

Court Services Administration Committee
- An Advisory Committee of the Supreme Court -

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IN THE OFFICE OF THE
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STATE OF NORTH DAKOTA

Justice Jon J. Jensen, Chair
North Dakota Supreme Court
600 E. Boulevard Ave Dept 180
Bismarck, ND 58505-0530

January 31, 2019

Honorable Gerald W. VandeWalle
Chief Justice
North Dakota Supreme Court
600 E. Boulevard Ave Dept 180
Bismarck, ND 58505-0530

Re: Administrative Rules 19 and 41 - Proposed Amendments Related to the Retention of,
Destruction of, and Access to Court Records

Dear Chief Justice VandeWalle:

As directed by the Supreme Court, the Court Services Administration Committee reviewed and discussed all of the comments submitted in response to the proposed amendments to Administrative Rule 19 related to the retention and destruction of court records, including the associated court records retention schedule, and Administrative Rule 41 related to access to court records. Each comment was reviewed and considered separately. After discussing a particular comment, and before moving on to the next comment, each of the committee members were provided with an opportunity to suggest that an action be taken in response to the comment. The committee is confident that each comment has been thoroughly reviewed and considered.

Following review of the comments and discussion about what, if any, changes should be made in response to the comments, minor amendments were made to Administrative Rule 19. No additional amendments were made to Administrative Rule 41. Copies of the proposed rules are enclosed and a summary of the additional proposed amendments to Administrative Rule 19 is provided below.

Administrative Rule 19

The committee proposes three minor amendments to AR 19 in response to a comment by Unit 1 Court Administrator Scott Johnson:

1. The committee proposes adding the word “a” to section 5(b) so that it reads “destruction by a method that renders the content irretrievable.” This was inadvertently left out of the original proposal.
2. The committee proposes that the word “petition” in Sections 9 and 10 be changed to “request” in regards to early disposal. This will demonstrate that this is not a formal procedure.
3. The committee determined that another agency, in this case the State Archives, cannot be commanded to do something in an administrative rule. The committee proposes changing the requirement that the State Archivist complete a certification for archival transfer, to “may, upon request” in Section 12.

Administrative Rule 19 Record Retention Schedules

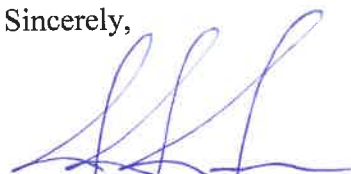
The committee also proposes additional amendments to the records retention schedules referenced in AR 19. The committee proposes adding reference to section 14-07.1-02, N.D.C.C., to two sections: Misdemeanor – Protection Order Violation – 500450 and Felonies – Protection Order Violation – 500449. This reference will clarify that the 100 year retention schedule applies only to those protection orders entered under title 14.

Administrative Rule 41

The committee discussed the concerns and suggestions presented in the comments submitted. Each of the comments raised appropriate concerns and/or made appropriate observations regarding the proposed amendments. The committee is thankful for the opportunity to review the comments. However, it was ultimately determined that each of the concerns had been extensively discussed and considered by the committee when developing the proposed amendments previously presented to Administrative Rule 41. Therefore, no further amendments were made to Administrative Rule 41 and the committee is resubmitting the proposed amendments it previously submitted.

As requested, the Court Services Administration Committee has reviewed the comments to the proposed amendments and the committee is returning the proposed amendments, with the modifications outlined above, for consideration of the Court. I extend my thanks to the committee members for the commitment of their time and effort to this project.

Sincerely,



Justice Jon J. Jensen, Chair
Court Services Administration Committee

1 **Administrative Rule 19 - COURT RECORDS MANAGEMENT PROGRAM**

2 **Section 1.Statement of Authority and Policy.**

3 a. Under Article VI, Section 3 of the North Dakota Constitution, the Supreme Court has
4 authority to promulgate rules of procedure to be followed by all courts of this state,
5 including rules regarding the administration of court records. The Legislative Assembly
6 has encouraged this process under Sections 27-02-05.1 and 54-46-06, NDCC.

7 b. A goal of the North Dakota Judicial System is to establish a uniform judicial records
8 management program.

9 c. The Supreme Court recognizes the need to provide a court records policy that
10 specifically addresses the retention and disposition of court records. This records
11 retention and disposal procedure is established to meet this administrative goal.

12

13 **Section 2.Administrative Responsibilities.**

14 a. The State Court Administrator is the court records administrator and is responsible for
15 developing a retention and disposition schedule of court records. The State Court
16 Administrator may obtain the services of the State Records Administrator to develop and
17 monitor the record disposal report identified in Section 9 and to otherwise provide
18 program services described in Chapter 54-46, NDCC.

19 b. The clerk of district court in each county is responsible for the retention and disposition
20 of all district court case records in accordance with the case records retention schedule.

21 c. The judge of a municipal court or a clerk designated by the judge is responsible for the
22 retention and disposition of all municipal court case records in accordance with the case
23 records retention schedule.

24 d. The administrative records custodian is responsible for the retention and disposition of
25 all administrative records in accordance with the administrative records retention
26 schedule. Each district and municipal court shall designate an administrative records
27 custodian to manage retention and disposition of the administrative records under the
28 court's jurisdiction. The State Court Administrator shall designate one or more
29 administrative records custodians to manage retention and disposition of administrative
30 records of the commissions, boards, committees, and offices under the supervision of the
31 Supreme Court.

32
33 **Section 3. Scope of Supreme Court Rule and Inconsistent Statutes.**

34 a. This rule applies to all court records under the jurisdiction of the clerks of district court,
35 municipal judges, and to commissions, boards, committees, and offices under the
36 supervision of the Supreme Court.

37 b. ~~The phrase~~ Court records: the sum of all administrative and case records in the judicial
38 branch.

39 1. Administrative record: court records that pertain to management,
40 supervision or administration of the court and are not part of a case record.

41 2. Case record: any document, action or information that is collected, received
42 or maintained by a clerk of court connected to a judicial proceeding. It may
43 include an index, calendar, docket, register of actions, official record of the
44 proceeding, order, decree, judgment or minute order. These may have been
45 collected in a case management system that is used to track information.
46 Case records may contain both public and confidential information. Case
47 records do not include records that have been disposed of under court
48 records management rules, or records to which a court has access but which
49 are not a part of the court records as defined in this Rule.

50 ~~means any document, book, paper, photograph, sound recording or other material~~
51 ~~regardless of physical form or characteristics, made or received by the court pursuant to~~
52 ~~law or in connection with the transaction of official court business.~~

53

54 **Section 4. Permanent Retention Periods.**

55 a. Court records assigned "permanent" retention periods must be retained indefinitely by
56 the clerk or judge having jurisdiction over the case record or by the administrative record
57 custodian for an indefinite period of time. The permanent retention periods are subject to
58 a review process consistent with Section 8.6, NDRPR.

59 b. Section 4(a) does not prohibit the clerk or judge having jurisdiction over the case
60 records assigned permanent retention periods or the administrative record custodian with
61 responsibility over administrative records assigned permanent retention periods from

62 depositing such record with the state archivist for preservation pursuant to under Section
63 ~~10~~12.

