

Internal Operating Policy 36-06

Submitted by Director to the Georgia Public Defender Standards Council: 08/25/2006

Approved by Standards Council: 08/25/2006

Effective: 08/25/2006

Authority: O.C.G.A. § 17-12-5(c) (2)¹

Subject: Records Retention Policy

The following is the Standards Council's policy on the retention of client files and agency records:

Purpose

The purpose of this policy is to establish a formal retention schedule for records and court records and for the proper means of destruction of these records. The first part of this policy deals with client files. The latter part of this policy contains a retention schedule for records generated during the course of business of the Georgia Public Defender Standards Council.

Definitions

Records include all documents, papers, letters, maps, books (except books in formally organized libraries), microfilm, magnetic tape, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in performance of functions by any agency.

Court records include all documents, papers, letters, maps, books (except books formally organized in libraries), microfilm, magnetic tape, or other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or, in the necessary performance of any judicial function, created or received by an official of the Supreme Court, Court of Appeals, and any superior, state, juvenile, probate, or magistrate court. "Court record" includes records of the offices of the judge, clerk, prosecuting attorney, public defender, court reporter, or any employee of the court. [O.C.G.A. § 50-18-91]

Retention means the designated period of time following the closing of the matter (active to inactive status) but before final disposition.

¹ O.C.G.A. § 17-12-5 (c) (2) provides as follows: "(c) The director shall...(2) Develop such rules, policies, procedures, regulations, and standards as may be necessary to carry out the provisions of this chapter and comply with all applicable laws, standards, and regulations, and submit these to the council for approval".

Disposition means the final action taken during the life cycle of the record; one of the following actions:

1. destruction;
2. transfer to vital record;
3. release to the client;
4. release to other agency (such as another lawyer or law firm); and
5. permanent retention.

I. Case Files

First, the client should be made aware in the initial agreement what will happen to client documents and client files, and under what circumstances. Second, the policy should provide the person responsible for closing out a file clear guidance on what information should be kept and what information may be discarded. Finally, the policy should specify the length of time the remaining material will be kept, as well as where materials will be stored.²

The attorney should set out, in writing, a detailed explanation for the client of the disposition of any documents in the case before those documents are created. If the documents are needed only as reference material, the documents should be photocopied, and the copies can be placed in the file. The originals may be returned to the client.

Once the file is closed, at the discretion of the lawyer, the file can be culled of unnecessary material:

- (1) Legal memoranda, briefs, pleadings, agreements, and other original or signed documents need be kept only in final (not draft) form;
- (2) Notes and memoranda recording nonpublic information regarding a client or its adversary can be destroyed;
- (3) Copies of published opinions and other available published material can be destroyed;
- (4) Duplicates can be destroyed;
- (5) Consider retaining only the first draft and final copy of other documents. However, marked-up copies are often useful in the event questions later arise;
- (6) Consider removing depositions; and
- (7) Remove extraneous material such as scratch pads, legal pads, and paper clips.

² Terri Olson, "Developing a File Retention Policy for Your Firm," Law Practice Management Program (Georgia State Bar website).

After the culling has taken place, the stripped-down version of the file should then be analyzed document-by-document. Documents will either belong to the attorney or to the agency, or to the client. Any documents in the file that belong to the client (such as client-provided tax records, expense statements, bank records, trust documents, etc.) should be returned. When a document has been returned to the client, the Standards Council should get a receipt, so that there can be no dispute later about whether it was retained or returned.

If the attorney cannot locate the client to return the documents, then the attorney has an ethical duty to retain important documents permanently if, for some reason, they cannot be returned to the client. Such documents include recorded deeds; accountants' audit reports; tax returns (including all related documents and worksheets); year-end financial statements and depreciation schedules; and other financial documents.

A final and useful step is for the attorney to distinguish opinions and research items that might be re-used for similar cases in the future, and for those items to be copied and stored in a centralized "reference files" available to all attorneys.

The inactive files should be removed to a centralized "closed file" location.

In no circumstances should a closed file be destroyed before the statute of limitations has run. A closed file in a criminal case may be destroyed at a minimum of 5 years after the entire sentence is completed.

Before disposing of the case file, the attorney should review the contents to ensure that no document was misfiled.

