

State of Florida

GENERAL RECORDS SCHEDULE GS10 FOR PUBLIC DEFENDERS



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Bureau of Archives and Records Management

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FOREWORD

This General Records Schedule is intended for use by Public Defenders office public records custodians. If you are unsure of your organizations status as a "public agency," as defined by Chapter 119, Florida Statutes, consult your legal counsel and/or the Florida's Attorney General's Office for a legal opinion.

For use along with this General Records Schedule is the General Records Schedule for State and Local Governments (GS1). This schedule contains the retention periods for most administrative, personnel, payroll, financial, and legal records. Unlike the specific General Records Schedules whose focus is specific program records, the GS1 is designed to be utilized by all public agencies; thus it contains the most common administrative records series. Items such as training records, OSHA records, and generic correspondence can be found in the GS1. Both the GS1 and all other General Records Schedules are available on the Department of State's Internet home page at "<http://www.dos.state.fl.us>." A paper copy or floppy disk can be received by faxing your request to (850) 488-1388, Attention: Receptionist, or call (850) 487-2180.

The retention periods reflected within the Bureau's general records schedules are based on a combination of federal and state laws, general administrative practices, and fiscal management principles. Please keep in mind that these are MINIMUM retention periods. Public agencies may maintain their records longer at their own discretion. In fact certain accreditation committees may have standards which require longer retention periods. Contact your accrediting organization for more information on their requirements. Remember that it is not permitted for a public agency to reduce the retention periods stated in a general records schedule.

For additional information on the retention and disposal of records, please read the introduction to this publication as well as "The Basics of Records Management Handbook."

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FLORIDA DEPARTMENT OF STATE GENERAL RECORDS SCHEDULE INSTRUCTIONS

GENERAL INFORMATION AND INSTRUCTIONS

I. STATUTORY AUTHORITY

This General Records Schedule is issued by the Department of State, Division of Library and Information Services, Bureau of Archives and Records Management, in accordance with the statutory provisions of Chapters 119 and 257, Florida Statutes.

Chapter 119, F.S., defines the terms "public record," "custodian," and "agency," as well as the fundamental process by which disposal of said records are authorized under law.

Chapter 257, F.S., establishes the Florida State Archives and Records Management Program under the direction of the Division of Library and Information Services, Department of State, as well as specifically provides for a system for the scheduling and disposal of public records. Chapter 257 also authorizes the Division to establish and coordinate standards, procedures, and techniques for efficient and economical record making and keeping. The appointment of an agency Records Management Liaison Officer (RMLO) is also mandated by this chapter.

II. DETERMINING RETENTION REQUIREMENTS

In determining the retention requirements of public records, four values must be considered to assure that the records will fulfill their reason for creation and maintenance. These values are administrative, legal, fiscal and historical. These four values have been evaluated in depth to determine the retention requirements of the records listed herein.

There are two particular financial factors which may impact the retention period of an agency's records.

- A. Audits - Audits are the means by which independent auditors examine and express an opinion on financial statements and, as applicable, report on public agencies compliance with laws, regulations, and internal controls.

There are various types of audits. Financial audits include (1) an examination of financial statements in order to express an opinion on the fairness with which they present financial position, results of operations, and changes in financial position in conformity with generally accepted accounting principles; (2) an examination to determine whether operations are properly conducted in accordance with legal and regulatory requirements; and (3) an examination of any additional financial information necessary to comply with generally accepted accounting principles. As applicable, the scope of the financial audit shall include any additional auditing activities necessary to comply with the term "financial statement audit" as defined and used in Government Auditing Standards (1994 Revision). Also as applicable, the scope of a financial audit shall encompass the additional activities necessary to establish compliance with the Single Audit Act Amendments of 1996, Public Law 104-156 (31 U.S.C.A. ss. 7501 to 7507); United States Office of Management and Budget (OMB) Circular A-133; and other applicable Federal law.

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Audits may be conducted by the Florida Auditor General, independent public accountants, or other state or federal auditors as well as grant funding agencies and national or statewide professional accreditation or certification groups. Performance audits examine the economy and efficiency and/or effectiveness of applicable programs, activities, or functions.

- B. Grants - Any public agency receiving local, state or federal grant money will need to familiarize themselves with grantor-agency requirements.

III. SCHEDULING AND DISPOSITION OF PUBLIC RECORDS

The procedures for scheduling and disposal of public records, applicable to all public agencies, consist of two separate but related actions:

- A. Establishing a Records Retention Schedule - A schedule describing the records and setting the retention period is required for each record series, or type, of record. This determines officially the minimum length of time that the record series must be retained.

- 1. General Records Schedules establish disposition standards for records common to several or all agencies of the State of Florida. The records covered by these schedules pertain to both the administrative and program functions of an agency. The General Records Schedule for State and Local Government (GS1) is applicable to administrative/financial/personnel records and may be used by any public agency in Florida. All other General Records Schedules are applicable to program records of specific functional organizations, such as tax collector's offices, hospitals, and educational institutions, each of which have unique retention requirements. These General Records Schedules have been designed to complement each other to cover as many administrative and program records as possible. For example: General Records Schedule GS7 will contain program records for Public Schools and General Records Schedule GS11 will contain records directly related to the Clerk of Court. The administrative/financial records for these two agencies will be contained in General Records Schedule GS 1.

