




ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS
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COURT ADMINISTRATOR
OF
PENNSYLVANIA

MEMORANDUM

TO: All President Judges

FROM: Zygmunt A. Pines 
Court Administrator of Pennsylvania

DATE: June 24, 2008

RE: Amended Pa.R.J.A. 509 – Access to Financial Records

For your information, I have attached a copy of a *Per Curiam* Order amending Rule of Judicial Administration 509 that was issued yesterday by the Pennsylvania Supreme Court. Also attached is a copy of a press release issued by our office regarding the rule's amendment.

The Order indicates that Rule 509 was amended pursuant to the Court's constitutional authority and the provisions set forth in Section 304 of Act 3 of 2008. It further specifies that "[a]ccess to financial records and publication of contract information of the Unified Judicial System shall be provided in accordance with Rule 509." Therefore, any requests for access to the Judiciary's financial records and website posting of contract information will be governed by this rule.

I have apprised State Treasurer Robin Weissman and Executive Director Terry Mutchler of the newly established Office of Open Records of this development via letter. Please be advised any RTK contact/email information that you may have provided per Treasury's requirements was not forwarded to Treasury, and consequently will not be appearing on Treasury's website.

The amendments to Rule 509 become effective January 1, 2009. The rule has been amended to include judicial districts in its scope, and provides *inter alia* as follows:

- ◆ Financial records of the Unified Judicial System are presumed open to the public for inspection and copying;
- ◆ Certain information is exempted from release;
- ◆ Requests for records in possession or control of a court of a judicial district must be made in writing to the records manager, as designated by the president judge;
- ◆ Timeframes are established for responding to requests by the records manager, for appeals by a requester and for determinations of such appeals by the president judge or designee.
- ◆ Reasonable fees incurred in providing access may be charged.
- ◆ The availability of contract information on the UJS's website.

For specific information that the AOPC provided when the Court originally adopted Rule 509, please visit the financial records section of the public access policy webpage, located at <http://www.aopc.org/index/PublicAccessPolicy/Default.asp>.

In the near future, we anticipate providing more specific guidance on procedures relating to request for access, as well as posting contract information on the UJS website. We have begun the process internally to develop the webpage for posting of contract information. At present, we plan to only post summary information for contracts and purchase orders involving any property, real, personal or mixed of any kind or description, including personal services, where the consideration involved is \$5,000 or more. While the webpage will not be launched until January 1, 2009, we anticipate backloading contract summary information to July 1, 2008. The preliminary summary information we plan to include is:

- ◆ Contract Type – Contract, Amendment or Purchase Order
- ◆ Date of Execution – date of last necessary signature to fully execute the contract. (mmddyyyy format)
- ◆ Amount of contract – dollar amount of the contract.

- ◆ Begin date of the contract – date on which an obligation first becomes due under the contract. (mmddyyyy format)
- ◆ End date of contract – date on which obligations under the contract cease. (mmddyyyy format)
- ◆ Name of the Court or department within the judiciary entering into the contract – full and formal department or court name
- ◆ Minor Object Codes – a description of the type of expense (consulting, supplies, software, hardware)
- ◆ Subject matter of the contract – brief narrative description of the services or commodities to be provided under the contract. “This [type of agreement] is with [contracting parties] for the provision of [specific description of goods and/or services to be provided].”
- ◆ Contract Number – a unique number used to identify the document.

By mid-July we hope to provide you with a spreadsheet format with which you can capture this information. In the interim, as of July 1, 2008, we ask that you set aside any executed contracts or purchase orders that meet the above-specified criteria so that you can later enter the summary information on the spreadsheet we provide.

The Supreme Court’s Order underscores the importance of ensuring that the Unified Judicial System continues its commitment to ensuring access to its case and administrative records. I appreciate your patience and cooperation as we work to develop the necessary protocols to properly implement Rule 509. If you have questions or require additional information, please be in contact with Assistant Court Administrator Andrea Tuominen at 215-560-6312.

Attachments

Cc: The Honorable Ronald D. Castille
Chief Justice of Pennsylvania

All District Court Administrators

IN THE SUPREME COURT OF PENNSYLVANIA

IN RE: Amendment of Pennsylvania
Rule of Judicial Administration No. 509
Governing Access to Financial
Records

: No. 320
: Judicial Administration
: Docket No. 1

ORDER

PER CURIAM:

AND NOW, this 23rd day of June, 2008, pursuant to this Court's authority under Article V, Section 10 of the Pennsylvania Constitution and the provisions set forth in Section 304 of Act 3 of 2008, Pennsylvania Rule of Judicial Administration No. 509 is amended to read as attached hereto. The amendments to Pa.R.J.A. No. 509 are promulgated in order to further facilitate public access to financial records of the Unified Judicial System. Access to financial records and publication of contract information of the Unified Judicial System shall be provided in accordance with Pa.R.J.A. No. 509.

