Before the Presiding Judges of the Administrative Judicial Regions

Per Curiam Rule 12 Decision

APPEAL NO.: 26-013

RESPONDENT: Office of Court Administration

DATE: June 22, 2026

SPECIAL COMMITTEE: Judge David Evans, Chair; Judge Ray Wheless; Judge Sid Harle; Judge Missy Medary; Judge Ana Estevez

On February 17, 2026, someone ostensibly affiliated with Petitioner's investigation team (the "Team Member") submitted to Respondent a list of questions regarding its 2025 Guardianship Abuse, Fraud, and Exploitation Deterrence Program (GAFEDP) report. Petitioner also requested the following:

1. "180-day self-reports and follow-up audits for the 22 counties that were completed this year."
2. "The individualized initial compliance reports related to the 249 counties audited."
3. "[C]ase number, county, and all related reports for the nine 'Well-Being Concerns' on page 11 [of the report]."
4. "[C]ase numbers, county, and all related reports for cases represented in Figures 3 & 4 in page 13 [of the report]."
5. "In addition to all related reports, [the] case numbers, county, and resolution status for all 'special cases.'"
6. "In addition to all related reports, [the] case numbers, county, and resolution status for all 'immediate attention cases.'"
7. "[I]dentify the 10 worst counties as the opposite of the graph shown by Figure 6 on page 15 [of the report]."

Respondent alerted the Team Member that some of the materials requested would need to be disclosed at a later date, as permitted by Rule 12.6(b)(2). Then, on March 12, Respondent wrote the Team Member to inform it that certain categories of the records requested would be withheld, including request Item 1, Item 2, and "all related reports" in Items 3, 4, 5, and 6. Respondent explained to the Team Member that the withheld records were not "judicial records" as defined by Rule 12.2 because they either related to guardianship cases that are or had been before courts with probate jurisdiction or related to processes and procedures of probate courts' oversight of guardianship cases adjudicated by the courts. Because the "self-reports, follow-up audits, and initial compliance reports all pertain to the adjudicative functions of the courts and the internal procedures for overseeing the guardianship of wards by the courts," Respondent explained to the Team Member, the records "are adjudicative records, not judicial records . . . subject to Rule 12." Respondent also raised Rule 12.5 exemption claims in connection with the withheld records and

informed the Team Member that it could file a Rule 12 appeal regarding the withheld records.

On April 3, 2026, Respondent disclosed to Petitioner a document answering its questions as well as responsive records not addressed by Respondent's March 12 reply. Respondent notified Petitioner that the disclosed records contained redactions and that some information was withheld entirely because its disclosure "would jeopardize the security of OCA's systems and training materials." Other training materials were withheld or redacted because they were the property of third parties, including copyrighted materials. In a follow-up message, the Team Member asked Respondent to confirm if May 1 was the "appeal deadline . . . for all portions of [the] request." Respondent replied that there were two denials of access made — one on March 12 and one on April 3 —and that the Rule 12.9 deadline for filing a petition for review for a denial of access "would be no later than 30 days after each notice of denial of access." In a message sent on April 8, which included Petitioner's email address on the carbon copy line of the email, the Team Member stated it had received Respondent's "summary" of Rule 12 on March 12 but did not consider it responsive to the requests raised. Thereafter, Respondent pointed the Team Member back to the March 12 email, which included information on filing a petition for the withholding of records at issue. By letter dated and postmarked April 10, Petitioner filed an appeal "to clarify the application of [the] Rule 12 appeal timeline within OCA" and "seek[ing] . . . clarification on appeal deadlines." In its letter, Petitioner contended that, although it had received Respondent's March 12 denial of access letter, Petitioner and its volunteer team believed "the first and only true disclosure from [Respondent] . . . was received on 4/3/2026 and that the only appropriate and good-faith deadline for appealing in total or any portion of [Respondent's] responses is protected until 5/3/2026 under Rule 12." Petitioner outlined the requests its team had sent to Respondent, challenged Respondent's suggestion that there were two appeal deadlines, and argued that "the only good-faith reasonable appeal deadline" for the February 17 request *en toto* was May 3, 2026. Petitioner further argued that Respondent's bifurcated disclosure would require the tracking of multiple appeals, which would create duplicate appeals that would be burdensome and confusing for all concerned parties.

In reply to the petition, Respondent first questioned whether the appeal was proper, arguing that the Petitioner was "at best" an "interested bystander" because it neither submitted the original request nor was copied on it and first engaged the request in filing the appeal. Respondent then contested Petitioner's appeals deadline construct, arguing that even though Respondent had informed Petitioner that the records covered by the March 12 letter were judicial records, thereby placing them outside of Rule 12's scope, "[e]verything in the [March 12] notice is exactly what is required of a record custodian when denying access to requested judicial records in accordance with Rule 12.8(c)." Respondent further argued that Rule 12 did not apply to the "requested reports" covered by the March 12 denial of access letter because the reports "all pertain to, or relate to, the files and practices of courts in adjudicating guardianship cases." Respondent provided for our review an *in camera* sample from the records at issue in the March 12 denial of access as well as materials from the redacted documents provided to Petitioner in Respondent's April 3 limited disclosure and denial of access letter. In a follow-up message to Respondent's reply Petitioner raised several public policy reasons for disclosure of the records requested, but did not otherwise address Respondent's reply.