Destruction of Files

Several methods are acceptable for destruction of client files. Destruction should be accomplished by shredding, pulping, or any other method that destroys media beyond reconstruction in an environmentally sound manner. The person or service performing the destruction should certify, on the authorization form, the date, location, and method used.

Before a case file is to be destroyed, the following notice should be sent to the client:

NOTICE REGARDING FILE DESTRUCTION

[Date]

As you know from our initial contact, we hold all the file information pertaining to your matter for a minimum period of 5 years following the conclusion of your case.

At the expiration of that period, all material in the file may be destroyed according to the Georgia Public Defender Standards Council policy. Your file has been marked for destruction. If you would like a copy of any or all of the material

in the case file before it is destroyed, please contact our office before _____ to make arrangements. You will be charged a nominal fee for copying costs.

If a case file should not be destroyed, then the attorney should place the following notice on the file:

NOTICE THAT FILE SHOULD NOT BE CLOSED

TO:

FROM: Attorney _____

RE: [Matter]

DO NOT MARK THIS FILE CLOSED OR RETURN OR DESTROY ANY MATERIAL IN THIS FILE.

II. Retention Schedule for GPDSC Records

(References: Secretary of State's 2005 Records Retention Schedule and the Records Retention Schedule adopted by the Judicial Council in 2004)

Accounting

Accounts Payable Files	Records documenting payments made by agency for services rendered or items purchased	5 years
Accounts Receivable Files	Records documenting monies owed to and collected by the agency	5 years
Bank Statements	Periodic computations of deposits and credits to a bank account	5 years
Cancelled Checks, Vouchers, and EFTs	Copies (or originals) of paid warrants	5 years
Cash Balances and Reconciliations	Records documenting cash balances, receipts and disbursements completed during the day	5 years
Collection Records	Records documenting an agency's efforts to collect unpaid accounts. Includes PeopleSoft collection reports.	5 years after account paid in full or deemed uncollectible

Contracts and Agreements	Records documenting services and products provided to an agency for a specified cost and period of time	Capital Improvements: 10 years after expiration; Other contracts: 7 years after contract expiration
Contracts, Employee	Service contracts between an individual and government agency	7 years after expiration
Credit Card Administration Records	Records documenting administration of credit cards issued to individual agency staff or offices	7 years
Deposit Slips and Reconciliations	Documents recording transactions in a bank account	6 years
Federal and State Grant Project Files, Non-Education Agencies	Records documenting federal and state-funded grant projects	3 years after submission of final financial report
General Ledger and Trial Balances	Record of final entry for all financial transactions	7 years
Invoices	Records requesting payment for goods and services provided to an agency	5 years
Journal Entries (Journal Vouchers)	Adjustments to financial accounts	5 years
Outstanding Obligations	Documents the unpaid accounts of an agency	5 years
Payment Schedules	Schedules of the deferred payment of goods, equipment, and services	5 years
Professional Membership Records	Records documenting agency-paid individual memberships and activities in professional organizations	5 years
Purchase Orders	Approvals for the purchase of supplies and equipment	5 years
Receipts	Documentation of monies collected	5 years
Reconciliations	Periodic reconciliations of accounts within operating and general ledgers	5 years
Refund/Disbursement Requests	Records documenting requests and disbursements made for overpayment of funds	4 years
Returned Checks	Records documenting attempts to collect monies for non-negotiable (usually insufficient funds) checks received for payment to agency accounts	5 years
Signature Authorizations	Records documenting the certification of employees who are authorized to sign fiscal and contractual documents	7 years after authorization expires
Travel - Registration Fee Payments	Records documenting payment of registration fees which are not considered travel expenses	4 years
Travel Authorization and	Records documenting requests for authorization	3 years

Reimbursement Records from supervisors to travel on official business and related material, such as reimbursement of expenses and itineraries

Vouchers Individual transactions for the purchase of supplies and equipment 5 years

Administration

Administrative Rules Records Records documenting reviews and changes to administrative rules issued in compliance with O.C.G.A. 50-13-1 through 44 5 years after expiration

Agency Director's Files Records of the agency head, commissioner, or director that provide an overview of agency policy and program activities Permanent

Correspondence, General Correspondence related to day-to-day operations of the office 5 years

Correspondence, Fiscal Records documenting purchases, issuance of fiscal policy, or obligations and revenues 5 years