64

65 **Section 5. Disposition of Court Records.**

66 The term "disposition" means:

67 a. transfer of a record to the possession of the state archivist pursuant to under the
68 procedure in Section ~~10~~12;

69 ~~b. destruction by burning or shredding~~, if the record is confidential, destruction by a
70 method that renders the content irretrievable, such as burning, shredding, pulverizing,
71 sanitizing or overwriting; or

72 ~~c. destruction by ordinary means, such as landfill or recycling~~, if the record is not
73 confidential, destruction by ordinary means, such as landfill, recycling or deleting.

74

75 **Section 6. Case Records Disposition Record.**

76 The clerk or judge having jurisdiction over the case records shall keep a record of the
77 disposition of any ~~court~~ case record pursuant to under the case records retention schedule.

78 This record must indicate the title of the record series, a description of the contents of the
79 case record, the inclusive years of the records disposed, and the date and the means of
80 disposition.

81

82 **Section 7. Case Records Disposition Process.**

83 The State Court Administrator will provide each clerk or judge having jurisdiction over
84 ~~court~~ case records with a case records retention schedule. The case records retention
85 schedule must identify and describe each record series, provide the retention period based
86 upon the fiscal, legal, administrative, and archival value of the records, and describe the
87 method of destruction for each series that may be destroyed. The State Court
88 Administrator shall file a copy of the case records retention schedule with the Clerk of the
89 Supreme Court. The case records retention schedule constitutes approval for disposition
90 of all records that have met the timeframes established in the schedule.

91

92 **Section 8. Procedures to Modify Record Retention Values.**

93 The following procedures apply when adding, changing, or deleting a record series from
94 the court records retention ~~schedule~~ schedules.

95 a. The person suggesting the changes must complete the Record Series Description, State
96 Form Number 2042, with the exception of the legal value, fiscal value, archival value,
97 and records control number.

98 b. The completed Record Series Description must be sent to the State Court Administrator
99 who shall obtain the advice of the State Auditor, Attorney General, State Archivist and
100 State Records Administrator, to determine the administrative, legal, fiscal, and archival
101 values of the records.

102 c. A draft of the proposed addition, modification, or deletion of a record series must be
103 submitted to the Court Services Administration Committee for comments.

104 d. The State Court Administrator shall issue a revision to the retention schedule if
105 appropriate.

106

107 **Section 9. Case Records Disposal Procedures.**

108 Each clerk or judge having jurisdiction over case court records ~~may~~ must dispose of
109 records as designated in the case records retention schedule and must complete in a case
110 records disposal report provided by the State Court Administrator or State Records
111 Administrator. The duty to dispose of case records is subject to the availability of staff
112 and to legislative appropriations. Each case record must be reviewed and approved for
113 disposition by the clerk or judge having jurisdiction over the court records. Unless
114 otherwise noted in the case records retention schedule, all non-permanent case records
115 must be destroyed in accordance with Section 5(b) and (c). The State Court
116 Administrator, in cooperation with the Information Technology Department, shall
117 establish procedures and standards for the efficient and effective destruction of electronic
118 case records. ~~All non-confidential records may be disposed of by landfill. All confidential~~
119 ~~records must be shredded or burned.~~

120 A record series must not be disposed of before the time approved in the retention
121 schedule. If a situation warrants early disposal of a record within a record series, the clerk

122 or judge may ~~petition~~ make a request to the State Court Administrator for early disposal
123 of that record or may obtain an order from the judge of the court.

124

125 **Section 10. Administrative Record Retention and Disposal Procedures.**

126 The State Court Administrator will provide an administrative records retention schedule
127 to all administrative records custodians. Each custodian must retain the records for the
128 retention period set forth in the administrative records retention schedule and should
129 dispose of records after the retention period has expired, subject to staff availability and
130 legislative appropriations. Unless otherwise designated in the administrative records
131 retention schedule, all non-permanent records must be destroyed in accordance with
132 Section 5(b) and (c). The State Court Administrator, in cooperation with the Information
133 Technology Department, shall establish procedures and standards for the efficient and
134 effective destruction of electronic administrative records.

135

136 A record series must not be disposed of before the time approved in the administrative
137 records retention schedule. If a situation warrants early disposal of a record within a
138 record series, the custodian may make a request to the State Court Administrator for early
139 disposal of that record.

140

141 **Section 11. Extension of Retention Period.**

142 Any person, including the court, may request an extension of the retention period of a
143 court record by completing a form to be provided by the State Court Administrator's
144 Office and submitting the form to the court with jurisdiction over the case records or to
145 the State Court Administrator for a request related to administrative records. The court
146 will forward the request to the State Court Administrator's Office for consideration. The
147 request must be submitted no later than ninety days prior to the record meeting the
148 retention deadline as set forth in the record retention schedule. The request must state the
149 reason for the extension request, the fiscal, legal, administrative, or archival value of the
150 records that justifies the extension, and the additional retention time requested.

151

152 **Section ~~10~~12.Transfer of Court Records to the State Archives.**

153 The State Court Administrator will provide in the Clerk of Court Procedures Manual
154 procedures for the transfer to the State Archives of court records determined to be of
155 archival value. The clerk of court, ~~or judge,~~ or administrative records custodian will
156 contact the State Archivist when the records are ready for transfer. Arrangements will be
157 made by the State Archivist to take possession of the records within 60 days of notice to
158 the State Archivist. The State Archivist ~~shall~~ may, upon request, complete a certification
159 for archival transfer and send it to the clerk or judge after all records have been
160 transferred.

161

162 **Section ~~11~~13.Microfilming Records.**

163 ~~Records subject to this rule may be microfilmed for purposes of retention and storage.~~
164 Records microfilmed under this section must be ~~microfilmed and~~ maintained in
165 accordance with the State Standards for Microfilming North Dakota Public Records
166 developed by the Information Services Division. A copy of the standards must be
167 included in the North Dakota Clerk of Court Manual.

168

169

EXPLANATORY NOTE

170 Rule 19 was adopted effective Adopted effective January 1, 1995; amended effective
171 November 1, 1998; Schedule amended effective August 1, 2001, to reflect the name
172 change of the State Bar Board to the State Board of Law Examiners; and Schedule
173 amended effective February 1, 2014, to extend the length of retention for certain records,
174 Rule and Case Record Retention Schedule amended effective _____.

1 **CASE RECORDS RETENTION SCHEDULE - COURTS**

2 **(Applies to electronic and paper case records)**

3

4 **Note: The six-digit number accompanying a record, e.g. "500401" below represents**
5 **the record control number for each record series. The single character case**
6 **designation, e.g. (C) Civil Case Files, refers to the unified case information system**
7 **case type. The multiple character case designation, e.g (CV) Civil Case Files, refers**
8 **to the Odyssey® electronic file case type.**

9

10 **Administrative Appeal (AA)**

11 **This series contains pleadings to appeal from an administrative agency order.**
12 **Retain for 3 years from disposition date.**

13

14 **Administrative (Noncriminal) Traffic Case Files (T) and (TR) - 500401**

15 This series contains the citation, correspondence, and may include a receipt.
16 Retain for 3 years after the current fiscal year (ACFY), ending June 30., ~~then dispose by~~
17 ~~landfill.~~

18

19 **All Case Summaries**

20 **This series contains the summary of case events (index of pleadings), case assignment,**
21 **party information, events, financial information, and the case event metadata for all cases**

22 in the electronic file system. (The case summary has also been referred to as the register
23 of actions.)