Whereas prior distribution and publication of this rule would otherwise be required, it has been determined that immediate promulgation is required in the interest of justice and efficient administration. Pa. R.J.A. No. 103(a)(3).

This Order shall be processed in accordance with Pa. R.J.A. No. 103(b) and shall be effective January 1, 2009.

Note: Added material is underlined and in bold.
Deleted material is bracketed and in bold.

Rule 509. Access to Financial Records.

(a) General Policy. Financial records of the Unified Judicial System [**in the possession or control of the Administrative Office of Pennsylvania Courts**] are presumed to be open to any member of the public for inspection or copying during established business hours. The term “financial records” is defined as any account, contract, invoice or equivalent dealing with: 1) the receipt or disbursement of funds appropriated to the system; or 2) the acquisition, use or disposal of services, supplies, materials, equipment or property secured through funds appropriated to the system.

[Note: The powers and duties of the Court Administrator of Pennsylvania and Administrative Office of Pennsylvania Courts related to purchasing and financial activities are established under Rules 504 and 505.]

(b) Accessibility. All financial records are accessible to the public except the following:

- (1) any part of a record setting forth information to which access is otherwise restricted by federal law, state law, court rule, court order or court policy;
- (2) any part of a record setting forth a person’s social security number, home address, home telephone number, date of birth, operator’s license number, e-mail address, or other personal information;

(3) any part of a record setting forth financial institution account numbers, credit card numbers, personal identification numbers (PINs) and passwords used to secure accounts;

(4) any part of a record setting forth information presenting a risk to personal security, personal privacy, or the fair, impartial and orderly administration of justice, as determined by the Court Administrator of Pennsylvania.

(c) Procedure for Requesting Access.

(1) A request to inspect or obtain copies of records accessible pursuant to this rule **and in possession or control of the Administrative Office of Pennsylvania Courts** shall be made in writing to the [AOPC] records manager, as designated by the Court Administrator of Pennsylvania. **A request to inspect or obtain copies of records accessible pursuant to this rule and in possession or control of a court of a judicial district shall be made in writing to the records manager, as designated by the president judge.** A written request may be submitted in person, by mail, by e-mail, by facsimile, or, to the extent provided, any other electronic means, on a form provided by the Administrative Office.

*Note: Information related to procedures applicable to written requests **to the AOPC** may be found on the UJS website, located at **www.courts.state.pa.us**. Information related to **procedures applicable to requests for courts within a judicial district should be posted on the local court's website.***

(2) A request should identify or describe the records sought with sufficient specificity to enable the [AOPC] records manager to ascertain which records are being requested. A request need not include any explanation of the requester's reason for requesting or intended use of the records.

(3) The [Administrative Office] records manager shall not be required to create financial records which do not currently exist or to compile, maintain, format or organize such records in a manner in which the records are [Administrative Office does] not currently compiled, maintained, formatted or organized [the records].

(4) Within 10 business days of receipt of a written request, the [AOPC] records manager shall respond in one of the following manners:

(i) fulfill the request, or if there are applicable fees and costs that must be paid by the requester, notify requester that the information is available upon payment of same;

(ii) notify the requester in writing that the requester has not complied with provisions in this rule and specifically identify the reason(s) why;

(iii) notify the requester in writing that the information cannot be provided and specifically identify the reason(s) why;

(iv) notify the requester in writing that the request has been received and the expected date that the information will be available, not to exceed 30 business days.

Note: [This rule] Subsection (c)(4)(iv) contemplates that bona fide reasons may impede the [Administrative Office's] ability of the records manager to fulfill a [records] request within 10 business days (e.g., extensive redaction required of personal identifiers; retrieval of a record(s) stored in a remote location may be required; timely response cannot be accomplished due to staffing limitations; or the extent or nature of the request precludes a response within the requisite time period).

(5) If the AOPC records manager denies a written request for access, the denial may be appealed in writing within 15 business days of the mailing date of the written response by the records manager to the Court Administrator of Pennsylvania or designee. Within 20 business days of receipt of the appeal, [T]the Court Administrator or designee shall make a determination and forward it in writing to the requester. This remedy need not be exhausted before other relief is sought. Any further appeal shall be subject to Chapter 15, Judicial Review of Governmental Determinations, of the Pennsylvania Rules of Appellate Procedure.

If the records manager of a judicial district denies a written request for access, the denial may be appealed in writing within 15 business days of the mailing date of the written response by the records manager to the president judge or designee. Within 20 business days of receipt of the appeal, the president judge or designee shall make a determination and forward it in writing to the requester. This remedy need not be exhausted before other relief is sought. Any further appeal shall be subject to Chapter

15, Judicial Review of Governmental Determinations, of the Pennsylvania Rules of Appellate Procedure.

