



NEW YORK STATE
Unified Court System

OFFICE OF COURT ADMINISTRATION

LAWRENCE K. MARKS
CHIEF ADMINISTRATIVE JUDGE

EILEEN D. MILLETT
COUNSEL

MEMORANDUM

To: All Interested Persons

From: Eileen D. Millett

Re: Request for Public Comment on Proposed Rule Amendment (22 NYCRR 124.3)
Relating to Periodic Update of FOIL Subject Matter List

Date: August 17, 2021

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The Administrative Board of the Courts is seeking public comment on a proposal to amend 22 NYCRR 124.3 so that it is consistent with the Public Officers Law. Under Public Officers Law 89(3), each New York State agency shall maintain a subject matter list of all records in its possession and post this list on its website in order to facilitate records requests under the Freedom of Information Law (FOIL). The Public Officers Law requires that the subject matter list be updated annually. In contrast, Section 124.3 of the Chief Administrative Judge's Rules (22 NYCRR 124.3) requires OCA's FOIL subject matter list to be updated "not less than twice per year."

OCA's Counsel's Office submits that the requirement in the Chief Administrative Judge's Rules to update twice per year is unnecessary and inconsistent with the statute. In order to comport with the statute, Counsel's Office proposes the following rule change (additions underlined, deletions in strikethrough):

Section 124.3 Subject matter list.

A reasonably detailed list, by subject matter, of all records in the possession of the Office of Court Administration, whether or not the records are subject to public inspection and copying pursuant to the Freedom of Information Law, shall be available for public inspection and copying at the business office of the records access officer. The subject matter list shall be updated annually~~not less than twice per year~~, and the date of the most recent revision shall be indicated on the first page of the list.

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Persons wishing to comment on the proposal should e-mail their submissions to rulecomments@nycourts.gov or write to: Eileen D. Millett, Esq., Counsel, Office of Court Administration, 25 Beaver Street, 11th Fl., New York, New York, 10004. Comments must be received no later than October 1, 2021.

All public comments will be treated as available for disclosure under the Freedom of Information Law and are subject to publication by the Office of Court Administration. Issuance of a proposal for public comment should not be interpreted as an endorsement of that proposal by the Unified Court System or the Office of Court Administration.