

1 **1-079. Public inspection and sealing of court records.**

2 A. **Presumption of public access; scope of rule.** Court records are subject  
3 to public access unless sealed by order of the court or otherwise protected from disclosure  
4 under the provisions of this rule. This rule does not prescribe the manner in which the  
5 court shall provide public access to court records, electronically or otherwise. No person  
6 or entity shall knowingly file a court record that discloses material obtained from another  
7 court record that is sealed, conditionally under seal, or subject to a pending motion to seal  
8 under the provisions of this rule.

9 B. **Definitions.** For purposes of this rule, the following definitions apply:

10 (1) “court record” means all or any [~~portion~~] part of a document,  
11 paper, exhibit, transcript, or other material filed or lodged with the court, and the register  
12 of actions and docket entries used by the court to document the activity in a case;

13 (2) “lodged” means a court record that is temporarily deposited with  
14 the court but not filed or made available for public access;

15 (3) “protected personal identifier information” means all but the last  
16 four (4) digits of a social security number, taxpayer-identification number, financial  
17 account number, or driver’s license number, and all but the year of a person’s date of  
18 birth;

19 (4) “public” means any person or entity, except the parties to the  
20 proceeding, counsel of record and their employees, and court personnel;

21 (5) “public access” means the inspection and copying of court records

1 by the public; and

2 (6) “sealed” means a court record for which public access is limited by  
3 order of the court or as required by Paragraphs C or D of this rule.

4 C. [~~Limitations~~] **Limits on public access.** In addition to court records  
5 protected [~~pursuant to~~] under Paragraphs D and E of this rule, all court records in the  
6 following proceedings are confidential and shall be automatically sealed without motion  
7 or order of the court:

8 (1) proceedings commenced under the Adoption Act, Chapter 32A,  
9 Article 5 NMSA 1978. The automatic sealing provisions of this subparagraph shall not  
10 apply to persons and entities listed in [~~Subsection A of~~] Section 32A-5-8(A) NMSA  
11 1978;

12 (2) proceedings to detain a person commenced under Section 24-1-15  
13 NMSA 1978;

14 (3) proceedings for testing commenced under Section 24-2B-5.1  
15 NMSA 1978;

16 (4) proceedings commenced under the Adult Protective Services Act,  
17 Sections 27-7-14 to 27-7-31 NMSA 1978, subject to the firearm-related reporting  
18 requirements in Section 34-9-19 NMSA 1978;

19 (5) proceedings commenced under the Mental Health and

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1 Developmental Disabilities Code, Chapter 43, Article 1 NMSA 1978, subject to the  
2 disclosure requirements in Section 43-1-19 NMSA 1978 and the firearm-related reporting  
3 requirements in Section 34-9-19 NMSA 1978;

4 (6) wills deposited with the court [~~pursuant to~~] under Section 45-2-515  
5 NMSA 1978 that have not been submitted to informal or formal probate proceedings. The  
6 automatic sealing provisions of this subparagraph shall not apply to persons and entities  
7 listed in Section 45-2-515 NMSA 1978;

8 (7) proceedings commenced for the appointment of a person to serve  
9 as guardian for an alleged incapacitated person under Chapter 45, Article 5, Part 3 NMSA  
10 1978, as provided in Rule 1-079.1 NMRA;

11 (8) proceedings commenced for the appointment of a conservator  
12 under Chapter 45, Article 5, Part 4 NMSA 1978, as provided in Rule 1-079.1 NMRA;

13 (9) proceedings commenced to remove a firearm-related disability  
14 under Section 34-9-19(D) NMSA 1978, subject to the firearm-related reporting  
15 requirements in Section 34-9-19 NMSA 1978; [~~and~~]

16 (10) proceedings commenced under the Assisted Outpatient Treatment  
17 Act, Chapter 43, Article 1B NMSA 1978, subject to the disclosure requirements in  
18 Section 43-1B-14 NMSA 1978 and the firearm-related reporting requirements in Section  
19 34-9-19 NMSA 1978[~~;~~]; and

20 (11) proceedings commenced under Section 29-3A-4 (Expungement of

1 records upon release without conviction) of the Criminal Record Expungement Act,  
2 Sections 29-3A-1 to -9 NMSA 1978.