(d) Fees.

(1) [The Administrative Office may charge r]Reasonable costs incurred in providing public access to records **may be charged** pursuant to this rule. Such costs may include, but are not limited to, postage, photocopying, copying onto electronic media, transmission by facsimile or other electronic means, and other means of duplication.

(2) Prior to granting a request for access in accordance with this rule, the [Administrative Office] **records manager** may require a requester to prepay an estimate of the fees associated with the request, if the fees are expected to exceed \$100.

(e) Publication of Contract Information.

The Administrative Office shall make contract information available on the Unified Judicial System's website.

Note: The Pennsylvania Judiciary's long-standing practice of providing open, public access to its records, both administrative and case-related, has been formalized in this rule and other policies adopted by the Supreme Court. The underlying premise for public

access policies and practices in the Unified Judicial System is always the presumption of open records.

Initially promulgated by the Supreme Court on May 14, 2007, this rule furthers the Judiciary's commitment to establishing systematic processes for requesting and accessing state court system records. The rule took effect July 1, 2007.

The enactment of revisions to the Right-to-Know Law (Act 3 of 2008) occurred on February 14, 2008. Act 3 includes the judiciary only as it pertains to access of financial records, as defined by the Act, and regarding the Internet publication of judiciary contracts by the Commonwealth's Treasury Department. Section 304 of Act 3 of 2008 provides that a "judicial agency shall provide financial records in accordance with this act or any rule or order of court providing equal or greater access to the records." [Emphasis added.].

This rule, as amended, is promulgated pursuant to the Pennsylvania Supreme Court's constitutional authority regarding the administration of the courts under Article V, Section 10 and Section 304 of Act 3 of 2008. The expansion of the scope of this rule is in accordance with the continuing effort to promote the Unified Judicial System's policy of the public's right of access to records that deal with the use of public funds.

Pursuant to the Supreme Court's Order of June 23, 2008, access to financial records and publication of contract information of the Unified Judicial System shall be provided in accordance with this rule.

NEWS RELEASE

CONTACT: Art Heinz, Communications Coordinator
(717) 795-2062

FOR IMMEDIATE RELEASE
WWW.COURTS.STATE.PA.US

Supreme Court of Pennsylvania amends policy To broaden public access to financial records

HARRISBURG, June 23, 2008 — The Supreme Court of Pennsylvania is expanding the scope of its policy governing public access to the financial records of the Unified Judicial System to reflect changes in the state's recently passed Right To Know Law.

The revisions — outlined in an order issued today by the Court — amend the process for requesting and accessing financial records of the state court system that was formally adopted by the Court more than a year ago. The Court's action is consistent with provisions of Act 3 of 2008, in particular Section 304's provision that access to financial records may be accomplished by court rule or order, and is consistent with the supervisory and administrative authority of the Supreme Court established in Article V, Section 10 of Pennsylvania's Constitution. The order takes effect Jan. 1, 2009.

The Right To Know Law pertains to the financial records of the state court system that historically have been regarded by the Judiciary as publicly accessible — items such as budgets, spending, salaries and other uses of public funds. The long-time practice was formalized on May 14, 2007 under a Supreme Court order that created Rule of Judicial Administration No. 509.

"The symbolic and practical application of the new Right to Know Law underscores the critical importance of government openness to the citizens of this Commonwealth," Chief Justice of Pennsylvania Ronald D. Castille said. "With today's court order, Pennsylvania's Judiciary will continue to provide broad public access to financial records."

Among the changes in the rule are:

- Requires the Administrative Office of Pennsylvania Courts to provide contract information on the Unified Judicial System's Web site
- Creates a procedure and timeframe for accessing copies of financial records of a judicial district through a records manager designated by the president judge.
- Provides specific timeframes and includes an appeal procedure for judicial districts.

(MORE)

The presumption of openness to the records of Pennsylvania's Unified Judicial System was established long before the Supreme Court formalized in 2007 accessibility procedures to its financial records.

“Given the substantial number of administrative and financial reports that the state judiciary provides the other two branches of government each year, and the widely-reported accessibility of the media to court expenditures, it's been said that the Judiciary is the most open branch of state government,” Chief Justice Castille said.

“Combined with the Judiciary's statewide automation of court case records in 550 magisterial district judge offices, 60 criminal trial courts, and the three appellate courts — and accessibility to those records via the Judiciary's Web site, I believe the Judiciary's openness is well established.

“These revisions to Pa. RJA No. 509 will only further define the Judiciary's practical leadership in the area of records' accessibility.”

(A copy of the order is attached)

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