REMEMBER: The retention period stated in the applicable schedule is the MINIMUM time a record is to be maintained. If two or more record series are filed together, the combined file must be retained through the longest retention period of those records.

A General Records Schedule reduces the need for the creation and submission of an individual Records Retention Schedule, Form LS5E105.

- 2. Individual Records Schedules are established when the agency submits a Records Retention Schedule, Form LS5E105, to the Division of Library and Information Services and receives approval from the Division. Once an official retention value has been established for a record series, records in the series are eligible for disposal action as they meet the retention requirements. The schedule remains effective until there is a change in series content or other factors are introduced which would affect the initial approved retention period, at which time a new individual records schedule should be submitted for approval.

- B. Obtaining Disposition Authorization - When records have met retention requirements established by a General Records Schedule or an individual agency retention schedule, an agency may initiate disposition action by submitting a Records Disposition Request, Form LS5E107, to the Division.

REMEMBER: Rule 1B-24.010(3), Florida Administrative Code, however, states that a record with a retention of 'obsolete, superseded or administrative value is lost' are not required to be submitted on a Records Disposition Request prior to disposal."

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The request, when approved by the Division, authorizes the disposition of the listed records. It also serves as a certificate of records destroyed when signed by an agency official. The request must be submitted and approved before actual disposition is carried out. The request assures that there is no premature destruction of records, or that records to be destroyed do not have an immediate or urgent value beyond the original retention period.

NOTE: It is in the best interests of each agency to consult the proper internal authorities, prior to submission of a Records Disposition Request, concerning the release and resolution of audits, the existence of pending litigation, and the date of the last relevant public records request.

Full instructions for disposal procedures and completing the Records Disposition Request, Form LS5E107, are contained in the Basics of Records Management handbook.

IV. FACTORS WHICH MAY INFLUENCE THE DISPOSITION OF RECORDS

- A. Litigation - When a public agency has been given notice that a potential cause of action is pending or underway, records related to that cause should NOT be disposed of in any manner regardless of prior approval by the Division of Library and Information Services, Florida Department of State. Your agency's legal counsel should inform the RMLO when the records become eligible for disposition.
- B. Public Records Requests - According to Section 119.07(2)(c), F.S., the custodian of a public record may not dispose of a record for a period of 30 days after the date on which a written request to inspect, examine, or copy the record was served on or otherwise made to the custodian. If a civil action is instituted within the 30-day period to enforce the provisions of this section, with respect to the requested record, the custodian shall not dispose of the record except by order of a court of competent jurisdiction after notice to all affected parties.
- C. Accreditation Standards - Some public agencies receive national or statewide accreditation or certification by professional societies, organizations, and associations. Examples may include the Joint Commission on the Accreditation of Health Care Facilities, the American Hospital Association, and the Commission on Office Laboratory Accreditation. In an effort to enhance the professionalism of their members, these groups may place heavier burdens on public agencies than those which are mandated under state or federal law. The Bureau of Archives and Records Management issues MINIMUM legal retention periods in its General Records Schedules. Agencies may choose to maintain their records for a longer period of time in order to meet accreditation standards. If, however, a professional society requires a shorter retention period than the Bureau, the General Records Schedule would prevail.
- D. Records in Support of Financial or Performance Audits - These records should be retained in accordance with the following guidelines:

Records for a fiscal year should be retained for three years from the date that the last federal, state, or local government expenditure report for the applicable fiscal year is due. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later.

Records for a fiscal year which do not relate to federal, state, or local government grants should be retained for three years from the end of the fiscal year audited. If any litigation, claim, negotiation, audit, or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the 3-year period, whichever is later.

V. RECORDS MANAGEMENT STANDARDS AND REQUIREMENTS

- A. Electronic Record keeping is defined in Rule 1B.26.003, Florida Administrative Code. These rules provide standards for public records which have a retention value of more than ten (10) years which will be recorded or stored on electronic media. Public records are those as defined by Section 119.011(1), Florida Statutes.
- B. Microfilm Standards are defined in Rule 1B.26.0021, Florida Administrative Code. The purpose of this rule is to provide standards for microfilming of public records to assure that the film, photography methods, processing, handling, and storage is in accordance with methods, procedures, and specifications designed to protect and preserve such records on microfilm.
- C. Media Copy Optional - The record copy may be reduced to microfilm, optical disk, or other media as long as the requirements of the rules of the Florida Administrative Code, Rule 1B.26.003 and 1B.26.0021 are met.