3       The provisions of this paragraph notwithstanding, the docket number and case  
4 type for the categories of cases listed in this paragraph shall not be sealed without a court  
5 order.

6       **D.     Protection of personal identifier information.**

7           (1)     The court and the parties shall avoid including protected personal  
8 identifier information in court records unless deemed necessary for the effective  
9 operation of the court's judicial function. If the court or a party deems it necessary to  
10 include protected personal identifier information in a court record, that is a non-  
11 sanctionable decision. Protected personal identifier information shall not be made  
12 available on publicly accessible court [~~web sites~~] websites. The court shall not publicly  
13 display protected personal identifier information in the courthouse. Any attorney or other  
14 person granted electronic access to court records containing protected personal identifier  
15 information shall be responsible for taking all reasonable precautions to ensure that the  
16 protected personal identifier information is not unlawfully disclosed by the attorney or  
17 other person or by anyone under the supervision of that attorney or other person. Failure  
18 to comply with the provisions of this subparagraph may subject the attorney or other  
19 person to sanctions or the initiation of disciplinary proceedings.

1           (2)     The court clerk is not required to review documents for compliance  
2 with this paragraph and shall not refuse for filing any document that does not comply  
3 with this paragraph. The court clerk is not required to screen court records released to the  
4 public to prevent disclosure of protected personal identifier information.

5           (3)     Any person requesting public access to court records shall provide  
6 the court with the person’s name, address, and telephone number, along with a  
7 government-issued form of identification or other acceptable form of identification.

8           E.     **Motion to seal court records required.** ~~[Except as]~~ Unless provided in  
9 Paragraphs C and D of this rule, no ~~[portion]~~ part of a court record shall be sealed except  
10 by court order. Any party or member of the public may file a motion for an order sealing  
11 the court record. ~~[When]~~ If applicable, the motion should identify any statute, regulation,  
12 rule, or other source of law that addresses access to court records in the particular type of  
13 proceeding. Any party or member of the public may file a response to the motion to seal.  
14 The movant shall lodge the court record with the court ~~[pursuant to]~~ under Paragraph F  
15 when the motion is made, unless the court record was previously filed with the court or  
16 good cause exists for not lodging the court record ~~[pursuant to]~~ under Paragraph F.  
17 Pending the court’s ruling on the motion, the lodged court record will be conditionally  
18 sealed. If necessary to prevent disclosure, any motion, response or reply, and any  
19 supporting documents, shall be filed in a redacted version that will be subject to public  
20 access and lodged in a complete, unredacted version that will remain conditionally sealed

1 pending the court’s ruling on the motion. If the court denies the motion, the clerk shall  
2 return any lodged court records and shall not file them in the court file.

3           **F. Procedure for lodging court records.** A court record that is the subject  
4 of a motion filed under Paragraph E of this rule shall be secured in an envelope or other  
5 appropriate container by the movant and lodged with the court unless the court record  
6 was previously filed with the court, or unless good cause exists for not lodging the court  
7 record. The movant shall label the envelope or container lodged with the court  
8 “CONDITIONALLY UNDER SEAL” and affix to the envelope or container a cover  
9 sheet that contains the information required under Rules 1-008.1 and 1-010 NMRA, and  
10 which states that the enclosed court record is subject to a motion to seal. On receipt of a  
11 lodged court record, the clerk shall endorse the cover sheet with the date of its receipt and  
12 shall retain, but not file, the court record unless the court orders it filed. If the court grants  
13 an order sealing a court record, the clerk shall substitute the label provided by the movant  
14 on the envelope or container with a label prominently stating “SEALED BY ORDER OF  
15 THE COURT ON (DATE)” and shall attach a file-stamped copy of the court’s order.  
16 Unless otherwise ordered by the court, the date of the court order granting the motion  
17 shall be deemed the file date of the lodged court record.

18           **G. Requirements for order to seal court records.**

19           (1) The court shall not permit a court record to be filed under seal

1 based solely on the agreement or stipulation of the parties. The court may order that a  
2 court record be filed under seal only if the court by written order finds and states facts  
3 that establish the following:

4 (a) the existence of an overriding interest that overcomes the  
5 right of public access to the court record;

6 (b) the overriding interest supports sealing the court record;

7 (c) a substantial probability exists that the overriding interest  
8 will be prejudiced if the court record is not sealed;

9 (d) the proposed sealing is narrowly tailored; and

10 (e) no less restrictive means exist to achieve the overriding  
11 interest.

