

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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|----------------------------------|---|---------------------------|
| In the Matter of:                | ) |                           |
|                                  | ) |                           |
| AMENDING ARIZONA CODE OF         | ) | Administrative Order      |
| JUDICIAL ADMINISTRATION § 1-606: | ) | <u>No. 2011 - 92</u>      |
| PROVIDING CASE RECORD ACCESS     | ) | (Affecting Administrative |
| TO PUBLIC AGENCIES OR TO SERVE   | ) | Order No. 2009-130)       |
| A PUBLIC PURPOSE                 | ) |                           |
|                                  | ) |                           |

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An amendment to the above captioned section of the Arizona Code of Judicial Administration having come before the Arizona Judicial Council on June 20, 2011, and having been approved and recommended for adoption,

Now, therefore, pursuant to Article VI, Section 3, of the Arizona Constitution,

IT IS ORDERED that Arizona Code of Judicial Administration § 1-606 is amended as indicated on the attached document. All other provisions of § 1-606, as originally adopted, remain unchanged and in effect.

Dated this 31st day of August, 2011.

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REBECCA WHITE BERCH  
Chief Justice

**ARIZONA CODE OF JUDICIAL ADMINISTRATION**

**Part 1: Judicial Branch Administration**

**Chapter 6: Records**

**Section 1-606: Providing Case Record Access to Public Agencies and Public Purpose Organizations or to Serve a Public Purpose**

**A. Purpose.** This section establishes minimum standards for a custodian or the administrative director to follow in providing case records or data to ~~non-judicial branch government agencies and public purpose organizations, as provided in Rule 123(e)(6), Arizona Supreme Court: Employees of federal, state, tribal, and local government agencies and political subdivisions, and private organizations, the objective of which is to serve a public purpose, such as criminal justice, child welfare, licensing, mental health treatment, or research for scholarly, journalistic, or governmental purposes, may be granted such access to court records as required to serve that purpose according to this rule or as provided by any supplemental supreme court policies or court order~~ or governmental purposes.

In accordance with this section, the local court's custodian of case records or the administrative director may provide ~~government agencies and public purpose organizations~~ specialized access to case records or data that may exceed the access available to the general public provided by Rule 123. Access to case records or data provided under this section shall be limited to those records necessary for the recipient's intended purpose.

**B. Applicability.** This section applies to requests from public agencies and private organizations identified in subsection (A) for one-time, periodic, or on-going access to electronic or paper case records in bulk, which may include requests for access by remote electronic means or by an application-to-application transmission of records. This section does not apply to requests from ~~government and public purpose organizations persons or entities governed by ACJA § 1-605, nor does it apply to any requests for one-time access to case files records on a case-by-case basis. This section applies to requests from government and public purpose organizations for access that is carried out by any of the following methods:~~

- ~~• One time, periodic, or on-going access to electronic or paper records in bulk,~~
- ~~• On-going access by remote electronic means, or~~
- ~~• Application to application electronic exchange of case records between a court and another government agency.~~

**C. Record Access Agreement.** Before providing access to case records or data under this section, the custodian shall execute a record access agreement with the recipient that identifies the records or data to be provided and permissible uses. The local court's records custodian shall execute a record access agreement for any access to the local court's case management system data. The administrative director shall execute a record access agreement for any access to the statewide repository of aggregated case management system data maintained by the Administrative Office of the Courts. No record access agreement is needed for sharing or exchange of case records with other courts established pursuant to

Article VI, Section 1 of the Arizona Constitution or with the Administrative Office of the Courts.

The record access agreement shall include the following terms and conditions:

1. Recipient shall protect the records and data from unauthorized access and misuse.
2. Recipient shall ensure the security and confidentiality of any records or data provided by the custodian that are sealed or closed by Rule 123 or any other rule or law.
3. Recipient will not copy or re-disseminate any records or data closed by Rule 123 other than for the stated purposes.
4. Recipient will not use the records or data to sell a product or service to an individual or the general public.
5. Recipient will inform its employees of the requirements imposed by applicable federal and state laws, rules, and terms of the record access agreement.
6. If requested by the individual who is the subject of a record, recipient will cooperate in correcting any inaccurate or incomplete records provided by the custodian.
7. A recipient will consult with the custodian prior to releasing any records or data provided under the record access agreement in response to a public records request.
8. Prior to merging any records or data obtained from the custodian with other records or data concerning an individual or organization, recipient will ensure there is sufficient identifying information to reasonably conclude that the record or data concerns the same individual or organization.
9. Recipient will notify the custodian of any record or data inaccuracies discovered by the recipient.
10. Recipient will permit the custodian to audit recipient's use of and access to the records or data provided.
11. The parties shall agree on how the records or data will be exchanged, and if done so electronically, the format, timing, and frequency of exchanges.
12. The parties shall agree on a change management process and allocation of responsibilities for ensuring any unilateral software modifications do not disrupt the on-going exchange of electronic case record information.
13. All applicable rules and laws pertaining to the release of the records and data have been disclosed by the parties.

~~This requirement to execute a record access agreement for access to case records and data shall apply to all existing or current arrangements for specialized access to case records~~

~~provided to any government agency or public purpose organization.~~

**D. Court Order.** The custodian or administrative director shall ~~obtain a court order prior to releasing the records when required by federal or state law~~not release confidential records unless ordered by a court.