24 Retain permanently.

25

26 **Civil Case Files (C) and (CV)**

27 * Offer all cases prior to 1925, whether appealed or not, to the State Archives.

28

29 **Annulment (AN), Divorce (10) – 500412, Legal Separation (LS) - An action to annul**
30 **or dissolve a marriage or to legally separate.**

31 **Retain for 50 years from date of disposition or. Transfer to State Archives. Note: If a**

32 **child support judgment is included, judgment must be retained for 5 years from the date**
33 **of satisfaction, whichever is later. Transfer to State Archives.**

34

35 **Custody and Parenting Responsibility (14) -500441, Uniform Child Custody**

36 **Jurisdiction and Enforcement Act (UCCJEA) - This series contains pleadings to bring**

37 **an action or motion to determine or change custody or parenting responsibility of for**

38 **minor children or if a parent wishes to register a custody or parenting responsibility order**

39 **resulting from a proceeding in another state in which child custody or parenting**

40 **responsibility was determined, or to enforce custody, parenting responsibility, or child**

41 **support orders of other jurisdictions.**

42 Retain for 50 years from disposition date or if a child support judgment is included,
43 judgment must be retained for 5 years from the date of satisfaction, whichever is later.

44 Transfer to State Archives. ~~Dispose by landfill.~~

45

46 **Child Support (16) - 190102** - This series contains pleadings to bring an action for the
47 establishment of a child support order or pleadings contained in-state child support
48 transcription.

49 Retain for 5 years from the date of satisfaction. ~~Dispose by landfill.~~

50 Dismissed – Retain for 1 year from date of dismissal.

51

52 **Child or Spousal Support (18) - 190102** -This series contains pleadings filed under
53 UIFSA for registration or enforcement of child support or spousal support.

54 Retain for 5 years from the date of satisfaction. ~~Dispose by landfill.~~

55

56 **Contract Collection (32)** - This series contains pleadings on a specific contract or an
57 action for collection on a debt or account due and owing.

58 Retain as indicated below ~~from date of disposition.~~ Offer to State Archives if case is
59 appealed. ~~Dispose by landfill.~~

60 **500406** - Money judgment - entered and not renewed - 11 years from date of judgment

61 **500407** - Money judgment - entered and renewed - 21 years from date of original
62 judgment

63 **500405** - No money judgment & case dismissals - 1 year from date of dismissal

64 Child support judgment - ~~No disposal unless satisfied~~5 years after the date of satisfaction
65 of judgment, even if the docket money judgment is not renewed

66

67 **Criminal Money Judgment (CMJ)** – This series contains pleadings on an action for
68 collection of a criminal debt or account due and owing.

69 Money judgment - entered and not renewed - 11 years from date of judgment

70 Money judgment - entered and renewed - 21 years from date of original judgment

71

72 **Condemnation and Eminent Domain (36)** - An action to take private property for
73 public use.

74 **500422** - If uncontested, retain for one year from date of disposition. ~~Dispose by landfill.~~

75 **500423** - If contested, retain for 20 years from date of disposition. Transfer to State
76 Archives.

77

78 **Disorderly Conduct Restraining Order (26) or Sexual Assault Restraining Order** -

79 An action brought for the protection against any action that may affect the safety,
80 security, or privacy of another person. (Does not include allegations of domestic
81 violence).

82 **500442** - Retain for 5 years from date of expiration of order. ~~Dispose by landfill.~~

83 **500443** - Dismissed - Retain for one year from the dismissal order. ~~Dispose by landfill.~~

84

85 ~~**Divorce (10) - 500412** - An action brought to dissolve a marriage.~~

86 ~~Retain for 50 years from date of disposition. Transfer to State Archives. Note: If a child~~
87 ~~support judgment is included, judgment must be maintained until satisfied.~~

88

89 **Eviction/Forcible Detainer (38) - 500444** - An action to recover the possession of real
90 estate when it is being held wrongfully as specified by law. If money judgment is entered,
91 dispose of in same manner as Contract Collection (32).

92 Retain for 1 year from date of disposition. ~~Dispose by landfill.~~

93

94 **Firearm Restoration Proceedings** – A proceeding on a petition for restoration of
95 firearms rights. (This series does not include petitions for firearm rights restoration that
96 are filed in the underlying criminal or mental health case that issued the firearm
97 restriction.)

98 Retain for 75 years from the date of disposition if petition is granted. Retain for 3 years
99 from the date of disposition if the petition is denied.

100

101 **Foreclosure (4) - 500445** - An action to foreclose or enforce a lien, trust deed, pledge, or
102 mortgage as provided by law.

103 Retain for 10 years from date of judgment. ~~Dispose by landfill.~~

104

105 **Foreign Judgment (48)** - Filing a judgment, decree, or order of any other court that
106 contains a money judgment.

107 Retain as indicated below. Offer to State Archives if case is appealed.

108 **500406** - Money judgment entered and not renewed - 11 years from date of judgment.

109 **500407** - Money judgment entered and renewed - 21 years from date of original
110 judgment.

111

112 **Malpractice (06)** - An action for damages based on professional misconduct or
113 unreasonable lack of skill.

114 Retain as indicated below. Offer to State Archives if case is appealed.

115 **500446** - No judgment/ Dismissal - 5 years from date of dismissal.

116 **500446** - Judgment without lien - 5 years from date of judgment.

117 **500406** - Money judgment entered and not renewed - 11 years from date of judgment.

118 **500407** - Money judgment entered and renewed - 21 years from date of original
119 judgment.

120

121 **Name Change (42) - 500402** - A proceeding under N.D.C.C. ch. 32-28 to change the
122 name of a person. This does not include name changes during adoption or divorce.

123 Retain for 100 years from disposition date. Transfer to State Archives.

124

125 **Other (49) - 500403** - Any civil action or proceeding that does not fit in any of the other
126 specific categories.

127 Retain for 20 years from disposition. Transfer to State Archives.

128

129 **Personal Injury (04)** - An action for damages based on physical or emotional injury to a
130 person.

131 Retain as indicated below. Offer to State Archives if case is appealed.

132 **500446** - No judgment/dismissal - 5 years from date of dismissal.

133 **500446** - Judgment without lien - 5 years from date of judgment.

134 **500406** - Money judgment entered and not renewed - 11 years from date of judgment.

135 **500407** - Money judgment entered and renewed - 21 years from date of original
136 judgment.

137

138 **Post Conviction Relief (PCR)** – This series contains pleadings to seek post-conviction
139 relief.

140 Retain for 10 years from final order.

141

142 **Post Paternity (PP)** – An action to obtain access to a court order establishing paternity.

143 Retain according to retention period for underlying case type.

144

145 **Property Damage (02)** - An action for damages based on damage to property.

