



NEW YORK STATE
Unified Court System

OFFICE OF COURT ADMINISTRATION

HON. JOSEPH A. ZAYAS
CHIEF ADMINISTRATIVE JUDGE

HON. NORMAN ST. GEORGE
FIRST DEPUTY CHIEF ADMINISTRATIVE JUDGE

DAVID NOCENTI
COUNSEL

MEMORANDUM

To: All Interested Persons
From: David Nocenti
Re: Request for Public Comment on a proposal to amend 22 NYCRR §§ 124.2 & 124.5 relating to FOIL requests
Date: November 4, 2024

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The Administrative Board of the Courts is seeking public comment on a proposal to amend 22 NYCRR Part 124 to: (1) authorize the Chief Administrator of the Courts to designate the agency Records Access Officer; and (2) provide notice to court employees when there is a FOIL request for their disciplinary record.

Pursuant to 22 NYCRR § 124.2, the Director of Public Affairs is currently designated as the OCA Records Access Officer, but that role generally has been filled by an attorney in Counsel’s Office. This proposal therefore amends 22 NYCRR § 124.2 to authorize the Chief Administrator of the Courts to designate the Records Access Officer, and changes the mailing address to Albany.

In addition, Chapter 302 of the Laws of 2024 recently amended the Freedom of Information Law to require that all state agencies “develop a policy regarding providing a notification to public employees in the event that the agency is responding to a request for such employee’s disciplinary records.” This proposal implements that policy through an amendment to 22 NYCRR § 124.5.

The proposed amendments are attached as Exhibit A.

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Persons wishing to comment on the proposal should e-mail their submissions to rulecomments@nycourts.gov or write to: David Nocenti, Esq., Counsel, Office of Court Administration, 25 Beaver Street, 10th Fl., New York, New York, 10004. Comments must be received no later than Friday, December 13, 2024.

All public comments will be treated as available for disclosure under the Freedom of Information Law and are subject to publication by the Office of Court Administration. Issuance of a proposal for public comment should not be interpreted as an endorsement of that proposal by the Unified Court System or the Office of Court Administration.

EXHIBIT A

Proposed Amendments

Section 124.2 of the Rules of the Chief Administrator is amended to read as follows (deletions in ~~strikethrough~~ and additions underscored):

Section 124.2. Designation of records access officer

(a) ~~The Director of Public Affairs of the Office of Court Administration shall be designated as Chief Administrator of the Courts shall designate~~ the records access officer of the Office of Court Administration.

(b) The records access officer shall:

(1) maintain a current list, by subject matter, of all administrative records in the possession of the Office of Court Administration, whether or not available to the public under the Freedom of Information Law;

(2) maintain a list setting forth the name, public office address, title and salary of every officer or employee of the Office of Court Administration; and

(3) respond on behalf of the Office of Court Administration to public requests for access to its records.

(c) The business address of the records access officer is: Records Access Officer, Office of Court Administration, ~~25 Beaver Street, New York, NY 10004; (212) 428-2116~~ Empire State Plaza, Agency Building 4, Suite 2001, Albany, New York 12223.

(d) The Chief Administrator of the Courts may authorize other officers or employees of the Office of Court Administration to perform any of the duties of records access officer as set forth in this Part.

Section 124.5 of the Rules of the Chief Administrator is amended to read as follows (deletions in ~~strikethrough~~ and additions underscored):

Section 124.5. Requests for public access to records

(a) A person wishing to inspect or copy a record contained within the subject matter list shall file a written application with the records access officer, which shall reasonably describe the record sought. The application shall contain all available data concerning date, title, file designation, department or unit within the Office of Court Administration, and any other information that may help identify the record. If the information supplied by the applicant is not sufficiently detailed to enable the records access officer to determine whether or not the Office of

Court Administration maintains the record, the records access officer shall so notify the applicant and may request further identifying information.

(b) A written request shall not be required for materials, such as civil service examination announcements and informational brochures, which customarily have been made available by the Office of Court Administration to the public in the regular course of business, and for any other material which the records access officer deems to be proper to release without a written request.

(c) If the request seeks an employee's disciplinary records, the records access officer shall provide notification to the employee prior to providing a final response to such request.