12 (2) The order shall require the sealing of only those documents, pages,  
13 or [~~portions~~] parts of a court record that contain the material that needs to be sealed. All  
14 other [~~portions~~] parts of each document or page shall be filed without [~~limitation~~] limit on  
15 public access. If necessary, the order may direct the movant to prepare a redacted version  
16 of the sealed court record that will be made available for public access.

17 (3) The order shall state whether the order itself, the register of  
18 actions, or individual docket entries are to be sealed.

19 (4) The order shall specify who is authorized to have access to the  
20 sealed court record.

1           (5)    The order shall specify a date or event [~~upon~~] on which it expires  
2 or shall explicitly state that the order remains in effect until further order of the court.

3           (6)    The order shall specify any person or entity entitled to notice of  
4 any future motion to unseal the court record or modify the sealing order.

5           **H.    Sealed court records as part of record on appeal.**

6           (1)    Court records sealed in the magistrate, metropolitan, or municipal  
7 court, or records sealed in an agency proceeding in accordance with the law, that are filed  
8 in an appeal to the district court shall remain sealed in the district court. The district court  
9 judges and staff may have access to the sealed court records unless otherwise ordered by  
10 the district court. Requests to unseal [~~such~~] the records or modify a sealing order entered  
11 in the magistrate, metropolitan, or municipal court shall be filed in the district court  
12 [~~pursuant to~~] under Paragraph I of this rule if the case is pending on appeal.

13           (2)    Court records sealed under the provisions of this rule that are filed  
14 in the appellate courts shall remain sealed in the appellate courts. The appellate court  
15 judges and staff may have access to the sealed court records unless otherwise ordered by  
16 the appellate court.

17           **I.    Motion to unseal court records.**

18           (1)    A sealed court record shall not be unsealed except by court order  
19 or [~~pursuant to~~] under the terms of the sealing order itself. A party or member of the



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1 public may move to unseal a sealed court record. ~~[When]~~ If applicable, the motion should  
2 identify any statute, regulation, rule, or other source of law that addresses access to court  
3 records in the particular type of proceeding. A copy of the motion to unseal shall be  
4 served on all persons and entities who were identified in the sealing order ~~[pursuant to]~~  
5 under Subparagraph ~~[(6) of Paragraph G]~~ (G)(6) for receipt of notice. If necessary to  
6 prevent disclosure, the motion, any response or reply, and supporting documents shall be  
7 filed in a redacted version and lodged in a complete and unredacted version.

8 (2) In determining whether to unseal a court record, the court shall  
9 consider the matters addressed in Subparagraph ~~[(1) of Paragraph G]~~ (G)(1). If the court  
10 grants the motion to unseal a court record, the order shall state whether the court record is  
11 unsealed entirely or in part. If the court's order unseals only part of the court record, or  
12 unseals the court record for only ~~[as to]~~ certain persons or entities, the order shall specify  
13 the particular court records that are unsealed, the particular persons or entities who may  
14 have access to the court record, or both. If, in addition to the court records in the envelope  
15 or container, the court has previously ordered the sealing order, the register of actions, or  
16 individual docket entries to be sealed, the unsealing order shall state whether those  
17 additional court records are unsealed.

18 J. **Failure to comply with sealing order.** Any person or entity who  
19 knowingly discloses any material obtained from a court record sealed or lodged ~~[pursuant~~  
20 ~~to]~~ under this rule may be held in contempt of court or subject to other sanctions as the

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1 court deems appropriate.