Crisis or Disaster Records Records documenting events and damages to agency property due to storms, riots, fires, drought, floods, and other acts affecting the citizens or agency facilities; may include photos, logs, reports, notes and correspondence 5 years

Federal and State Grant Reports Final narrative summary submitted according to grant requirements of the funding agency Permanent

Legal Reference Materials Opinions (both formal and informal), recommendations, and correspondence to the agency from the Attorney General or other legal counsel that is not part of a legal case file Permanent

Minutes and Agenda Official record of agency meetings and the decisions made Permanent

Periodic Reports Annual and other periodic narrative reports that describe agency functions and activities Permanent. Retain 1 copy. Destroy all others when no longer useful.

Printing Service Files Include printing requests, cost estimates, mock-ups, proofs, and printing plates 1 year after superseded

Publications Newsletters, handbooks, pamphlets, and brochures published by an agency Permanent. Retain 1 copy

Speeches Records relating to public speaking engagements of agency officials Permanent

Administrative Support

Email Messages	Text documents which are created, stored, and delivered in an electronic format; email is the communication tool, equivalent to paper, microfilm, etc. in status; retention of email is decided by the CONTENT not format of the record	Transitory; Administrative Support; or Policy and Program
Emails, Administrative Support	Messages of a facilitative nature created or received in the course of administering programs; examples - correspondence, daily/weekly activity reports, appointments	Identify functional content (financial, administrative, etc.) and consult relevant common schedules
Emails, Policy and Program	Messages documenting the formulation and adoption of policies and procedures and the management of agency programs or functions; examples - case file management, constituent correspondence, periodic reports, budget documents	Identify functional content (financial, administrative, etc.) and consult relevant common schedules
Emails, Transitory	Messages of short-term interest with no documentary or evidential value; examples - routine requests for publications; transmittal letters; agency event notices (holidays, parties, charitable campaigns)	Retain for useful life

Audit

Audit Reports (Agency Copies)	Reports prepared by the Department of Audits examining and verifying the agency's financial activities for a defined period of time; does not include the record copy maintained by the Department of Audits	5 years or two successive audits, whichever is longer
Audit Reports (Department of Audits)	Reports prepared by the Department of Audits examining and verifying the agency's financial activities for a defined period of time	Permanent
Internal Auditing Records	Records documenting the conduct of an internal review of agency financial accounts and processes	5 years or two successive audits, whichever is longer

Budgeting

Budget Maintenance Records	Records documenting changes made in the agency's initial budget including change requests, request authorizations, funds transfers, and other records	6 years
Budget Reports	Reports documenting the status of an agency's budget.	6 years

Budget Request Records	Records documenting the preparation of a budget request package and reporting of the status of funds, requesting amendments to allotments, and reporting program performance.	6 years
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Information Technology

Computer Inventory Records	Records documenting the assignment of a specific computer to an individual as well as an inventory of the software licensed for that computer; also may include IP address or mailbox assigned to the individual	4 years after computer removed from service or staff leaves agency
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Computer System Documentation	Hardware and software manuals and program coding	5 years and migration of all permanent records to new system
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Equipment and Network Usage Documentation	Policies and procedures for appropriate use of agency equipment and software	4 years after superseded
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Equipment Records	Include purchase orders, warranties, operation manuals and service contracts for all computer hardware and software	4 years after disposition of equipment
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Network and PC Password and Security Identifications	Records documenting the issuance or selection of a network password and the administration of security and monitoring of the agency's network	4 years
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System Architecture Documents and Wiring Schemas	Records documenting the location of wiring and the design of the overall agency network environment	3 years after obsolete or replaced
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Personnel

