

IN THE SUPREME COURT OF THE STATE OF ARIZONA

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In the Matter of: )  
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NEW JUDGE ORIENTATION ) Administrative Order  
ASSESSMENT RECORDS ) No. 2004-100  
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The New Judge Orientation program for limited jurisdiction judges is scheduled for January 3-14, 2005. Rule 123(e) (1) establishes a general rule that employee records are confidential and provides for release of only specific information about employees. The rule does not specifically address “public officers,” and it is unclear whether training records maintained by the courts concerning judges and clerks of court would be entitled to the same confidentiality as other court staff records.

The confidentiality of the education process and education records of private citizens is uniformly protected under state and federal law and policy. This confidentiality extends to work completed by students and the grades they receive. Only the degree received is a matter of public record. In the context of judicial education, there is a valid public interest in knowing that public officials and employees have complied with training requirements and even what training has been received at public expense.

The extension of the rule of confidentiality to training assessment records of judicial officers and employees is necessary to assure that an environment can be created that is conducive to education and to continue development and refinement of the new assessment system. The best education programs challenge their participants to learn skills and explore ideas that are new to them. This education process works most effectively in an atmosphere of trust that promotes candor. Participants who are concerned about public scrutiny of their statements and performance are not likely to fully engage in this process; thereby diminishing the effectiveness of the training. This situation would be contrary to the best interest of the state.

The 2003 and 2004 New Judge Orientation program assessment materials and scores were made confidential pursuant to Administrative Orders 2003-01 and 2003-117 (amended by 2003-122). The confidentiality of the materials was evaluated prior to the 2005 program and a determination made to adopt a permanent policy regarding judicial training records. That evaluation was completed and a rule change petition is pending that would make those records confidential. The Supreme Court will not meet to consider the rule change until after New Judge Orientation.

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

IT IS ORDERED that the assessment materials and scores used as part of the 2005 New Judge Orientation program shall be maintained as confidential and shall be released only for internal processing purposes or with the approval of the Chief Justice.

Dated this 9<sup>th</sup> day of December, 2004.

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CHARLES E. JONES  
Chief Justice