We first address Respondent's argument that the appeal is improper because the person

who filed the request for records is not the same as the one who filed the petition for review. In reviewing the emails exchanged between Respondent and Petitioner, we observe that although Petitioner does not appear on the original request it does appear in at least one communication exchange before the Petitioner filed the petition for review. Moreover, Petitioner states that the requests in issue were submitted by its "team" in response to the 2025 GAFEDP Annual Report. Because it appears that Petitioner's Team Member was acting in concert with Petitioner in the submission of requests and message exchanges, and in the spirit of Rule 12.1's liberal construction principle, we decline to accept Respondent's "bystander" invitation, which would pour out the petition for review without addressing the requests and the appeal.

Before proceeding with the substantive issues raised in the appeals, we address Petitioner's contention that May 3 is the "only appropriate and good-faith deadline for appealing in total or any portion of" its request and the timeliness of Petitioner's appeal. Rule 12.9 controls relief from the denial of access to judicial records and Rule 12.9(c) specifically addresses the timeline for seeking relief through a petition for review: "The petition must be filed not later than 30 days after the date that the petitioner receives notice of a denial of access to the judicial record." *See* Rule 12.9(c) (*Time for Filing*). Rule 12.8(c) (*Contents of Notice of Denial*) addresses the contents of a notice of denial: "A notice of denial must be in writing and must: (1) state the reason for the denial; (2) inform the person of the right to appeal provided by Rule 12.9; and (3) include the name and address of the Administrative Director of the Office of Court Administration." Respondent provided Petitioner a denial of access notice on March 12, which was received by Petitioner on March 12 and included the requisite elements necessary for a denial of access. *See* Rule 12 Dec. Nos. 19-010, 23-001. This made *March 12* the date that started the Rule 12.9(c) clock for determining petition timeliness for the records addressed in the March 12 denial notice.

Petitioner posits that, because it understood Respondent's March 12 letter to be a "summary" of Rule 12 rather than a denial of access notice — which by plain language and requisite elements it was — the "true" disclosure sparking the Rule 12.9 timeline began running on April 3. Petitioner's construction of Rule 12.9(c) directly conflicts with the rule's text and, if adopted, would contort the rule's language to say something other than what it says: that a petition for review must be filed within 30 days *after the date a petitioner receives notice of a denial of access* to requested records. We decline to alter the meaning of Rule 12.9(c) as proposed by Petitioner. In the instant appeal there are two denial of access notices and thus two Rule 12.9(c) timelines, rather than one later, unified timeline as suggested by Petitioner. Regardless, Petitioner filed a petition by mail postmarked April 10, which places it within the 30-day timeliness window for both the March 12 *and* April 3 denial of notice letters.

In the March 12 notice, Respondent informed Petitioner that because select records in question were not "judicial records" under Rule 12, those records would not be disclosed to Petitioner. In its reply to the petition, Respondent explained to the special committee that "OCA staff determined . . . that the . . . requested compliance reports, follow-up audits, and locations, case numbers and resolution status of specific guardianship cases were outside the scope of Rule 12 and were exempt from public disclosure" because they "all pertain to, or relate to, the files and practices of courts in adjudicating guardianship cases." The threshold issue in a Rule 12 appeal is whether the requested records are "judicial records" as defined by Rule 12.2(d). A "judicial record" subject to Rule 12 is one that is "made or maintained by or for a court or judicial agency in its

regular course of business *but not pertaining to its adjudicative function*, regardless of whether that function relates to a specific case. A record of any nature created, produced, or filed *in connection with any matter that is or has been before a court* is not a judicial record." (Emphasis added.) Rule 12.2(d). Respondent provided a records sample covered by the March 12 denial of access notice for our *in camera* review. Having analyzed the sample, we agree with Respondent that the records covered by the March 12 denial of access notice are not "judicial records" as contemplated by Rule 12.2(d) and are not subject to Rule 12. And because these records are not judicial records under Rule 12, we can neither grant the petition in whole or in part nor sustain the denial of access to these requested records. Accordingly, the petition as it relates to records covered by the March 12 denial of access notice is dismissed.

In its April 3 notice, Respondent disclosed over 200 pages of records but also withheld certain records responsive to Petitioner's request that were not addressed by the March 12 notice. In the petition for review, Petitioner asks that the special committee "treat this [petition] as an appeal of any information not yet furnished." The special committee is unable to determine whether Petitioner is appealing the items withheld in the April 3 notice, a posture that stems from Petitioner's misunderstanding of Rule 12.9(c) and the dual filing deadlines present in this appeal. Rule 12 does not permit the special committee to preemptively anticipate and render a decision on future denials of access to records. *See* Rule 12.9(j) (*Decision*). Because the special committee is unable to determine whether the Petitioner is, in fact, appealing the April 3 withholdings, we grant Petitioner leave to clarify whether it is appealing the April 3 letter, and what withholdings it is appealing. Once clarity is provided to the special committee, the Respondent will have leave consistent with Rule 12.9(e) to respond to Petitioner's petition.

In sum, for the records covered by the March 12 denial of access notice, the petition is dismissed. And for the records covered by the April 3 denial of access notice, Petitioner is granted leave to clarify whether it is appealing the withholdings, and if it is, what withholdings it is challenging.