

ALL NEW

**Title 14 INDEPENDENT AGENCIES
Subtitle 18 STATE ARCHIVES**

Chapter 02 Records Retention and Disposition Schedules

Authority: State Government Article, §§9-1007 -- 9-1012; 10-632, Annotated Code of Maryland

.01 Purpose.

The purpose of these regulations is to:

- (1) Protect records considered essential to the continuing operation of government;
- (2) Guarantee the integrity and preservation of permanent records;
- (3) Ensure the legal admissibility of the permanent record;
- (4) Secure the rights and privileges of citizens;
- (5) Assure public access to the records of government;
- (6) Promote agency legal and fiscal accountability; and
- (7) Provide a means to document agency administrative history.

.02 Definitions.

A. In this chapter, the following terms have the meanings indicated.

B. Terms Defined.

- (1) "Agency" means any office, department, board, commission or other separate unit of Maryland government, including the executive, legislative, and judicial branches of government, and all political subdivisions.
- (2) "Appraisal" is the process of determining how long, in what format, and under what circumstances a record series ought to be preserved, based upon the information contained in the records inventory.
- (3) "Archives" means the Maryland State Archives.
- (4) "Custodian" means an officer or employee of the State or a political subdivision who, whether or not the officer or employee has physical custody and control of a public record, is responsible for keeping the public record.
- (5) "Division" means the Records Management Division of the Department of General Services.

(6) "Non-permanent Record" means a public record with temporary value which may be destroyed after the passage of a specified period of time.

(7) "Permanent Record" means a public record which is considered by law, statute, rule, agency personnel or the State Archivist to have ongoing administrative, fiscal, legal, historical, or other archival value.

(8) "Publication" means any informational material developed by or for an agency for general public dissemination.

(9) (a) "Record" means any documentary material in any form created or received by an agency in connection with the transaction of public business.

(b) "Record" includes:

- i. written materials, email, books, photographs, photocopies, publications, forms, microfilms, tapes, computerized records, maps, drawings, and other materials in any format;
- ii. Data generated, stored, received or communicated by electronic means for use by, or storage in, an information system or for transmission from one information system to another.

(10) "Records Inventory" means a survey of all records series maintained by an agency resulting in a detailed itemized compilation of the records in the possession of the agency. It is the first step in preparing a records retention and disposition schedule.

(11) "Records Officer" means any person or persons designated according to the provisions of this chapter whose responsibilities include the development and oversight of agency records management programs.

(12) "Record Series" means a set of similar records maintained in any form or format.

(13) "Schedule" means a records retention and disposition schedule which is an official document listing and describing all records of an agency, and providing:

(a) For the permanent retention of records considered by statute or the Archivist to be of permanent value; and

(b) For the destruction of records that are not essential to agency operations after the lapse of a stated period of time.

.03 Scope.

These regulations apply to all:

- (1) Agencies; and
- (2) Records.

.04 Agency Responsibilities.

A. Agencies shall:

- (1) Develop schedules;
- (2) Review and update their schedules at least once every 2 years;
- (3) Establish and maintain a records management program;
- (4) Provide copies of publications to Archives as soon after release to the public as is practicable;
- (5) Initiate appropriate action to recover records removed unlawfully or without authorization; and
- (6) Transfer to Archives permanent record material not needed for the current operation of the agency in accordance with procedures outlined in this regulation.

.05 Duties of Custodians, Public Officials and Employees.

A. It is the responsibility of all custodians, public officials and employees to:

- (1) Retain and protect all records in their custody;
- (2) Cooperate with Division and Archives in the establishment and maintenance of an active and continuous program for the economical and efficient management of records;
- (3) Ensure that agency records, including electronic records, are covered by a schedule, which shall outline procedures to ensure the retention and usability throughout the authorized lifecycle of the records.

B. No officer, employee, or contractor of any agency shall destroy, sell, or otherwise dispose of any record in such person's care or custody or under such person's control without first having followed the procedures under Regulation .07 of this chapter.

.06 Duties of Division and Archives.

A. The Division shall assist agency personnel in the development of schedules by providing guidance, templates, forms, and advice.

B. Upon request from an agency or the Division, the Archives will provide assistance in determining what records may be considered permanent.

C. The Division and Archives shall provide additional instruction and guidance on the scheduling process and records transfers on a website to be maintained by Archives:

http://www.msa.md.gov/msa/intromsa/html/record_mgmt/homepage.html

.07 Procedures.

A. Records Inventory.

- (1) Agencies shall submit to Division for review a records inventory for each record series.
- (2) For each record series in inventory, the following information is required:
 - (a) Name of the agency that created record;
 - (b) Record series title;
 - (c) Dates of the oldest and most recent records;
 - (d) Description of the types of information, data, or documents which includes:
 - (i) Physical form or forms, such as letter-size paper, legal-size paper, bound book, audio tape, electronic data, video tape, film, or other medium;
 - (ii) Total quantity of materials, stated in terms of number of units, such as cubic feet, reels of film, tapes, gigabytes of data;
 - (iii) Estimated annual growth;
 - (iv) Current location or locations;
 - (v) Index system used for access, if any;
 - (vi) Access restrictions, if any, based on laws or regulations (with citations); and
 - (vii) Audit requirements, if any.