146 Retain as indicated below. Offer to State Archives if case is appealed.

147 **500446** - No judgment/dismissal - 5 years from date of dismissal.

148 **500446** - Judgment without lien - 5 years from date of judgment.

149 **500406** - Money judgment entered and not renewed - 11 years from date of judgment.

150 **500407** - Money judgment entered and renewed - 21 years from date of original
151 judgment.

152

153 **Public Judgment (PJ)** – An action to obtain access to a final order of the court.

154 Retain according to retention period for underlying case type.

155

156 **Quiet Title and Eminent Domain (34) - 500427** - An action to determine adverse claims
157 and quiet title to real property.

158 Retain for ~~20~~ 50 years from disposition. ~~Dispose by landfill.~~ Transfer to State Archives.

159

160 **Special Proceedings (44) - 500447** - A procedure provided for by law which is not
161 included in any other category, e.g., writs of mandamus, certiorari, and prohibition.

162 Retain for 5 years from disposition. ~~Dispose by landfill.~~

163

164 **Sexually Dangerous Individual (SDI)** – This series contains pleadings for the civil
165 commitment of a sexually dangerous individual. Orders that have conditions that have not
166 expired within 20 years shall be retained until those conditions have expired.

167 Retain for 20 years from disposition.

168

169 **Termination of Parental Rights (24) -- 500448, Relinquishment of Parental Rights**

170 **(RE)** - This series contains pleadings filed in district court for termination or

171 relinquishment of parental rights.

172 Retain permanently.

173

174 **Trust Proceedings (46) - 500434** - This series includes both the registration of the trust
175 and the supervision of the trust.

176 Retain for 50 years from disposition. ~~Dispose by landfill.~~

177

178 **Register of Civil Actions - 720204** - This series contains hard copy of the index of
179 pleadings filed in the case. This does not include the actual index of plaintiff's and
180 defendant's names.

181 Retain ~~automated record or~~ hard copy for same period as file. ~~Dispose by landfill.~~ If the
182 register is part of the manual index, retain for same period as manual index.

183

184 **Civil Court Reporter Notes - General 801201**

185 This series contains court reporter notes, tape recordings, audio visual recordings
186 (possibly cassette tapes).

187 Retain for 7 years from date of judgment. Dispose by landfill, except for notes or tapes of
188 child support hearings.

189

190 **Civil Court Reporter Notes - Support Hearings 801202**

191 This series contains court reporter notes, tape recordings, audio visual recordings
192 (possibly cassette tapes).

193 Retain for 60 days after the order has been confirmed. ~~Dispose by landfill.~~

194

195 **Correspondence - All Case Types 450101**

196 This series contains general correspondence from persons or entities. This information is
197 generally one-time in nature such as requests for information and case file cover letters
198 and is of value for only a short time period.

199 Retain until after the requested action is taken. ~~Dispose by landfill.~~

200

201 **Criminal Case Files - Non-traffic (K) and (CR)**

202 * Offer all cases prior to 1925, whether appealed or not, to State Archives.

203

204 **Extradition (EX)** – This series contains pleading to extradite a defendant to another
205 jurisdiction.

206 Retain for 3 years from extradition order.

207

208 **Infraction - 500435** -This series contains pleadings charging an infraction. Offer to State
209 Archives if case is appealed.

210 Retain for 3 years from date of disposition or the date a financial obligation is satisfied or
211 determined uncollectible, whichever is later. ~~Dispose by landfill.~~

212

213 **Misdemeanor – 500409, Municipal Appeal (MA)** - This series contains pleadings
214 charging a misdemeanor or the appeal of a municipal misdemeanor conviction.

215 Retain for 10 years from date of final disposition or date a financial obligation is satisfied
216 or determined uncollectible, whichever is later. Offer to the State Archives if appealed.
217 Include medical or drug treatment documents. ~~All other files may be disposed by landfill.~~
218 Dispose of PSI evaluations by shredding.

219

220 **Felonies - 500410** - This series contains pleadings charging a felony.

221 Retain for 30 years from the date of final disposition or date a financial obligation is
222 satisfied or determined uncollectible, whichever is later. Offer to State Archives if case
223 appealed. Include medical or drug treatment documents. Dispose of PSI evaluations by
224 shredding. ~~All other files may be disposed by landfill.~~ Sentencing that has conditions that
225 have not expired within 30 years shall be retained until those conditions have expired.

226

227 **Misdemeanor – DUI offenses** – This series contains pleadings charging a misdemeanor
228 for driving or actual physical control of a vehicle by persons under the influence of
229 intoxicating liquor or other drugs or substances.

230 Retain for 15 years from the date of final disposition or date a financial obligation is
231 satisfied or determined uncollectible, whichever is later. Offer to the State Archives if
232 appealed. Include medical or drug evaluation and treatment documents. Dispose of PSI
233 evaluations by shredding.

234

235 **Misdemeanor - Protection Order Violation - 500450** - This series contains pleadings
236 charging a misdemeanor violation of a domestic violence protection order under
237 N.D.C.C. § 14-07.1-02.

238 Retain for 100 years from date of final disposition or date a financial obligation is
239 satisfied or determined uncollectible, whichever is later. Offer to the State Archives if
240 appealed. Include medical or drug treatment documents. ~~All other files may be disposed~~
241 ~~by landfill.~~ Dispose of PSI evaluations by shredding.

242

243 **Felonies - Protection Order Violation - 500449** - This series contains pleadings
244 charging a felony violation of a domestic violence protection order under N.D.C.C. § 14-
245 07.1-02

246 Retain for 100 years from the date of final disposition or date a financial obligation is
247 satisfied or determined uncollectible, whichever is later. Offer to State Archives if case
248 appealed. Include medical or drug treatment documents. Dispose of PSI evaluations by
249 shredding. All other files may be disposed by landfill.

250

251 **Adult Sex Offense Files - 500436** -This series contains case files and court documents in
252 which the defendant is alleged to have committed an offense identified under N.D.C.C. §
253 25-03.3-04.

254 Retain for 50 years from date of final disposition or action. Dispose by shredding if
255 juvenile involved. Sentencing that has conditions that have not expired within 50 years
256 shall be retained until those conditions have expired.

257

258 **Search Warrants (when no criminal case file exists) - 800318** -This series contains the
259 affidavit, search warrant, receipt, and inventory.

260 Retain for 3 years from receipt. ~~Dispose by landfill.~~

261

262 **Criminal Court Reporter Notes/Court Recorder Tapes - 801204** -This series contains
263 court reporter notes and audio recordings.

264 Retention period for notes and electronic recordings that contain mixed proceedings must
265 be retained for the longest retention of the file.

266 Retain infraction, misdemeanor, and felony reporter notes/court recorder tapes for same
267 period as file. ~~Dispose by landfill.~~

268

269 **Register of Criminal Actions - 720206** -This series contains the hard copy of the index
270 of pleadings filed in the case. This does not include the actual index of parties' names.

271 Retain ~~automated record~~ or hard copy for same period as file. ~~Dispose by landfill.~~ If the
272 register is part of the manual index, retain for same period as manual index.