VI. DETERMINATION OF CLOSURE OR DISPOSITION OF CASE

A criminal case is deemed closed or disposed of when the case has been finally terminated in favor of all defendants, or upon conviction, adjudication is withheld or made and the Court loses jurisdiction to alter a lawful sentence under Rule 3.800, Rules of Criminal Procedure, or Section 948.06(1), Florida Statutes, if probation is granted, the case is closed or disposed of upon termination or expiration of probation.

VII. RECORDS VOLUME CONVERSION TO CUBIC FOOT MEASUREMENTS

Cassette Tapes (200)	1.0 cu. ft.
Letter-size, drawer or box	1.5 cu. ft.
Legal-size, drawer or box	2.0 cu. ft.
Letter-size, 36" shelf	2.0 cu. ft.
Legal-size, 36" shelf	2.5 cu. ft.
Magnetic Tapes (12)	1.0 cu. ft.
3 x 5 card, ten 12" rows	1.0 cu. ft.
3 x 5 card, five 25" rows	1.0 cu. ft.
4 x 6 card, six 12" rows	1.0 cu. ft.
5 x 8 card, four 12" rows	1.0 cu. ft.
Tab card, five 14" boxes	1.0 cu. ft.
Tab card, three 24" boxes	1.0 cu. ft.

APPEAL RECORDS

Item# 1

This record series consists of individual folders filed in numeric or chronologic-numeric order. They generally include duplicates of the Order of Insolvency and Appointing Counsel for Appeal, Notice of Appeal, Assignments of Error, Order Directing Court Reporter to Transcribe Testimony, Transcript of Record on Appeal, Briefs of Appellant and Appellee, Opinion or Mandate of Appellate Court, and office work products.

RETENTION:

- a) Record copy. 5 years after disposition of case.
- b) Duplicates. Retain until obsolete, superseded or administrative value is lost.

MENTAL HEALTH CASE FILES

Item# 2

This record series consists of intake forms, affidavits, petitions and some correspondence and medical records. Case files may also contain handwritten notes, working papers and other papers developed by the Public Defender and used in preparing the case. The Public Defender is appointed to represent indigent persons who are involuntarily hospitalized due to mental illness. There is a folder for each case and cases are numbered in a chronological fashion according to the date the Public Defender is appointed.

RETENTION:

- a) Record copy. 1 year after disposition of case.
- b) Duplicates. Retain until obsolete, superseded or administrative value is lost.

CRIMINAL INDEX CARDS

Item# 3

This record series consists of index cards filed in alphabetical order by defendant name and is used as a cross-reference to the numeric case file. They generally contain the name of defendant, offense, and other pertinent information relative to the case. This series also includes index cards to appellate cases.

RETENTION:

- a) Record copy. 5 years after disposition of case.
- b) Duplicates. Retain until obsolete, superseded or administrative value is lost.

CAPITOL FELONY CASE FILES

Item# 4

This record series consists of individual folders usually filed in either numeric or chronologic-numeric order. They generally include duplicates of some police and/or sheriff reports, motions, affidavits, witnesses' statements, criminal records of defendants and other supporting documents relative to the case. Case files also contain working papers developed by the Public Defender and used in preparing the case for defense. (This category includes applicable criminal traffic cases.)

RETENTION:

- a) Record copy. Retain until expiration of sentence.
- b) Duplicates. Retain until obsolete, superseded or administrative value is lost.

NON-CAPITOL FELONY CASE FILES: ADULT

Item# 5

This record series consists of individual folders usually filed in chronologic-numeric order. They generally include duplicates of some police and/or sheriff reports, motions, affidavits, witnesses' statements, criminal records of defendants, and other supporting documentation relative to the case. Case files also contain working papers, notes, and papers developed by the Public Defender and used in preparing the case for defense. (This category includes applicable criminal traffic cases.)

RETENTION:

- a) Record copy. 5 years after disposition of case or 1 year after expiration of sentence, whichever comes first.
- b) Duplicates. Retain until obsolete, superseded or administrative value is lost.

NON-FELONY CASE FILES: ADULT

Item#6

This record series consists of individual folders usually filed in either numeric or chronologic-numeric order. They generally include duplicates of some police and/or sheriff reports, motions, affidavits, witnesses' statements, criminal records of defendants, and other supporting documentation relative to the case. Case files also contain working papers, notes, and papers developed by the Public Defender and used in preparing the case for defense. (This category includes applicable criminal traffic cases.)

RETENTION:

- a) Record copy. 1 year after disposition of case.
- b) Duplicates. Retain until obsolete, superseded or administrative value is lost.

JUVENILE CASE FILES

Item#7

This record series consists of individual folders usually filed in either numeric or chronologic-numeric order. They generally include duplicates of some police and/or sheriff reports, motions, affidavits, witnesses' statements, criminal records of defendants, and other supporting documentation relative to the case. Case files also contain working papers, notes, and papers developed by the Public Defender and used in preparing the case for defense.

RETENTION:

- A) Record copy. 5 years after disposition of case or 1 year after expiration of sentence, whichever comes first.
- B) Duplicates. Retain until obsolete, superseded or administrative value is lost.