B. Records Schedule.

- (1) A Schedule shall be prepared by:
 - (a) Inventorying the records;
 - (b) Appraising the records;
 - (c) Preparing the schedule;
 - (d) Obtaining legal authorization for use of the schedule from the State Archivist.
- (2) Schedules shall:
 - (a) Provide for periodic transfer to the Archives, at a stated frequency, of records designated to be of permanent value, including electronic records;

- (b) Provide for annual or more frequent transfer to the Archives of master security microform designated as permanent;
- (c) Designate agency publications as permanent and provide for copies to be sent to Archives;
- (d) Define any access restrictions that apply, give legal or regulatory citation for access restrictions, and note when or under what circumstances those restrictions will be lifted; and
- (e) Specify the length of time nonpermanent records will be kept in the agency or, if applicable, stored in a records center, or retained after required audit.

(3) Schedules containing new record series must be submitted to the Division with records inventories.

C. Legal Authorization and Implementation of Schedules.

(1) Before an agency submits to Division a proposed schedule, the schedule shall have been approved in writing by the agency director.

(2) Three signed copies of any proposed schedule and one copy of the records inventory accompanying each proposed schedule shall be submitted to Division for review.

(3) Proposed revisions made by Division and approved by agency shall be incorporated into proposed schedule and signed by the agency director.

(4) Division shall assign a control number (schedule number) and forward to Archives all three copies of proposed schedule (as amended or revised), and records inventory.

(5) Archives shall review proposed schedule and, if the State Archivist approves it as submitted, two copies signed by the State Archivist shall be returned to Division (one copy for transmittal to the agency). If the State Archivist disapproves the proposed schedule (in whole or in part), Archives shall return all copies to Division with a statement of reasons for disapproval. Division then shall ask the agency to modify the schedule and resubmit it to the State Archivist for approval.

(6) Until it has been approved in writing by the State Archivist, a schedule does not constitute legal authorization for the disposal of records.

(7) At any time, a schedule may be amended or revised by an agency, or at the request of Division or Archives. Reasons for amendments or revisions may include the creation of new record series, changes in record-keeping practices, changes in formats, or reorganization of an agency. To amend or revise a schedule, steps outlined in this chapter shall be followed.

.08 Form and Format.

Records designated by schedule as being permanent are to be considered permanent regardless of the form and format of the records, and whether or not a duplicate exists in some other form or format. All permanent records shall be scheduled for transfer to Archives.

.09 Custodian Designated.

Public officials charged with the statutory or delegated responsibility for administering an agency, and for creating, storing, and maintaining records shall be the custodian of such records. Upon transfer of any and all records to Archives, the State Archivist shall become the custodian.

.10 Appointment of Records Officers.

(A) Each agency shall designate at least one records officer to serve as liaison with Division and with Archives for the purpose of implementing and overseeing a records management program, and coordinating legal disposition, including destruction of obsolete records.

(B) Appointment of agency records officers shall be made by the head of each agency.

.11 Storage and Protection of Records.

A. All records shall be kept in facilities maintained by the agency responsible for the creation and maintenance of such records, unless the consent of Division is obtained for their transfer or storage elsewhere.

B. The public official responsible for maintaining an office or offices where records are created or kept shall establish such safeguards against damage, removal, or loss of records as may be required by Archives or Division. Such safeguards shall include notifying all employees of the requirements of this chapter.

.12 Delivery of Records to Successors.

The custodian of records shall, at the expiration of the custodian's term of office, appointment, or employment, deliver custody and control of all records kept or received in the transaction of official business to the custodian's successor, supervisor, or records officer, or to Archives.

.13 Transfer of Records upon Termination of Agencies.

(A) All records which are in or shall come into the possession of any agency shall, upon termination of such agency, be transferred to the custody of Archives, provided that such transfer is consistent with the provision of any such termination.

(B) All records which are in or shall come into the possession of any political subdivision of this State shall, upon termination or revocation of the charter of such political subdivision, be transferred to the custody of Archives.

.14 Recovery of Record.

A. Public officials shall notify the Archives of any actual, impending or threatened unlawful removal, defacing, alteration, or destruction of records that shall come to the agency's attention.

B. The State Archivist may request the Attorney General to seek appropriate relief.

.15 Certificate of Records Destruction.

When nonpermanent records are destroyed in accordance with the terms of an approved schedule, the agency or Records Center shall submit a certificate of records destruction to the Archives. For each record series, the certificate shall contain:

- (1) Name of the agency that created the record;
- (2) Record series title;
- (3) Inclusive dates;
- (4) Schedule number(s), assigned by Division, authorizing destruction of record series as well as item number from Schedule;
- (5) Quantity of material;
- (6) Date of destruction;
- (7) Method of destruction; and
- (8) Signature of agency director, or the director of the Records Management Division of the Department of General Services or the State Archivist.

.16 Certified Copies.

Archives may issue certified copies of any records in its custody.

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