

COMPILATION OF CODES, RULES AND REGULATIONS OF THE STATE OF NEW YORK
TITLE 22. JUDICIARY
SUBTITLE C. ANCILLARY AGENCIES.
CHAPTER VI. JUDICIAL NOMINATION COMMISSION
PART 7101. RULES FOR PUBLIC ACCESS TO RECORDS OF THE STATE OF NEW YORK
COMMISSION ON JUDICIAL NOMINATION

Current with amendments included in the New York State Register,
Volume XXX, Issue 37, dated September 10, 2008. See NY-CRR for
the official version of this section.

Section 7101.1. Purpose and scope

- (a) These rules set forth the procedures through which records may be obtained from the commission of the State of New York Commission on Judicial Nomination (the commission).
- (b) The commission shall furnish to the public the records that are defined in section 7101.2 of this Part.

Section 7101.2. Definition

Records shall mean only those written documents relating to the nomination process which may, pursuant to [section 66 of the Judiciary Law](#), be made public. Such records shall include the reports issued by the commission to the Governor of nominations made by the commission, press releases issued by the commission and such other documents as the commission has made publicly available in the course of its functions.

Section 7101.3. Designation of records access officer

- (a) The commission designates its counsel, or in the absence of counsel, its assistant counsel as its records access officer.
- (b) The records access officer shall be responsible for ensuring appropriate responses to public requests for access to records and information.
- (c) The records access officer shall ensure that the commission:
 - (1) assists the requester in identifying requested records or information, if necessary;
 - (2) upon locating the records or information, take one of the following actions:
 - (i) make records or information promptly available for inspection if appropriate; or
 - (ii) deny access to records or information in whole or in part and explain in writing the reasons therefor;
 - (3) upon request for copies of records as defined in section 7101.2 of this Part:
 - (i) make a copy available upon payment or offer to pay established fees, if any; or
 - (ii) permit the requester to copy those records;
 - (4) upon request, certify that a record is a true copy; and

(5) upon failure to locate records, certify that:

- (i) the commission is not the custodian for such records; or
- (ii) the records of which the commission is a custodian cannot be found after diligent search.

Section 7101.4. Location

Records shall be available for public inspection at:

State of New York Commission on Judicial Nomination c/o Stuart A. Summit, Esq. 666 Fifth Avenue (28th Floor) New York, NY 10103-0084

NOTE: Pending publication and public comment, section 22 NY ADC 7101.4 will be revised to reflect the following location for public inspection of records:

State of New York Commission on Judicial Nomination c/o Stephen P. Younger, Esq. 1133 Avenue of the Americas New York, New York 10036-6710.

Section 7101.5. Hours for public inspection

Requests for public access to records shall be accepted and records produced upon reasonable notice during all hours regularly open for business.

Section 7101.6. Requests for public access to records

- (a) A written request is required.
- (b) A request shall reasonably describe the record or records sought. Whenever possible, a person requesting records should supply information regarding names, dates, or other information that may help to describe the records sought.
- (c) The records access officer shall respond to any request reasonably describing the record or records sought within five business days of receipt of the request.
- (d) If the records access officer neither provides nor denies access to the record or records sought within 30 business days of receipt of a request, the records access officer shall furnish a written acknowledgment of receipt of the request and a statement of the approximate date when the request will be granted or denied.

Section 7101.7. Denial of access to records

- (a) Denial of access to records or information shall be in writing, stating the reason therefor and advising the requester of the right to appeal to the chair of the commission.
- (b) If the requested records are not provided promptly, as required in section 7101.6(c), (d) of this Part, such failure shall be deemed a denial of access by the commission.
- (c) Any person denied access to records may appeal within 30 days of the denial.
- (d) The commission shall transmit to the Committee on Open Government copies of all appeals upon receipt of such

an appeal. Such copies shall be addressed to:

Committee on Open Government

Department of State

41 State Street

Albany, NY 12231

(e) The chair of the commission shall hear and determine appeals regarding denial of access to records.

(f) The time for deciding an appeal shall commence upon receipt of a written appeal identifying:

- (1) the date of the appeal;
- (2) the date and location of the requests for records;
- (3) the records to which the requester was denied access; and
- (4) the name and return address of the requester.

(g) The commission shall inform the appellant and the Committee on Open Government of its determination in writing within 10 business days of receipt of an appeal. The determination shall be transmitted to the Committee on Open Government in the same manner as set forth in subdivision (d) of this section.

(h) A final denial of access to a requested record, as provided for in subdivision (e) of this section, shall be subject to court review, as provided for in article 78 of the Civil Practice Laws and Rules.

Section 7101.8. Fees

(a) There shall be no fee charged for the following:

- (1) inspection of records;
- (2) search for records; or
- (3) any certification pursuant to this Part.

(b) Copies of records shall be provided at a cost equal to the legal maximum fee.

Section 7101.9. Severability

If any provision of this Part or the application thereof to any person or circumstance is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of this Part or the application thereof to other persons or circumstances.