273

274 **Financial**

275 **State Clerks - 011001**

276 Odyssey Daily Deposit Analysis reports, deposit slips and supporting documentation,
277 which may include credit card settlement reports and printed receipts. (Transaction

278 registers and deposits reports will be retained electronically and need not be printed
279 unless requested for audit purposes):

280 Retain for 3 years after the current fiscal year ending June 30. Records with financial
281 account numbers must be shredded.

282

283 Unclaimed property reports and proof of contact regarding uncashed checks -012401:

284 In accordance with N.D.C.C. § 47-30.1-17, retain for 10 years after the property becomes
285 reportable.

286

287 Monthly reports and bank reconciliations are retained by the Fiscal department of the
288 State Court Administrator's office and need not be retained in the Clerk's office.

289 ~~UCIS daily balancing reports, deposit slips, and supporting documentation, which may~~
290 ~~include distribution, bond activity, outstanding bonds, cash receipts, and restitution~~

291 ~~reports:-~~

292 ~~Retain for 3 years after the current fiscal year. Dispose by landfill. Records with financial~~
293 ~~account numbers must be shredded.~~

294 ~~Proof of contact regarding uncashed checks (Unclaimed Property) - 012401:-~~

295 ~~Retain for 3 years after current fiscal year. Dispose by landfill. Records with financial~~
296 ~~account numbers must be shredded.~~

297

298 **County Clerks - 011001**

299 Odyssey Daily Deposit Analysis reports, deposit slips and supporting documentation
300 which may include credit card settlement reports and printed receipts. (Transaction
301 registers and deposits reports will be retained electronically and need not be printed
302 unless requested for audit purposes):

303 Retain for 3 years after the current fiscal year ending June 30. Records with financial
304 account numbers must be shredded.

305

306 Unclaimed property reports and proof of contact regarding uncashed checks -012401:

307 In accordance with N.D.C.C. § 47-30.1-17, retain for 10 years after the property becomes
308 reportable.

309

310 Monthly reports and bank reconciliations and supporting documentation, which may
311 include bank notices, requests for check replacement and voided checks:

312 Retain for 3 years after the current fiscal year ending June 30. Records with financial
313 account numbers must be shredded.

314 ~~UCIS or manual daily/weekly balancing reports:-~~

315 ~~Retain for 3 years after the current fiscal year. Dispose by landfill.-~~

316 ~~Monthly bank statements and reconciliations, manual receipts, deposit slips, proof of~~

317 ~~contact regarding uncashed checks (Unclaimed Property), deposit summary and~~

318 ~~transmittal for (given to Treasurer/Auditor), trial balance worksheets (used by~~

319 ~~Treasurer/Auditor for completing State Tax Collection Report), manual bookkeeping~~

320 ~~system (McBee, journals, ledgers):-~~

321 ~~Retain until audit is complete. Dispose by landfill.~~

322

323 **Grand Jury Proceedings - 500414**

324 This series contains transcripts of testimony during grand jury proceedings/prosecution's
325 evidence, jury decision, and indictment.

326 Retain for 1 year from date of filing. Dispose by shredding.

327

328 **Index Books - 720202**

329 This series contains a listing of all plaintiffs and defendants in civil, criminal, probate,
330 confidential, and small claims actions.

331 Retain permanently. This record has archival value.

332

333 **Judgment Docket - 800309**

334 This series contains court record of money judgments including name of debtor, creditor,
335 date of judgment, sum recovered or directed to be paid in figures, time when the
336 judgment roll of transcript was filed and docketed in the clerk's office, and the name of
337 the court in which the judgment was rendered.

338 Retain for 21 years from last judgment entry. ~~Dispose by landfill.~~

339

340 **Juror Records - 800310**

341 This series contains jury qualification form, questionnaires, master jury list and all
342 supporting lists, and payment records.

343 Retain for 3 years from the creation of master jury list. Dispose of by shredding.

344

345 **Hospital Lien Records - 500424**

346 This series contains Hospital Liens.

347 Retain for 3 years from the date of filing. ~~Dispose by landfill.~~

348

349 **Miscellaneous - 500425**

350 This series contains Orders, Attachments, and Affidavits which are not part of a case file
351 or record found elsewhere on the retention schedule.

352 Retain for 5 years. ~~Dispose by landfill.~~

353

354 **Probate (P) and (PR) - 500426**

355 This series contains pleadings in all case types:

356 Conservatorship (50)

357 Conservatorship - Minor (52)

358 Guardianship - (54)

359 Guardianship - Minor (56)

360 Conservatorship/Guardianship (58)

361 Protective Proceedings (80)

362 Formal Probate of Will (81)

363 Informal Probate of Will (82)

364 Formal Probate Administration (83)

365 Informal Probate Administration (84)

366 Domiciliary Proceeding (85)

367 Heirship (86)

368 Retain ~~automated record or hard copy~~ permanently. This record has archival value.

369

370 **Register of Probate Actions - 720211**

371 This series contains an hard copy of the index of pleadings filed in the case. This does not
372 include the actual index of plaintiff's and defendant's names.

373 Retain ~~automated record or hard copy~~ permanently.

374

375 **Record Search - 800317**

376 This series contains a copy of the certification of record search (whether criminal or
377 civil).

378 Retain for 30 days from completion of the search. ~~Dispose by landfill.~~

379

380 **Restricted Case Series (R)**

381 **Abortion Control Files (98) - 500417**

382 Retain for 1 year from the date of the final order. Dispose by shredding. (Abortion
383 Control Act).

384

385 **Adoption (20) - 190101** This series contains petition and decree of adoption.

386 Retain ~~automated record or hard copy~~ permanently. This record has archival value.

387

388 **Domestic Violence (12)** - This series contains pleadings alleging domestic violence.

389 **500437** - Retain for 5 years from expiration of court order, unless dismissed. Dispose by

390 shredding. Orders that have conditions that have not expired within 5 years shall be

391 retained until those conditions have expired.

392

393 **500438** - Retain dismissed case files for 1 year from the order of dismissal. Dispose by

394 shredding.

395

396 **Mental Health (87) - 500415** -This series includes chemical dependence or mental illness

397 records.

398 Retain for 5 years from the date of last order. Orders that have conditions that have not

399 expired within 5 years shall be retained until those conditions have expired. Dispose by

400 shredding.

401

402 **Paternity (22) - 500408** - This series contains pleadings filed in a case to adjudicate

403 paternity.

404 Retain permanently.

405

406 **Registers of Adoption, Juvenile, Mental Health Treatment, and Termination of**

407 **Parental Rights - 720207** -This series contains the hard copy of the index of pleadings

408 filed in the cases. This does not include the actual index of plaintiff's and defendant's
409 names.

410 Retain ~~automated record or~~ hard copy for life of the file. Dispose by shredding. If register
411 is part of the manual index, retain for same period as manual index.

412

413 **Juvenile Case Files (JUV)**

414 This series contains all petitions, summons, findings of fact, orders, documents related to
415 service, court-related notices, motions, affidavits, evaluations, and reports so entered by
416 the court. Retain as listed below.

417

418 **Guardianship/Conservatorship of a Minor (GCM), Juvenile Guardianship (JGRD)**

419 – This series includes pleadings to establish a guardianship and/or conservatorship of a
420 minor in Juvenile Court.

