

## DHHS POLICIES AND PROCEDURES

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<b>Section IV:</b>	<b>General Administration</b>
<b>Title:</b>	<b>Record Retention</b>
<b>Current Effective Date:</b>	<b>8/1/02</b>
<b>Revision History:</b>	<b>8/1/02</b>
<b>Original Effective Date:</b>	<b>8/1/02</b>

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### **Purpose**

The purpose of this policy is to clarify the requirements for the retention and destruction of public records for the Department of Health and Human Services (DHHS). It is not intended to serve as authorization to destroy or otherwise dispose of unscheduled records nor is it intended to cover every possible situation in which decisions about the retention or destruction of records must occur. This policy is intended to complement the use of approved records retention and disposition schedules, not replace or supersede them. If a division lacks an approved records retention and disposition schedule, it may not destroy or otherwise dispose of any records in its custody, whether in electronic, paper, or other format (including electronic mail). Divisions/offices without an approved records retention and disposition schedule should contact the NC Government Records Branch of the Office of Archives and History for assistance in developing a program records schedule.

### **Policy**

It is the responsibility of each division director to ensure effective record retention management so that public records are not arbitrarily destroyed and that legal record keeping requirements are met. The division director may delegate the record retention function to an individual within the division who shall work in conjunction with the DHHS Office of the Controller and the Government Records Branch to establish retention schedules. Each division shall routinely evaluate its record retention schedules to ensure compliance with federal, state and departmental requirements. All staff who either generate and/or exercise control over records should be trained in basic record retention requirements.

*Caution:* Division personnel should be aware that there are **no** standard record retention time frames for federal grants. While most federal records require a three (3) year record retention, the start of this three (3) year period is usually based on the final grant expenditure report which normally occurs several months after the end of the federal grant year. It should also be noted that amended final expenditure reports restart the three (3) year period. Thus, pre-defined period of time (i.e. as of July 1, \_\_\_\_ ) cannot be used as a record disposition date. The DHHS Controller's Office maintains these critical dates and sends out semi-annual notification to divisions, local governmental and non-governmental entities regarding which fiscal year and which particular federal grant records may be purged. Similarly, audits also

suspend permission to dispose of records. Thus, close coordination with the DHHS Controller's Office is of paramount importance prior to any records being destroyed.

Chapters 121 and 132 of the General Statutes of North Carolina govern the retention and disposition of all records located in and/or maintained by all public offices, whether municipal, county, state government, or state-supported institutions of higher learning. According to these Chapters:

Public record or public records shall mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina or its subdivisions. Agency of North Carolina government or its subdivisions shall mean and include every public office, public officer or official (state or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the state or of any county, unit, special district or other political subdivision of government.

The NC Department of Cultural Resources, Office of Archives and History is required by law to grant consent to the destruction of all public records as well as select, preserve, and make available public records of lasting value regardless of their physical form or characteristics. The NC Division of Archives and History publishes a "General Schedule for State Agency Records" which addresses records common to most agencies. It may be viewed at <http://www.ah.dcr.state.nc.us/records/schedules/gsAmendment04.pdf>. All necessary forms mentioned below are also on this site. The NC Department of Cultural Resources, Division of Archives and History, also has the statutory responsibility to work with state agencies in developing workable schedules for the retention and disposition of records of all kinds and the economical and efficient management of public records.

## **Implementation**

The DHHS record retention function must include, but is not limited to the following types of activities:

1. Each division/office must have an officially designated person on record with the DHHS Controller's Officer to act as the Division's Record Retention Officer.
2. The DHHS Department's Record Retention Officer shall reside in the Office of the Controller.
3. All contracts/grant applications must include the requirement that records shall be maintained in accordance with department, state or federal retention policies, whichever is more restrictive, and that failure to do so could result in penalty assessments in accordance with law or possibly in the cancellation of the contract.

4. All contracts must include a provision allowing the department access to persons and records. The specific language for the provision can be found in the DHHS Contracts Manual.
5. All DHHS Record Retention Officers must be knowledgeable of current state and federal record retention policies.
6. Division record retention officers must maintain contact with DIRM regarding the long-term storage of documents. Consideration shall be given to cost-effective management of document storage needs and the use of alternative methods. Specific records will be permanently discarded by DIRM only upon receipt of a written authorization signed by the appropriate division director. The division shall obtain written approval from the DHHS Controller's Office prior to giving written authorization to discard such records.
7. Division record retention officers will maintain a permanent list of which record series their office have destroyed or transferred, the amount of linear inches disposed of for each item and the action date.

