

Chelan County Superior Court

## GR 31.1 Policy and Procedures

### I. POLICY

The Chelan County Superior Court (CCSC) will respond promptly to records requests and in doing so will adhere to the letter and spirit of applicable court rules, statutes, and case law. The policy of the CCSC is to uphold the interests of transparency and open access to government records while maintaining the integrity, independence, and proper functioning of the court. To accomplish that goal, the CCSC adopts this policy implementing General Court Rule 31.1.

### II. DEFINITIONS

**Administrative Records-** Records created by or maintained by a court or judicial agency and related to the management, supervision, or administration of the court or judicial agency.

**Case Records-** Records that relate to in-court proceedings, including, but not limited to: (i) Any document, information, exhibit, or other thing that is maintained by a court in connection with a judicial proceeding, and (ii) Any index, calendar, docket, register of actions, official record of the proceedings, order, decree, judgment, minute, and any information in a case management system created or prepared by the court that is related to a judicial proceeding. See General Court Rule 31.

**Chambers Records-** Records that are created or maintained by any judicial officer or chambers staff, and are maintained under chambers control, whether directly related to an official judicial proceeding, the management of the court, or other chambers activities.

**Chambers Staff-** A judicial officer's law clerk and any other staff when providing support directly to the judicial officer at chambers.

**Records Officer-** The CCSC representative designated to respond to all requests for agency records. Contact information for the records officer can be found in Section H of this policy.

**Working Day-** For purposes of this policy, the term "working day" means a day that the court is open for business.

### III. PROCEDURES

#### A. Scope of this Policy

**1. Effective Date-** These procedures apply only to records created by the CCSC on or after January 1, 2016. To request earlier records, contact the CCSC records officer.

**2. Administrative Records Only-** This policy applies to administrative records. Persons seeking case records should contact the Superior Court Clerk's office or the CCSC records officer for assistance.

## **B. Requesting Administrative Records**

**1. Request in Writing-** Any person wishing to inspect or obtain copies of CCJC administrative records must make a request in writing and submit it to the designated records officer using the Administrative Records Request form, available at the CCSC judges chambers or on the Chelan County website. If a CCSC employee receives any type of records request, the employee shall indicate to the requester that they are not the designated person to receive public records requests. Employees will direct requesters to submit their requests to the records officer, providing them with the necessary contact information. The employee must also alert the records officer to expect a records request.

**2. Initial Response-** The records officer will respond within five working days of receipt of the written request. The response must acknowledge receipt of the request and include a good-faith estimate of the time needed to respond, which may be later revised, if necessary, as set forth in more detail below.

**3. Communication-** The records officer will communicate with the requester as necessary to clarify the request. The records officer may assist the requester by discussing the request in an effort to determine whether the requester's needs would be better served with a response other than the one actually requested.

## **C. Processing Records Requests**

**1. Preservation of Records-** Upon receipt of a records request, the records officer will alert CCSC staff to suspend all records destruction activities. The directive to suspend records destruction will be amended or rescinded once the records officer has identified and accounted for the requested records, so that routine destruction activities may resume without risk that responsive documents could be destroyed.

*Note: It is never permissible to destroy a record that is the subject of a pending request. The records officer will determine when a request is no longer pending, in consultation with agency legal counsel. When in doubt about whether to destroy a record, employees must consult with the records officer.*

## **2. Gathering and Compiling Responsive Records**

*a. Records Officer-* The records officer will determine which employees may have responsive documents and will send email notification to them summarizing the request, setting a time for response, and directing them to gather the requested records.

*b. Employees-* Each employee who has potentially responsive documents will respond to the records officer's email as follows:

- (i) Indicating that he or she has no responsive documents;

(ii) Providing the requested documents;

(iii) Specifying a reasonable time within which he or she can search for the records and provide a more thorough response; and/or,

(iv) Describing how the request should be clarified.

*c. Absent Staff-* In the event that potentially responsive records are or were maintained by an employee who is currently on leave or who has left employment, the manager having authority over that position will gather the responsive records.

*d. Exemptions-* Employees who believe a record is exempt may not withhold the record from the records officer. Rather, the employee should flag the record and attach to it an explanation for the employee's belief that an exemption applies, including any relevant authority. The records officer will ultimately make the determination whether and to what extent, if any, an exemption applies.

*e. Large Requests-* If an employee finds that a request for a record or group of records will likely exceed 100 pages or will require more than one hour of the employee's time to gather, he or she should advise the records officer and request further direction.

*f. Format-* Unless directed otherwise, records should be provided to the records officer in the format in which the employee keeps them, i.e., electronic records should be sent electronically, and paper records should be transferred physically to the records officer in paper form rather than being scanned and sent electronically.

**3. Extraordinary Requests-** If a request is of a magnitude such that the CCSC cannot fully comply within a reasonable time due to constraints on time, resources, and personnel, the records officer shall communicate this fact to the requester. The records officer must attempt to reach agreement with the requester as to narrowing the request to a more manageable scope and as to timeframe for the CCSC's response, which may include a schedule of installment responses. If the records officer and requester are unable to reach agreement, then the records officer shall respond to the extent practicable and inform the requester that the CCSC has completed its response.

#### **D. Persons Who Are Subjects of Records**

**1. Identifying Records Subjects-** The records officer will review all responsive documents and flag those that name or specifically pertain to persons other than the requester.

