementation issues.
- No new judicial cause of action: The Supreme Court removed the sections entitled "Review in Superior Court" and "Monetary Sanctions," due to separation of powers concerns about creating a new judicial cause of action in a court rule.
- Participation by third parties: The Supreme Court added a new section allowing for participation of a third party who is the subject of the requested record. The subject of the record may also initiate a review proceeding.
- Deliberative process exemption: The Supreme Court changed the exemption so that it mirrors the Public Records Act provision.
- Certified Professional Guardian Board: The Supreme Court removed the provision that had exempted the CPG Board from the rule. The Court decided that the CPG Board should be subject to the rule, although some of the Board's documents need to be kept confidential.
- Policy: The rule's statement of policy was expanded to include a citation to the constitutional provision on open courts.
- Deadlines for requesting review of records decisions: The Supreme Court added deadlines for appealing from records decisions. A person who is dissatisfied with a public records officer's decision has 90 days in which to seek internal review within the court/agency. A person who is dissatisfied with the court/agency's final decision has 30 days in which to seek external review.
- Role of the PRA: The Supreme Court refined language on the role of the PRA in providing guidance when the rule's application to a particular issue is ambiguous.
- Birthdates: An exemption for birthdays was removed, since it is often needed to distinguish between similarly named people.

- Office of Public Defense and Office of Civil Legal Aid: The Supreme Court rectified a potential ambiguity in the rule by adding language directly stating that the rule applies to the Office of Public Defense and the Office of Civil Legal Aid.
- Security records: A new section was added to protect security records. The new section expands similar language from the Public Records Act.
- Appointment of Defense Expert Witnesses: The Supreme Court expanded one of the exemptions so that it would cover a broader range of documents related to the appointment of expert witnesses for the defense of criminal cases.

The rule, initially titled GR 31A was developed by the Board for Judicial Administration's Public Records Work Group, to fill a gap in existing state laws and court rules, which do not address public access to judicial branch administrative records. The Washington State Public Records Act does not apply to judicial branch records, and General Court Rule 31 addresses only records pertaining to court proceedings.

Washington courts and judicial branch agency records are not governed by the Legislature but by the state Supreme Court, which adopts "court rules" to regulate the operations of the courts.

Public comments on the rule may be submitted to the Clerk of the Supreme Court no later than December 31, 2012 to the following addresses: P.O. Box 40929, Olympia, WA 98504-0929, or [Denise.Foster@courts.wa.gov](mailto:Denise.Foster@courts.wa.gov). Please note that comments submitted by e-mail may not exceed 1500 words.

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