ADMINISTRATIVE OFFICE OF THE COURTS
STATE OF NEW JERSEY

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Directive # 06-10

TO: **Hon. Edwin H. Stern, P.J.A.D.**
Assignment Judges
Hon. Patrick DeAlmeida, P.J.T.C.
AOC Directors and Assistant Directors
Clerks of Court
Directors, Dedicated Funds Units
Trial Court Administrators

FROM: **Glenn A. Grant, J.A.D.**

SUBJECT: **New Jersey Judiciary Procedures for Appealing a Denial of Public Access to a Court Record or Administrative Record—Rule 1:38-10(b)**

DATE: **July 23, 2010**

This Directive promulgates appeal procedures to be followed when a requester is denied access to a court record. Rule 1:38-10(b), "Determinations; Appeal Process," provides:

> Any person denied access to a court record or administrative record ... may seek review by the Administrative Director of the Courts under procedures established by the Supreme Court, except that an appeal regarding a municipal court record shall first be filed with the Trial Court Administrator of the appropriate vicinage. An appeal from the decision of the Administrative Director shall be filed in the Appellate Division in accordance with R.2:2-3(a)(2).

The Supreme Court approved these appeal procedures on June 15, 2010 on the recommendation of the Advisory Committee on Public Access to Court Records. The appeal procedures should be disseminated to your staff and to the Municipal

Courts and made available to the public at service counters. These appeal procedures also will be posted on the Judiciary Internet website.

When Directive #15-05 "Judiciary Open Records: Staff Guidelines" is revised in the near future, these appeal procedures will be incorporated.

Any questions concerning this memorandum may be directed to Special Assistant Francis W. Hoeber at 609-984-4557 or Administrative Specialist Pearl Ann Hendrix at 609-984-4565.

G.A.G.

Attachment

c: Chief Justice Stuart Rabner
Hon. Mary Catherine Cuff, P.J.A.D., Chair,
Advisory Committee on Public Access to Court Records
Meryl G. Nadler, Counsel to the Administrative Director
Gurpreet M. Singh, Chief, Judge Support Services
Pearl Ann Hendrix, Administrative Specialist
Steven D. Bonville, Special Assistant
Francis W. Hoeber, Special Assistant

NEW JERSEY JUDICIARY

Procedures for Appealing a Denial of Public Access to a Court Record or Administrative Record—Rule 1:38-10(b)

Approved by the Supreme Court on June 15, 2010
Promulgated by Directive #06-10 (July 23, 2010)

Rule 1:38-10(b) provides that "[a]ny person denied access to a court record or administrative record ... may seek review by the Administrative Director of the Courts... , except that an appeal regarding a municipal court record shall first be filed with the Trial Court Administrator of the appropriate vicinage. An appeal from the decision of the Administrative Director shall be filed in the Appellate Division in accordance with R.2:2-3(a)(2)."

The following procedures shall be followed for appealing a determination denying access to a court record or administrative record:

1. **Submitting record requests.** Requests for court records or administrative records to be inspected or copied shall be directed to the appropriate officers or designees within the respective court units as specified in Rule 1:38-10. Requests should be in writing so that there is no doubt as to what is being requested.

2. **Review of denial by Trial Court Administrator or Clerk of Court.** If a designee denies a request for a record, the requestor may ask to have the denial reviewed by the appropriate officer set forth in Rule 1:38-10. For example, if a Division Manager denies a request for a record, the requestor may ask to have the denial reviewed by the Trial Court Administrator. If a staff person in the Superior Court Clerk's Office denies a request for a record, the requestor may ask to have the denial reviewed by the Superior Court Clerk. Regardless of the office, whenever a request for a record is denied, the requester should be advised where an appeal may be filed.

3. **Statement of reasons for denial.** When an officer or designee denies access to a court record or administrative record, the officer or designee will, upon request, provide the requestor with a brief written statement of the reason for the denial.

4. **Where to submit an appeal of denial.** A requestor wishing to appeal a denial of a request for access to a court record or administrative record shall do so in writing. Appeals shall be directed to the Administrative Director of the Courts, Richard J. Hughes Justice Complex, 25 Market Street, P.O. Box 037, Trenton NJ 08625.

5. **When to submit an appeal.** Any appeal must be filed with the Administrative Director within 30 calendar days following the denial of access to the record.

6. **Contents of appeal.** The appeal should include a copy of the requestor's original request for access to the record, a copy of any letter or other document denying access and the requestor's statement as to why the denial of access was inappropriate. If the denial was not in writing, the requestor filing the appeal shall describe when, how and by whom access was denied, and any reasons given.

7. **Administrative Director's receipt of appeal.** Upon receipt of the appeal, the Administrative Director will provide a copy of the appeal to the Judiciary unit that denied the request for access to the record. If a written explanation of the denial has not been previously provided, the Administrative Director may also request that the officer or designee within the respective court unit explain in writing the reasons for denying the request for access to the record.

8. **Administrative Director's action.** After receiving the officer or designee's written statement, the Administrative Director may either (a) rule on the appeal immediately, in writing, or (b) refer the matter to the Advisory Committee on Public Access to Court Records appointed by the Administrative Director.

9. **Referral to Advisory Committee.** If the appeal is referred to the Advisory Committee, the Committee will, within 30 days of receiving the referral, provide the Administrative Director with a written opinion as to the merits of the appeal.

10. **Advisory Committee recommendation.** The Administrative Director shall consider the opinion of the Advisory Committee and may adopt, modify or reject the opinion.

11. **Administrative Director's ruling.** The Administrative Director shall provide the requestor with a written ruling on the appeal. Whenever possible, the ruling should be issued within 45 days of the Administrative Director's receipt of the appeal.

12. **Appeal of denial to Municipal Court records.** An appeal of a denial of a request for access to a municipal court record shall first be directed to the Trial Court Administrator of the vicinage in which the municipal court is located, following the procedures set forth in paragraphs 4 to 8, above. The Trial Court Administrator shall rule on the appeal, in writing, within 15 days of the receipt of the appeal. The Trial Court Administrator's ruling may, in turn, be appealed to the Administrative Director in the same manner as any other denial of access.

13. **Appeal to Appellate Division.** An appeal from the decision of the Administrative Director shall be filed in the Appellate Division in accordance with R.2:2-3(a)(2).