2 [Adopted by Supreme Court Order No. 10-8300-004, for all court records filed on or after  
3 July 1, 2010; as amended by Supreme Court Order No. 10-8300-023 temporarily  
4 suspending Paragraph D for ~~[90]~~ ninety (90) days effective August 11, 2010; as amended  
5 by Supreme Court Order No. 10-8300-037, extending the temporary suspension of  
6 Paragraph D for an additional ~~[90]~~ ninety (90) days, effective November 10, 2010; as  
7 amended by Supreme Court Order No. 11-8300-006, effective for all court records filed,  
8 lodged, publicly displayed in the courthouse, or posted on publicly accessible court [~~web~~  
9 ~~sites~~] websites on or after February 7, 2011; as amended by Supreme Court Order No.  
10 13-8300-017, effective for all cases pending or filed on or after December 31, 2013; as  
11 provisionally amended by Supreme Court Order No. 16-8300-003, effective for all cases  
12 pending or filed on or after May 18, 2016; as amended by Supreme Court Order No. 17-  
13 8300-002, effective for all cases pending or filed on or after March 31, 2017; as amended  
14 by Supreme Court Order No. 18-8300-005, effective for all cases filed, or pending, but  
15 not adjudicated, on or after July 1, 2018, and for motions to seal or unseal filed in all  
16 cases on or after July 1, 2018; as provisionally amended by Supreme Court Order No. 21-  
17 8300-033, effective for all cases pending or filed on or after January 28, 2021.]

18 **Committee commentary.** — This rule recognizes the presumption that all  
19 documents filed in court are subject to public access. This rule does not address public

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1 access to other records in possession of the court that are not filed within the context of  
2 litigation pending before the court, [~~such as~~] including personnel or administrative files.  
3 Nor does this rule address the manner in which a court must provide public access to  
4 court records.

5 Although most court records are subject to public access, this rule recognizes that  
6 in some instances, public access to court records should be limited. However, this rule  
7 makes clear that no court record may be sealed simply by agreement of the parties to the  
8 litigation. [~~And except as~~] Unless otherwise provided in this rule, public access to a court  
9 record may not be limited without a written court order entered [~~in accordance with the~~  
10 ~~provisions of~~] under this rule. Unless otherwise ordered by the court, any [~~limitations~~]  
11 limits on the public's right to access court records do not apply to the parties to the  
12 proceeding, counsel of record and their employees, and court personnel. While  
13 employees of a lawyer or law firm who is counsel of record may have access to sealed  
14 court records, the lawyer or law firm remains responsible for the conduct of their  
15 employees in this regard.

16 Paragraph C of this rule recognizes that all court records within certain classes of  
17 cases should be automatically sealed without the need for a motion by the parties or court  
18 order. Most of the classes of cases [~~identified~~] set forth in Paragraph C have been  
19 identified by statute as warranting confidentiality. However, this rule does not purport to  
20 cede to the [~~legislature~~] Legislature the final decision on whether a particular type of case

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1 or court record must be sealed. Paragraph C simply lists those classes of cases in which  
2 all court records shall be automatically sealed from the commencement of the  
3 proceedings without the need for a court order. Nonetheless, a motion to unseal some or  
4 all of the automatically sealed court records in a particular case still may be filed under  
5 Paragraph I of the rule.

6 For some of the classes of cases identified in Paragraph C, automatic sealing is  
7 subject to other statutory disclosure or reporting requirements. For example, under  
8 NMSA 1978, [~~Section~~] § 34-9-19 (2016), the [~~administrative office of the courts~~]  
9 Administrative Office of the Courts (AOC) is required to [~~transmit~~] send to the [~~federal~~  
10 ~~bureau of investigation's national instant criminal background check system~~] Federal  
11 Bureau of Investigation's National Instant Criminal Background Check System (NICS)  
12 information about a court order, judgment, or verdict [~~regarding~~] about each person who  
13 has been “adjudicated as a mental defective” or “committed to a mental institution” under  
14 federal law. Automatic sealing under Paragraph C, therefore, does not prevent the AOC  
15 from [~~transmitting such~~] sending the information to the NICS in the proceedings  
16 described in Subparagraphs (C)(4), (5), [~~(7) and (8)~~] (9), and (10). A person who is the  
17 subject of the information compiled and reported by the AOC to NICS has a right to  
18 obtain and inspect that information. *See* NMSA 1978, § 34-9-19(K) (2016). Another  
19 example includes records sealed under Section 29-3A-4 (Expungement of records upon

1 release without conviction) of the Criminal Record Expungement Act, NMSA 1978, §§  
2 29-3A-1 to -9 (2019, as amended through 2021), which will be available to law  
3 enforcement and courts if a person is charged with a future crime. See NMSA 1978, § 29-  
4 3A-2(C)(2) (2019). These records will also be released in connection with any  
5 application for or query regarding qualification for employment or association with any  
6 financial institution regulated by the Financial Industry Regulatory Authority or the  
7 Securities and Exchange Commission. See NMSA 1978, § 29-3A-7 (2019).