Accident Reports	Reports of employee accidents and injuries; may include worker's compensation claims	2 years
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Applications for Employment, Not Hired	Records documenting applications for job openings including interview notes and materials, transcripts, background surveys, correspondence, etc.	2 years
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Applications for Employment, Unsolicited or Incomplete	Records documenting applications for job openings	Retain for useful life
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Cafeteria Plan (Flexible Benefits) Records	Records documenting salary reduction-type plans authorized by the Internal Revenue Service	6 years after termination of participation
Continuation of Insurance Benefits (COBRA) Records	Records documenting individual election to continue insurance benefits beyond employment with an agency	3 years
Converted Personal Leave Requests	Records documenting converted personal leave requests	1 year after leave is used
Employee Handbooks	Guidelines created to explain the internal operations and procedures of the agency to a new employee	Permanent
Employee Medical Files, Toxic/Hazardous Substance Exposure	Documentation of employee exposure to hazardous materials	30 years after separation
Employee Parking Records	Records documenting employee parking permit applications, cards, and permits	5 years after expiration of permit
Employee Personnel Files - Permanent (Full-time) Staff	Records documenting an employee's work history with the agency, generally maintained as a case file; includes records of continuing education, performance evaluations, disciplinary actions, and background checks	7 years after separation
Employee Personnel Files - Temporary Staff	Records documenting the work of temporary staff that accrue no retirement benefits as part of their employment	6 years
Employee Retirement Plans (Employee Retirement System)	Copies of pension plans, both current and past, summarizing benefits and eligibility criteria	Permanent. Retain 1 copy
Employee Retirement Plans, Copies of	Copies of pension plans, both current and past, summarizing benefits and eligibility criteria	Retain for useful life
Employment Eligibility Verification Records	I-9 forms	3 years after date of hire or 1 year after separation, whichever is longer
Equal Employment Opportunity Commission (EEOC) Charges	Records documenting charges of discrimination filed against an agency	2 years or until final disposition of the charge or action
Equal Employment Opportunity Commission (EEOC) Reports	Reports classifying employees by race and gender that document compliance with EEOC rules	3 years
Family Medical Leave Case Files	Records documenting extended absence from work by an employee under provisions of the Family Medical Leave Act	3 years
Final Leave Status	Records documenting cumulative leave held by an individual employee	Place in personnel file after separation

Georgia Commission on Equal Opportunity (GCEO) Complaints	Records documenting charges of discrimination filed against an agency	2 years and disposition of charge or action
Group Insurance Policies, Expired	Group insurance policies- such as life, health, or workers' comp - held by an agency as part of the employee benefits program	10 years
Job Recruitment Materials	Records documenting efforts to advertise positions and attract qualified personnel	2 years
Leave Donation Records	Records documenting the donation of leave by employees to assist an individual who must be absent from work for an extended period of time due to illness	1 year after leave used
Leave Records	Records documenting hours worked, leave earned, and leave taken; does not include final leave status	5 years
Personnel Listing for State Government, Annual (Department of Audits)	Listing of name, position classification, and salary for each employee of state government	Permanent
Position Classification Materials	Records documenting job requirements, description, and salary range	4 years after position is reclassified
Training Records	Records documenting attendance and course content for continuing education training	7 years
Work Schedules	Records documenting employee's daily and weekly work schedules	4 years and settlement of all claims due
Workers' Compensation Claims, Closed	Records document employee accidents, injuries, and medical claims	5 years and settlement of all claims due
Worker's Permits	Permits to allow persons under 18 years old to obtain summer employment	2 years
Employee Assistance Program Case Files	Records documenting the referral and treatment of employees in an agency-sponsored assistance program	6 years after employee completes program
Employee Grievance Action Case Files, Resolved	Resolution of employee complaints against supervisor or other employees	2 years
<i>Payroll</i>		
Annual Payroll Earnings Reports	Summary of employees' payroll earnings for fiscal year, including deductions	50 years after tax year in which the records were created

Deduction Authorizations	Records documenting an individual employee's authorization to withhold taxes and other deductions from the employee's pay	5 years after deductions are changed
Deduction Records	Records documenting individual employee's authorization to withhold taxes and other deductions employees pay	5 years after end of fiscal year
Employee Retirement Contribution Reports	Documents relating to participation in an agency supported retirement program	6 years
Employee Salary Schedules (Georgia Merit System)	Records documenting pay scales and salary levels for all employees	Permanent
Garnishments	Records documenting the withholding of funds from an employee's wages at the request of the courts or a state agency	3 years after release from garnishment
Periodic Tax Reports	Records documenting taxable and non-taxable income of an agency	5 years
Salary and Wage Records	Pre-payroll reports, monthly payroll check registers, monthly fund distribution reports and payroll action forms	5 years after the end of the fiscal year
Unclaimed Pay Checks	Checks that remain unclaimed by employees	1 year
Unemployment Compensation Records	Documentation related to employee claims for unemployment compensation	5 years after end of the fiscal year in which the transaction occurred
Withholding Allowance Certificates (G-4 and W-4 forms)	Federal forms completed by an individual to establish the amount of taxes withheld from wages	5 years after superseded