**2. Notice to Subjects-** At the discretion of the records officer, written notice may be sent to persons named in a record, or to whom the record specifically pertains, that the record has been requested, so long as such notice is not otherwise prohibited by law. Notice will include a copy of the written request. The subject person will be allowed to present to the records officer information opposing disclosure.

**3. Review of a Decision Allowing Access-** If the records officer decides to allow access to a requested record, a person named in that record, or to whom the record

specifically pertains, has the right to initiate review or to participate as a party to any review initiated by a requester. Review procedures are set forth in subsection G, below.

*a. Records Delivery Suspended Pending Review-* Where a record's subject has objected to its release, and a decision has been made to release the record in whole or in part, the records officer will postpone release for ninety days following announcement of the release decision so that the subject's right to initiate review is not compromised.

*b. Deadlines-* In review procedures, the deadlines that apply to a requester apply as well to a person who is the subject of a record.

*c. Informal Review Precluded-* If either the requester or the subject of the record object to informal review under subsection G, below, that alternative will not be available.

## **E. Charging fees for Copying, Media, and Research**

**1. Copying-** Requesters wishing to have copies of records made will be charged a copying fee of \$.15 per page.

**2. Media-** Requesters obtaining electronic records on discs or portable drives will be charged for those media, at cost.

**3. Research Fees-** Requesters will be charged an hourly fee of \$30 for research when records requests require more than one hour of staff response time. No fees will be charged for the first hour.

**4. Postage-** Postage and packaging materials will be charged at cost.

**5. Payment-** Fees must be paid at the time the requester receives records. For large requests, records may be delivered in installments, with associated fees payable upon delivery. A requester who fails to pay for a request or an installment may have subsequent requests or installments suspended until the payment is made.

**6. Inspection-** No fee will be charged for records inspection.

## **F. Substantive Response**

**1. Time for Response-** The records officer will respond to the substance of the request within the timeframe specified in the initial response. If the records officer is unable to fully comply with this timeframe, he or she will comply to the extent practicable and provide a new good faith estimate for responding to the remainder of the request. If the records request is not fully satisfied in the manner requested, the records officer must justify in writing any deviation from the terms of the request.

**2. Format-** The records officer will work with the requester to determine the appropriate format for providing responsive records, and will work with the Information Technology (IT) department, as needed, to facilitate the response.

**3. Withholding Certain Records-** Judicial administrative records are open to public access unless exempted or prohibited by court rule, statute, court orders, or case law. Such exempted or prohibited records will not be provided to a requester.

*a. Chambers Records-* Chambers records are neither administrative records or case records, and are not subject to disclosure.

*b. Public Records Act (PRA) Exemptions-* although the PRA does not apply to the judicial branch, under GR 31.1 any record that would fall under one of the PRA exemptions is exempt under the rule and will not be disclosed.

*c. Records Exempted by Statute, Court Rule, Court Order, or Case Law-* Records will not be provided if doing so would violate relevant court rules, valid court orders, or applicable statute or case law. For example, RCW 13.50 creates a presumption of confidentiality for juvenile records. Such records will not be provided unless a specific exception to the rule of confidentiality clearly applies.

*d. Requests Involving Harassment, Intimidation, Threats to Security, or Criminal Activity-* As set forth in GR 31.1, such requests will not be granted.

*e. Redactions-* When applicable rules, law, exemptions, or other factors preclude the release of portions of a requested record, and that record could be rendered appropriate for release through redactions, the records officer will redact rather than withhold the entire document. The records officer will provide a written explanation for each redaction.

**4. Completion of Response-** When all responsive, non-exempt records have been provided for inspection or copied and delivered, the records officer will indicate that the CCSC has completed a diligent search for the requested records and has either provided the record or a written explanation for withholding or redacting it. If any requested records were withheld or redacted, the records officer's response will include a written summary of the procedures under which the requester may seek further review.

**5. Later Discovered Documents-** If, after the records officer has informed the requester that all available records have been provided, the CCSC becomes aware of additional responsive records existing at the time of the request, the records officer will promptly inform the requester of this fact and will expedite the processing of those records to make them available, consistent with applicable law and this policy, as soon as reasonably possible.

## **G. Review Procedures**

### **1. Internal Review-**

- a.* Appeals of decisions made by the records officer of the Administrative Office of the Courts will first be reviewed by the Presiding Judge of the Superior Court or designee. Requests for review must be in writing and must be received by the Presiding Judge no more than 90 calendar days after the date of the decision.
- b.* The Presiding Judge or designee will complete the review and provide a response within five business days of the date the request for review was received.

**2. External Review-** A requester who has exhausted the internal review procedure set forth above and who is not satisfied with the outcome may elect between the two following remedies:

*a. Review via Civil Action in Court-* The requester may use a judicial writ of mandamus, prohibition, or certiorari to file a civil action in superior court challenging the internal review decision. See GR 31.1(d)(4)(i).

*b. Review by Visiting Judge-* In the alternative, the requester may seek external review by a visiting judicial officer. The review will be summary and informal. See GR 31.1(d)(4)(ii).

(i) Requesting Review by Visiting Judge- A request for review by a visiting judge must be reduced to writing and submitted to the presiding judge of the superior court, with a copy to the CCSC records officer.

(ii) Timeline- A request for review by a visiting judge must be submitted within 30 days of the issuance of the presiding judge's final decision on the internal review.

(iii) Remedy- The decision of the visiting judge may also be challenged in court through a judicial writ, as set forth in subsection 2.a, above.

#### **H. Contact Information**

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