421 Retain permanently.

422

423 **Juvenile Continued Foster Care Services** – This series includes pleadings for a child in
424 need of continued foster care services under N.D.C.C. § 27-20-30.1.

425 Retain for 1 year after the expiration of the order or until age 21, whichever is later.

426

427 **Juvenile Delinquency (94) - 500419**

428 Retain for 10 years after expiration of final order, or age 18, whichever is later. Dispose
429 by shredding.

430

431 **Juvenile Extradition (JEX)** – This series contains pleadings to extradite a juvenile to
432 another jurisdiction.

433 Retain for 3 years from extradition order.

434

435 **Juvenile Unruly (95) - 500420**

436 Retain for 1 year after child turns 18 or final expiration of order, whichever is later.

437 Dispose by shredding.

438

439 **Juvenile Deprivation (96) (Without Parental Rights Termination) - 500416**

440 Retain for 10 years after child turns 18 or final expiration of order, whichever is later.

441 Dispose by shredding.

442

443 **Juvenile Sex Offense Files - 500439** -This series contains case files or court records that
444 describe acts that may constitute an offense under N.D.C.C. §§ 12.1-20-03, 12.1-20-04, or
445 12.1-20-07.

446 Retain for 50 years from the date of disposition or action. Dispose by shredding.

447

448 **Juvenile Termination of Parental Rights (97) - 500418**

449 Retain permanently.

450

451 **Juvenile Shelter Care (96) - 500421**

452 Retain non-petition shelter care cases for 1 year from expiration of the order. Dispose by
453 shredding.

454

455 **Juvenile Special Proceedings (98) - 500440**

456 Retain for 1 year after the final expiration of the order or until age 21, whichever is later.

457 ~~Retain petitioned cases that are dismissed for 1 year from expiration of the order. Dispose~~
458 ~~by shredding.~~

459

460 **Juvenile Officer's Working File - 801206** -This series contains all informal and formal
461 documents, case notes, and reports.

462 Retain until child reaches age 18 or meets all conditions, whichever is later, except for
463 documents governed by N.D.C.C. § 25-03.3-04. Dispose by shredding.

464

465 **Juvenile Drug Court - Coordinator's and Juvenile Officer's Working File - 801207 -**

466 This series contains all informal documents, case notes, and reports concerning a
467 juvenile's participation in juvenile drug court.

468 Retain for 2 years from graduation or termination from juvenile drug court program or
469 attainment of age 18, whichever is later, except for documents governed by N.D.C.C.

470 §25-03.3-04. Dispose by shredding.

471

472 **Small Claims (S) (88)**

473 This series contains pleadings to bring an action for small claims.

474 Retain as specified below. ~~Dispose by landfill.~~

475 **500429** - Judgment entered - not renewed - 11 years from date of judgment.

476 **500430** - Judgment entered - and renewed - 21 years from date of original judgment.

477 **500431** - No money judgment/dismissed cases - 1 year from date of dismissal.

478

479 **Register of Small Claims Actions - 720212** -This series contains the hard copy of the
480 index of pleadings filed in the case. This does not include the actual index of plaintiff's
481 and defendant's names.

482 Retain ~~automated record~~ or hard copy for same period as file. ~~Dispose by landfill.~~ If
483 register is part of the manual index, retain for same period as file.

484

485 **Transcript of Judgment from Another County (M)**

486 This series contains a transcript of judgment from another county within the state.

487 Retain as specified below. ~~Dispose by landfill.~~

488 **500432** - Judgment Entered - 11 ~~Y~~years from date of judgment.

489 **500433** - Judgment Renewed - 21 ~~Y~~years from date of original judgment.

490

491 **Wills - 800304**

492 This series contains wills in the custody of the clerk of court which are not part of a
493 probate. N.D.C.C. §§ 30.1-11-01 (possible delivery of will to clerk by recorder) and 30.1-
494 11-02 (possible delivery of will to clerk by others).

495 Retain permanently.

496

ACCESS TO COURT RECORDS – Administrative Rule 41

1 **Introduction.**

2

3 The State of North Dakota has always favored open government and an informed citizenry.

4 Consistent with this policy, this rule is intended to provide a comprehensive framework for

5 public access to court records. This policy is based on two fundamental principles:

6

7 a. Court records are presumptively open to public access; and

8 b. Public access should not change depending on whether access is remote or at the
9 courthouse.

10

11 **Section 1.0 - Purposes of the Policy.**

12

13 a. Maximize accessibility of court records.

14 b. Protect users of the court from harm.

15 c. Make effective use of court resources.

16

17 **Section 2.0 - Definitions.**

18

19 a. Bulk distribution: the distribution of all, or a significant subset, of the information
20 in court records without modification or compilation.

- 21 b. Compiled information: information that is derived from the selection, aggregation
22 or reformulation of some specified subset of data from more than one individual
23 case record.
- 24 c. Court records: the sum of all administrative and case records in the judicial branch.
- 25 1. Administrative record: court records that pertain to management, supervision
26 or administration of the court and are not part of a case record.
- 27 2. Case record: any document, action or information that is collected, received
28 or maintained by a clerk of court connected to a judicial proceeding. It may
29 include an index, calendar, docket, register of actions, official record of the
30 proceeding, order, decree, judgment or minute order. These may have been
31 collected in a case management system that is used to track information. Case
32 records may contain both public and confidential information. Case records
33 do not include records that have been disposed of under court records
34 management rules, or records to which a court has access but which are not
35 a part of the court records as defined in this Rule.
- 36 d. Remote access means the ability to electronically search, inspect, or copy
37 information in a court record without the need to physically visit the court facility
38 where the court record is maintained.

39

40 **Section 3.0 - Who Has Public Access.**

41

- 42 a. Every member of the public should have the same access to court records.

- 43 b. The public is defined to include:
- 44 1. Any person, business, or non-profit entity;
- 45 2. Any governmental agency for which there is no existing policy defining the
- 46 agency’s access to court records;
- 47 3. Media organizations; and
- 48 4. Entities that gather and disseminate information for whatever reason.
- 49 c. The public does not include:
- 50 1. Court employees, including all direct and contract employees;
- 51 2. Entities who assist the court in providing court services;
- 52 3. Governmental agencies whose access to case records is defined by another
- 53 statute, rule, order or policy; and
- 54 4. Parties to an action and their attorneys examining the case records, unless
- 55 restricted by order of the court, but parties and attorneys may not access judge
- 56 and court personnel work material in the court file.
- 57 d. Public access is synonymous with anonymous access.

58

59 **Section 4.0 - General Access Rule: Case Records**

60

- 61 a. Information in the case record is accessible to the public except as prohibited by
- 62 section 4.4 or 4.5.

- 63 b. There generally should be a public indication of the existence of case information
64 in a record to which access has been prohibited, but that indication should not
65 disclose the nature of the protected information.
- 66 c. If harm may be done by indicating the existence of case information then no
67 indication of that existing record should be open to the public.
- 68 d. Access to case records filed before March 1, 2009. Case records filed before the
69 adoption of N.D.R.Ct. 3.4 may contain protected information listed under N.D.R.Ct.
70 3.4(a). This rule does not require the review and redaction of protected information
71 from a case record that was filed before the adoption of N.D.R.Ct. 3.4 on March 1,
72 2009.