8       Aside from entire categories of cases that may warrant [~~limitations~~] limits on  
9 public access, numerous statutes also identify particular types of documents and  
10 information as confidential or otherwise subject to [~~limitations~~] limits on disclosure. *See,*  
11 *e.g.,* [~~Section 7-1-4.2(H)~~] NMSA 1978, § 7-1-4.2(H) (2017) (providing for confidentiality  
12 of taxpayer information); [~~Section 14-6-1(A)~~] NMSA 1978, § 14-6-1(A) (1977)  
13 (providing for confidentiality of patient health information); [~~Section 24-1-9.5~~] NMSA  
14 ~~1978 (limiting disclosure of test results for sexually transmitted diseases); Section 29-10-~~  
15 ~~4]~~ NMSA 1978, § 29-10-4 (1993) (providing for confidentiality of certain arrest record  
16 information); [~~Section 29-12A-4~~] NMSA 1978, § 29-12A-4 (2003) (limiting disclosure of  
17 local crime stoppers program information); [~~Section 29-16-8~~] NMSA 1978, § 29-16-8  
18 (2006) (providing for confidentiality of DNA information); [~~Section 31-25-3~~] NMSA  
19 1978, § 31-25-3 (1987) (providing for confidentiality of certain communications between  
20 victim and victim counselor); [~~Section 40-8-2~~] NMSA 1978, § 40-8-2 (2001) (providing

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1 for sealing of certain name change records); [~~Section 40-6A-312~~] NMSA 1978, § 40-6A-  
2 312 (2005) (providing for [~~limitations~~] limits on disclosure of certain information during  
3 proceedings under the Uniform Interstate Family Support Act); [~~Section 40-10A-~~  
4 ~~209~~] NMSA 1978, § 40-10A-209 (2001) (providing for [~~limitations~~] limits on disclosure  
5 of certain information during proceedings under the Uniform Child-Custody Jurisdiction  
6 and Enforcement Act); [~~Section 40-13-7.1~~] NMSA 1978, § 40-13-7.1 (2005) (providing  
7 for confidentiality of certain information obtained by medical personnel during treatment  
8 for domestic abuse); [~~Section 40-13-12~~] NMSA 1978, § 40-13-12 (2008) (providing for  
9 limits on internet disclosure of certain information in domestic violence cases); [~~Section~~  
10 ~~44-7A-18~~] NMSA 1978, § 44-7A-18 (2001) (providing for [~~limitations~~] limits on  
11 disclosure of certain information under the Uniform Arbitration Act). However,  
12 Paragraph C does not contemplate the automatic sealing of [~~such~~] these items. Instead, if  
13 a party believes a particular statutory provision warrants sealing a particular court record,  
14 the party may file a motion to seal under Paragraph E of this rule. [~~And any~~] Any  
15 statutory confidentiality provision notwithstanding, the court must still engage in the  
16 balancing test set forth in Subparagraph [~~(1) of Paragraph G~~] (G)(1) of this rule before  
17 deciding whether to seal any particular court record. When determining whether a motion  
18 to seal should be granted, the court should consider any statute, regulation, rule, or other  
19 source of law that addresses access to court records in the particular type of

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1 proceeding. *See, e.g.*, NMSA 1978, §§ 45-5-303(J), 45-5-407(M) (2019) (providing that a  
2 court may seal the record in a guardianship or conservatorship proceeding [~~upon~~] on  
3 motion of the alleged incapacitated person, individual subject to guardianship or  
4 conservatorship, or parent or guardian of a minor subject to conservatorship after the  
5 petition has been dismissed or the guardianship or conservatorship has been terminated).

6 Paragraph D of this rule recognizes that certain personal identifier information  
7 often included within court records may pose the risk of identity theft and other misuse.  
8 Accordingly, Paragraph D discourages the inclusion of protected personal identifier  
9 information in a court record unless the court or a party deems its inclusion necessary for  
10 the effective operation of the court's judicial function. Although the decision to include  
11 protected personal identifier information in the court record is a non-sanctionable  
12 decision, the rule nonetheless prohibits public access to protected personal identifier  
13 information on court [~~web sites~~] websites and also prohibits the court from publicly  
14 displaying protected personal identifier information in the courthouse, which [~~would~~  
15 ~~include~~] includes docket call sheets, court calendars, or similar material intended for  
16 public viewing.