Property

Blueprints and Specifications, As-Built	Plans and specifications maintained by an agency for its own facility. Used by facilities management to facilitate repairs and upgrades to the building.	Permanent
Blueprints and Specifications, Interim and Never Built	Plans and specifications submitted by architects and contractors; these are review documents only and do not constitute the final plans or specs for a facility.	7 years
Building/Grounds Maintenance, Remodeling and Repair Records	Documents the condition, upkeep, and routine maintenance on agency facilities and grounds	7 years

Depreciation Schedules	Records documenting useful life and depreciation of agency-owned equipment and property, usually for insurance purposes	4 years
Equipment Maintenance Records	Includes purchase orders, warranties, operating manuals, service contracts and service logs for maintenance of agency-owned equipment and vehicles	5 years
Facility Inspection Files and Reports	Records documenting inspection of facilities to comply with standards, rules, and codes affecting health and safety of the occupants; includes security and safety inspections	Building Age 0-8 years: 11 years. Building Age 9-up years: 3 years.
Facility/Building Security Records	Records document security measures and procedures	5 years
Fuel and Oil Usage Reports	Periodic reports of the consumption of diesel, gas, and oil in government-owned vehicles	3 years
Fuel Tax Reports	Periodic reports of taxable and non-taxable diesel fuel usage by government-owned vehicles	3 years
Insurance Fund Claims	Records documenting requests for payment of insurance claims from the Georgia Department of Administrative Services Risk Management Division	5 years after claim is paid or denied
Insurance Policies	Records documenting insurance purchase for agency facilities or of membership in risk management cooperatives	7 years after expiration of policy or membership
Inventories	Listings of agency-owned property and equipment	5 years after disposition of equipment
Leasing and Rental Records	Records documenting the leasing or renting of land, buildings, or facilities	7 years after expiration (or termination) of contract
Maintenance Work Orders	Records documenting routine maintenance on facilities and property	5 years
Property Disposition Requests (Surplus Property Records)	Documents requests for change in status of state-owned property	5 years
Receipts of Responsibility	Records documenting property temporarily in use or possession of an employee	Retain until return of item to property manager
Restricted Area/Access Authorization Identification Records	Documents the issuance of security/access badges to staff	5 years after employee separation from service
Space Planning/Design Management Project Files	Evaluation and design of space for government agencies	3 years after project completion
Utility Systems Operating and Maintenance Records	Records include equipment operations logs; mechanical reading charts; equipment maintenance histories	5 years after equipment is no longer in service

Vehicle Accident Reports	Records documenting damage to agency-owned vehicles	5 years
Vehicle and Equipment Maintenance Files	Records documenting service history, mileage, damage repair, routine preventative maintenance and disposition of agency vehicles	3 years after disposition of vehicle
Vehicle and Equipment Purchases	Records documenting the purchase of equipment and vehicles	5 years after disposition of equipment
Vehicle Permits/Security Identification Records	Records documenting the issuance of vehicle decals providing access to secure areas	2 years after expiration
Vehicle Title Records	Documents agency ownership of cars, vans, trucks, trailers, boards, tractors, etc.	Applications: Retain until receipt of title. Title: Retain for duration of ownership.
Vehicle Use Authorizations and Requests	Records documenting permission for employees to use their private automobiles for official business	5 years after superseded or obsolete

Record Management

Destruction Records	Records documenting the destruction of agency records	7 years
Inventories	Current listings of records created and maintained by an agency	5 years after disposition of records
Open Records Act Requests and Correspondence	Inquiries from members of the public requesting access to information under the Georgia Open Records Act (O.C.G.A. 50-18-70 et seq.)	7 years
Records Schedules, Reference Copies	Copies of approved agency records retention schedules	5 years after superseded
Records Transmittal Records	Records documenting the transfer of agency records into the custody of a records center facility	5 years after disposition of transferred records

Confidential Records

Any records, including email messages, designated confidential by law should be so treated in the maintenance, storage, and disposition of such confidential records. These records should be destroyed in such a manner that they cannot be read, interpreted, or reconstructed. [O.C.G.A. § 50-18-95 (b)]