73

74 **Section 4.1 - Remote Access to Case Records.**

75

- 76 a. All public case records are presumptively accessible remotely.
- 77 b. Access Regulation.

- 78 1. The Supreme Court may adopt and implement other policies to regulate
79 remote access to court records. These policies must be posted publicly on the
80 Court's website.

81

82 **Section 4.2 - Request for Bulk Distribution of Case Records.**

83

- 84 a. Bulk distribution of information in the case record is permitted for public records.

- 85 b. Requests for bulk distribution of information not publicly accessible can be made
86 to the court for purposes in the public interest. Courts have discretion to refuse such
87 requests, to charge fees reimbursing the court for the costs of distribution, and to
88 impose conditions on the requestor for access.

89

90 **Section 4.3 - Request for Compiled Information from Case Records.**

91

- 92 a. The public may request access to public case records that are not normally compiled
93 in the requested format. The court has the right to make the requestor pay the cost
94 of compiling and distributing the data.

- 95 b. Requests for compiled distribution of information not publicly accessible can be
96 made to the court for purposes with a public benefit. Courts have discretion to refuse
97 such requests, to charge fees reimbursing the court for the cost of distribution, and
98 to impose conditions on the requestor for access.

99

100 **Section 4.4 - Case Records Excluded from Public Access.**

101

- 102 a. Case records may not be made accessible to the public if barred by federal law, state
103 law, court rule, or relevant case law.

- 104 b. Case records may also be excluded from public access if the court determines that
105 harm would ensue, per the objective in section 1.0(b).

- 106 c. The following information in a case record is not accessible to the public:

107

108 1. affidavits or sworn testimony and records of proceedings in support of the
109 issuance of a search or arrest warrant pending the return of the warrant;

110 2. information in a complaint and associated arrest or search warrant to the
111 extent confidentiality is ordered by the court under N.D.C.C. §§ 29-05-32 or
112 29-29-22;

113 3. documents filed with the court for in-camera examination pending
114 disclosure;

115 4. case information and documents in Child Relinquishment to Identified
116 Adoptive Parent cases brought under N.D.C.C. Ch. 14-15.1;

117 5. domestic violence protection order files and disorderly conduct restraining
118 order files when the restraining order is sought due to domestic violence,
119 except for orders of the court;

120 6. sexual assault restraining order files, except for orders of the court;

121 7. documents in domestic violence protection order and disorderly conduct
122 restraining order cases in which the initial petition was dismissed summarily
123 by the court without a contested hearing;

124 8. names of qualified or summoned jurors and contents of jury qualification
125 forms if disclosure is prohibited or restricted by order of the court;

126 9. records of voir dire of jurors unless disclosure is permitted by court order or
127 rule;

- 128 10. records of deferred impositions of sentences or pretrial diversions resulting
129 in dismissal;
- 130 11. records of a case in which the magistrate finds no probable cause for the
131 issuance of a complaint;
- 132 12. unless exempted from redaction by N.D.R.Ct. 3.4(c), protected information:
133 a. except for the last four digits, social security numbers, taxpayer
134 identification numbers, and financial account numbers,
135 b. except for the year, birth dates, and
136 c. except for the initials, the name of an individual known to be a minor,
137 unless the minor is a party, and there is no statute, regulation, or rule
138 mandating nondisclosure;
- 139 13. judge and court personnel work material, including personal calendars,
140 communications from law clerks, bench memoranda, notes, work in
141 progress, draft documents and non-finalized documents.
- 142 14. the property and debt listing of the parties to a divorce as provided by
143 N.D.C.C. § 14-05-24.3.
- 144
- 145 d. This rule does not preclude access to court records by federal, state, and local
146 officials, or their agents, examining a court record in the exercise of their official
147 duties and powers;
- 148 e. A member of the public may request the court to allow access to information
149 excluded under Section 4.4 or prohibited under 4.5(a) as provided in Section 4.5(b).

150

151 **Section 4.5. Requests to Prohibit Public Access to Information in Case Records or to**
152 **Obtain Access to Restricted Information.**

153 **a. Request to Prohibit Access.**

154 1. A request to the court to prohibit public access to information in a case record may
155 be made by any party to a case, by the individual about whom information is
156 present in the case record, or on the court's own motion on notice as provided in
157 Section 4.5(c).

158 2. The court must decide whether there are sufficient grounds to overcome the
159 presumption of openness of case records and prohibit access according to
160 applicable law.

161 3. In deciding whether to prohibit access the court must consider that the
162 presumption of openness may only be overcome by an overriding interest. The
163 court must articulate this interest along with specific findings sufficient to allow a
164 reviewing court to determine whether the closure order was properly entered.
165 Considerations of harm should include (1) the risk of injury to individuals,
166 (2) individual privacy rights and interests, (3) proprietary business information,
167 and (4) public safety. The court should also consider applicable law. Where
168 possible, explicit standard legal tests should be applied to such decisions.

169 4. The closure of the records must be no broader than necessary to protect the
170 articulated interest. The court must consider reasonable alternatives to closure,
171 such as redaction or partial closure, and the court must make findings adequate to

172 support the closure. The court may not deny access only on the ground that the
173 record contains confidential or closed information.

174 5. In restricting access the court must use the least restrictive means that will achieve
175 the purposes of this rule and the needs of the requestor.

176 6. If a victim requests, all victim contact information in a criminal case record must
177 be redacted;

178 7. If the court concludes, after conducting the balancing analysis and making findings
179 as required by paragraphs (1) through (5), that the interest of justice will be served,
180 it may prohibit public Internet access to an individual defendant's electronic case
181 record in a criminal case:

182 A. if the charges against the defendant are dismissed; or

183 B. if the defendant is acquitted.

184 If the court grants a request to prohibit public Internet access to an electronic case
185 record in a criminal case, the search result for the record must display the words
186 "Internet Access Prohibited under N.D.Sup.Ct. Admin.R 41."

187 **b. Request to Obtain Access.**

188 1. A request to obtain access to information in a case record to which access is
189 prohibited may be made to the court by any member of the public or on the court's
190 own motion on notice as provided in Section 4.5(c).

191 2. In deciding whether to allow access, the court must consider whether there are
192 sufficient grounds to overcome the presumption of openness of case records and
193 continue to prohibit access under applicable constitutional, statutory and case

194 law. In deciding this the court must consider the standards outlined in Section
195 4.5(a)(3) and Section 1.0.

196 **c. Form of Request.**

197 1. The request must be made by a written motion to the court.

198 2. The requestor must give notice to all parties in the case.

199 3. The court may require notice to be given by the requestor or another party to any
200 individuals or entities identified in the information that is the subject of the
201 request. When the request is for access to information to which access was
202 previously prohibited under Section 4.5(a), the court must provide notice to the
203 individual or entity that requested that access be prohibited.