17 The court need not review individual documents filed with the court to ensure  
18 compliance with this requirement, and the clerk may not refuse to accept for filing any  
19 document that does not comply with the requirements of Paragraph D. Moreover, the  
20 clerk is not required to screen court records released to the public to prevent the

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1 disclosure of protected personal identifier information. However, anyone requesting  
2 public access to court records shall provide the court with his or her name, address, and  
3 telephone number, along with a government-issued form of identification or other  
4 acceptable form of identification. The court may also consider maintaining a log of this  
5 information.

6 Paragraphs E and F set forth the procedure for requesting the sealing of a court  
7 record. Any person or entity may file a motion to seal a court record, and all parties to the  
8 action in which the court record was filed, or is to be filed, must be served with a copy of  
9 the motion. Any person or entity may file a response to the motion to seal the court  
10 record, but, if the person or entity filing the response is not a party to the underlying  
11 litigation, that person or entity does not become a party to the proceedings for any other  
12 purpose.

13 Ordinarily, the party seeking to seal a court record must lodge it with the court at  
14 the time ~~[that]~~ the motion is filed. A lodged court record is only temporarily deposited  
15 with the court, pending the court's ruling on the motion. Accordingly, a lodged court  
16 record is not filed by the clerk and remains conditionally sealed until the court rules on  
17 the motion. To protect the lodged court record from disclosure, pending the court's ruling  
18 on the motion, the movant ~~[is required to]~~ must enclose the lodged court record in an  
19 envelope or other appropriate container, and must attach a cover sheet to the envelope or



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1 container that includes the case caption, notes that the enclosed court record is the subject  
2 of a pending motion to seal, and is clearly labeled “conditionally under seal.” If necessary  
3 to prevent disclosure pending the court’s ruling, the motion, any response or reply, and  
4 other supporting documents should either be lodged with the court as well, or filed in  
5 redacted and unredacted versions, so ~~that~~ the court may permit public access to the  
6 redacted pleadings until the court rules on the motion.

7         Although a lodged court record is not officially filed with the court, unless and  
8 until the motion to seal is granted, the clerk need not keep lodged court records in a  
9 physically separate location from the rest of the court file. In this regard, the rule does not  
10 purport to require the clerk to maintain lodged court records in any particular manner or  
11 location. As long as the lodged record is protected from public disclosure, each court  
12 retains the discretion to decide for itself how it will store lodged court records, and this  
13 rule anticipates that most courts will choose to store and protect lodged and sealed court  
14 records in the same way that those courts have traditionally stored and protected sealed  
15 and conditionally sealed court records filed with the court before the adoption of this rule.

16         When docketing a motion to seal, the clerk’s docket entry should be part of the  
17 publicly available register of actions, and should reflect that a motion to seal was filed,  
18 the date of filing, and the name of the person or entity filing the motion. However, any  
19 docket entries related to the motion to seal should avoid including detail that would  
20 disclose the substance of the conditionally sealed material before the court has ruled. If

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1 necessary to prevent disclosure, in rare cases, a court order granting a motion to seal may  
2 provide for the sealing of previous or future docket entries related to the sealed court  
3 records [~~provided that~~] if the court’s register of actions contains, at a minimum, a docket  
4 entry containing the docket number, an alias docket entry or case name, such as Sealed  
5 Pleading or In the Matter of a Sealed Case, and an entry indicating that the pleading or  
6 case has been sealed so that anyone inspecting the court’s docket will know of its  
7 existence.

8       If the court denies the motion to seal, the clerk will return the lodged court record  
9 to the party[~~s~~]; it will not become part of the case file, and will, therefore, not be subject  
10 to public access. However, even if the court denies the motion, the movant still may  
11 decide to file the previously lodged court record, but it then will be subject to public  
12 access. If the court grants the motion to seal, it must enter an order in accordance with the  
13 requirements of Paragraph G. The order must state the facts supporting the court’s  
14 decision to seal the court record and must identify an overriding interest that overcomes  
15 the public’s right to public access to the court record and that supports the need for  
16 sealing. The rule itself does not identify what would constitute an overriding interest, but  
17 anticipates that what constitutes an overriding interest will depend on the facts of the case  
18 and will be developed through case law on a case by case basis. The rule further provides  
19 that the sealing of the court record must be narrowly tailored and that there must not be a

1 less restrictive alternative for achieving the overriding interest. To that end, the rule  
2 encourages the court to consider partial redactions [~~whenever~~] if possible rather than the  
3 wholesale sealing of pages, documents, or court files. Paragraph G also requires the court  
4 to specify whether any other matter beyond the court record (~~such as~~) including the order  
5 itself, the register of actions, or docket entries) will be sealed to prevent disclosure. The  
6 sealing order also must specify who may, and may not, have access to a sealed court  
7 record, which may include prohibiting access to certain parties or court personnel. In  
8 addition, the sealing order must specify a date or event [~~upon~~] on which the order expires,  
9 or provide that the sealing remains in effect until further order of the court. Finally, the  
10 order must list those persons or entities who must be given notice of any subsequently  
11 filed motion to unseal the court record or modify the sealing order.

12 Any court records sealed under the provisions of this rule remain sealed even if  
13 subsequently forwarded to the appellate court as part of the record on appeal. However,  
14 sealed court records forwarded to the appellate court as part of the record on appeal may  
15 be reviewed by the appellate court judges and staff unless otherwise ordered by the  
16 appellate court. Any other motions requesting modification to a sealing order in a case on  
17 appeal must be filed with the appellate court.

18 Motions to unseal previously sealed court records are governed by Paragraph I of  
19 this rule. A party or any member of the public may move to unseal a court record, and the  
20 rule does not provide a time limit for filing a motion to unseal a court record. Motions to

1 unseal follow the same general procedures and standards used for motions to seal. When  
2 determining whether a motion to unseal should be granted, the court should consider any  
3 statute, regulation, rule, or other source of law that addresses access to court records in  
4 the particular type of proceeding. *See, e.g.*, NMSA 1978, §§ 45-5-303(K), 45-5-407(N)  
5 (2019) (“A person not otherwise entitled to access court records . . . for good cause may  
6 petition the court for access to court records of the [guardianship or conservatorship]. The  
7 court shall grant access if access is in the best interest of the alleged incapacitated person  
8 or [the protected person or protected person subject to conservatorship] or furthers the  
9 public interest and does not endanger the welfare or financial interests of the alleged  
10 incapacitated person or [the protected person or individual].”).

11 A copy of a motion to unseal must be served on all persons and entities identified  
12 in the sealing order as entitled to receive notice of a future motion to unseal.

13 Although most court records should remain available for public access, [~~when~~] if  
14 a court record is sealed under this rule, all persons and entities who do have access to the  
15 sealed material must act in good faith to avoid the disclosure of information the court has  
16 ordered sealed. [~~That said~~] Nonetheless, the protections provided by this rule should not  
17 be used to effect an unconstitutional prior restraint of free speech. But, in the absence of a  
18 conflict with a countervailing First Amendment principle that would permit disclosure,  
19 any knowing disclosure of information obtained from a court record sealed by the court

**DISTRICT COURT CIVIL  
RULE 1-079**

**Supreme Court Approved  
December 14, 2021**

1 may subject the offending person or entity to being held in contempt of court or other  
2 sanctions as deemed appropriate by the court.

3 [Adopted by Supreme Court Order No. 10-8300-004, for all court records filed on or after  
4 July 1, 2010; as amended by Supreme Court Order No. 11-8300-006, effective for all  
5 court records filed, lodged, publicly displayed in the courthouse, or posted on publicly  
6 accessible court [~~web sites~~] websites on or after February 7, 2011; as provisionally  
7 amended by Supreme Court Order No. 16-8300-003, effective for all cases pending or  
8 filed on or after May 18, 2016; as amended by Supreme Court Order No. 17-8300-002,  
9 effective for all cases pending or filed on or after March 31, 2017; as amended by  
10 Supreme Court Order No. 18-8300-005, effective for all cases filed, or pending, but not  
11 adjudicated, on or after July 1, 2018, and for motions to seal or unseal filed in all cases on  
12 or after July 1, 2018; as provisionally amended by Supreme Court Order No. 21-8300-  
13 033, effective for all cases pending or filed on after January 28, 2022.]