204

205 **Section 5.0 - Timing of Public Access to Case Records.**

206

207 a. Remote access to case records is essentially available at all times, subject to publicly
208 scheduled downtimes for system maintenance and unforeseen technical issues.

209 b. Physical access to case records is available at the appropriate courthouse during
210 normal working hours.

211 c. Courts should make case records available in a reasonable time after filing. Courts
212 should also respond within a reasonable time to requests for access to bulk or
213 compiled case records and for requests governed by Section 4.5, and inform the
214 requestor when the bulk or compiled records will be available for dissemination.

215

216 **Section 6.0 - Operational Requirements.**

217

218 a. Best practices should be used to protect case records not open to the public.

219 b. Search capabilities for public case records should support reasonable flexibility.

220 c. Search capabilities should not impose an undue operational burden on court
221 systems.

222 d. Persons or organizations granted access beyond what is available to the public
223 should be managed by role and required to identify and authenticate using best
224 practices.

225

226 **Section 7.0 - Access Fees.**

227

228 a. The court may charge a fee for access to court records.

229 b. Any fees charged should be reasonable for the services provided.

230 c. The appropriate court or state court administrator may waive or reduce access fees
231 upon a showing of indigency by the requestor.

232

233 **Section 8.0 – General Access Rule: Court Administrative Records**

234

235 All court administrative records are open to the public except as follows:

236

- 237 a. Records that are not accessible to the public under federal law, state law, court rule,
238 case law or court order.
- 239 b. Records maintained concerning individuals who are court employees, or who
240 perform volunteer services for the court, are open in accordance with North Dakota
241 Century Code 44-04-18.1, North Dakota Supreme Court Policy 120, and
242 Administrative Rule 33.
- 243 c. Job applicant records are open in accordance with North Dakota Century Code 44-
244 04-18.27.
- 245 d. Security records. All security plans, codes and other records that provide for the
246 security of information, individuals, or property in the possession or custody of the
247 courts against theft, tampering, improper use, illegal releases, trespass, or physical
248 abuse or violence are excluded from public access.
- 249 e. Preliminary and draft reports concerning court operations; pre-decisional
250 documents. Final administrative documents and reports concerning the operation of
251 the court system are open for public inspection and copying by the custodian on
252 court premises. Preliminary drafts of such reports, and pre-decisional documents
253 relating to court operations, shall be open once such draft reports and such pre-
254 decisional documents are circulated to any court policy advisory committee or the
255 public for comment.
- 256 f. Remote electronic access user records. Data or information that would disclose that
257 a user of a remote or electronic access system has access to a particular court record
258 is excluded from public access. Record access information shall be accessible by

259 the public only on a showing of good cause pursuant to the process set forth by this
260 rule.

261 g. Proprietary and licensed material. Computer programs or other records that are
262 subject to proprietary rights or license agreements shall only be disclosed in
263 accordance with the terms and conditions of the applicable agreements and licenses,
264 or by court order. No record shall be excluded from public access solely because
265 access is provided by programs or applications subject to licensing agreements, or
266 because they are subject to proprietary rights.

267 h. Copyrighted documents and materials. Documents and materials produced and
268 copyrighted by the court are open to public inspection but may not be republished
269 without proper authorization from the court.

270 i. Judicial branch training records and reports. Evaluation materials and records
271 generated by participants in judicial education programs such as test scores,
272 educational assessments, practical exercise worksheets, and similar materials are
273 excluded from public access.

274 j. Party, witness and crime victim contact information gathered and recorded by the
275 court for administrative purposes, including telephone numbers and e-mail, street
276 and postal addresses are excluded from public access.

277 k. The name of a patron of the North Dakota Legal Self Help Center or information
278 sufficient to identify a patron or the subject about which a patron requested
279 information is excluded from public access.

280

281 **Section 9.0 – Methods of Access to Court Records**

282

283 **a. Remote Access**

284 1. Remote access to public court records is essentially available at all times, subject
285 to publicly scheduled down times for system maintenance and unforeseen
286 technical issues.

287

288 **b. Access to Court Records at Court Facility.**

289 1. Public access Terminal. A terminal will be available at each county courthouse
290 for public access to court records stored statewide in the Odyssey system.

291 2. Request for access to other records. Any person desiring public access to a court
292 record that is not available on the public access terminal must make an oral or
293 written request to the custodian of the record; the clerk of court or the State Court
294 Administrator. If the request is oral, the record custodian may require a written
295 request if the record custodian determines that the disclosure of the records is
296 questionable or the request is so involved or lengthy as to need further definition.
297 The request must clearly identify the record requested so that the record
298 custodian can locate the record without doing extensive research. Continuing
299 requests for a document not yet in existence may not be considered. The record
300 custodian may not ask the motive or reason for requesting the records or for the
301 identity of the person requesting public records.

302 a. Response to Request to Access Case Records. A clerk of court is not required
303 to allow access to more than ten case files per day per requestor but may do
304 so in the exercise of the clerk's discretion if the access will not disrupt the
305 clerk's primary function. If the request for access and inspection is granted,
306 the clerk may set reasonable time and manner of inspection requirements that
307 ensure timely access while protecting the integrity of the records and
308 preserving the affected office from undue disruption. The inspection area
309 must be within full view of court personnel whenever possible. The person
310 inspecting the records may not leave the court facility until the records are
311 returned and examined for completeness.

312 b. Response by Court to Request Access to Case Records. If a clerk determines
313 there is a question about whether a case record may be disclosed, or if a
314 written request is made under Section 4.5 for a ruling by the court after the
315 clerk denies or grants an access request, the clerk must refer the request to
316 the court for determination. The court must use the standards listed in Section
317 4.5 to determine whether to grant or deny the access requested.

318 c. Response to Request to Access Administrative Records. If the request for
319 access and inspection of administrative records is granted, the State Court
320 Administrator may set reasonable time and manner of inspection
321 requirements that ensure timely access while protecting the integrity of the
322 records and preserving the affected office from undue disruption. If there is
323 a question about whether an administrative record may be disclosed, the

324 matter must be referred to the State Court Administrator for determination.

325 The State Court Administrator must use the standards listed in Section 4.5 to

326 determine whether to grant or deny the access requested.

327 3. Methods of access. The record custodian is not required to provide a written

328 copy of a record that is available to the requestor on the court's website or on the

329 internet. The record custodian shall notify the requestor that the record is

330 available online and direct the requestor to the website where their record can be

331 accessed. If the requestor does not have reasonable access to the internet due to

332 lack of computer, lack of internet availability or inability to use a computer or

333 the internet, the record custodian shall produce paper copies for the requestor

334 but may charge applicable fees as set by the Court.

335

336 **Section 10.0 – Obligations of Vendors Providing Information Technology Support to**

337 **a Court to Maintain Court Records.**

338

339 a. If the court contracts with a vendor to provide information technology support to

340 gather, store, or make accessible court records, the contract will require the vendor

341 to comply with the intent and provisions of this rule. For purposes of this section,

342 "vendor" includes a state, county or local governmental agency that provides

343 information technology services to a court.

344 b. By contract the vendor will be required to notify the court of any requests for
345 compiled information or bulk distribution of information, including the vendor's
346 requests for such information for its own use.

347