**Basic Components of the Records Retention Schedule Process:**

Each records retention and disposition schedule contains a description of the records maintained with instructions for their retention and disposition. The schedule specifies how long records must be kept and when records are to be destroyed or transferred. All schedules must be approved by: 1) the NC Secretary of the Department of Cultural Resources, 2) the NC Director of the Division of Historical Resources; and 3) the NC Records Officer for the Division submitting the schedule.

**Note:** In the event that a federal or state legal requirement or statute requires that a record be kept longer than specified in the retention schedule(s), the longer retention period shall be applied. In all circumstances, records shall be retained for the longest applicable period. All provisions of an approved schedule remain in effect until the schedule is officially amended or updated. Therefore, retention schedules shall be updated to reflect the longer period on a timely basis. Errors and omissions do not invalidate the schedule or render it obsolete. So long as the schedule remains in effect, destruction or disposal of records in accordance with its provisions shall be deemed to meet the provisions of G.S. §121-5(b).

**Changing the Schedule**

The NC Division Record Retention Officer may request an addition, deletion, or retention period change by completing and sending Form GRB-99S, Public Records Series Listing, to the Government Records Branch, Office of Archives and History. See the instructions on the form for more information.

**Destruction of Public Records**

Since the records of each state-funded office are public records, their destruction is regulated. Chapter 132-3 of the General Statutes of North Carolina provides, "No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. §121-5, without the consent of the NC Department of Cultural Resources." A division/office

may destroy records only on the basis of their approved records schedule (which only lists those records that are unique to their agency, whether the records are to be destroyed by the division/office or transferred to the NC State Records Center), the NC General Schedule for State Agency Records (which addresses records commonly found in agencies throughout state government) and/or the Standard Disposition Instructions for North Carolina Accounting System (NCAS) Reports (which provides disposition instructions for all printed reports generated by NCAS). Because the retention period specified in the schedule is mandatory, public records may not be destroyed prior to the time set forth in the schedule without specific approval of the NC Department of Cultural Resources. However, for sufficient reasons, especially ongoing or pending legal or other official action, records may be maintained for a longer period. At the conclusion of such official or legal action, however, the records should then be destroyed.

Divisions must destroy records in their custody after the retention periods in the appropriate schedules have been fulfilled, including all e-mail. However, coordination with the DHHS Controller's Office is mandatory since record retention requirements may have been extended due to amended federal expenditure reports, pending/open audits or litigation. No further approval from or reference to the NC Department of Cultural Resources is required. The Records Center staff will destroy records eligible for destruction at the NC State Records Center after receiving written authorization from the applicable division on a Notice of Destruction of Records Form (RC-23X). Prior to providing the records center with written authorization, written clearance from the DHHS Controller's Office for the reason stated above must be obtained. The NC State Records Center will only destroy records if they are specified in the division's retention schedule. The NC State Records Center will notify the division/office record retention officer when records are eligible for transfer or destruction. The records eligible for destruction will be listed on the NC Notice of Destruction of Records (Form RC-23X). Instructions for completion of the form are printed on the form.

Non-confidential records may be destroyed by placing them in the trash or recycling bins. Sensitive or confidential records eligible for destruction may be burned, shredded, or buried.

**Destruction of Original Records That Have Been Duplicated**

Original records that have been duplicated on microfilm, microfiche, or other form may be destroyed prior to the specified retention period and without specific approval from the NC Department of Cultural Resources, provided the following three (3) conditions are met:

1. The duplicate copy of the information contained in the original record is maintained for an approved specified time established in the records retention schedules approved by the NC Department of Cultural Resources.
2. The original records have not been scheduled for permanent preservation.
3. The proper officials have agreed to the destruction of the original records and the destruction is recorded in a permanent record such as a records destruction register.

**Early Disposal of Records**

Divisions desiring to dispose of public records earlier than specified in their schedule must request in writing the concurrence of the NC Department of Cultural Resources as required by G.S. §121-5. Written application should be made to the NC Government Records Branch, Office of Archives and History, Department of Cultural Resources, 4615 Mail Service Center, Raleigh, North Carolina 27699-4615. The request should include the title of the records, the inclusive dates of the records, the volume of the records expressed in inches, and the justification or reason for requesting the action. The request should include a statement certifying that the records have no further official use or administrative value to the office. All requests for disposal earlier than the specified division record retention schedule must be approved by the NC Record Retention Office in the Office of the Controller and must meet minimum state and federal retention requirements.

**Destruction of Electronic Mail, Machine Readable Records, and Computer Applications**

Video tapes, audio tapes and electronic data/word processing records (tapes, disks, input/output records, etc.) are public records and are governed by G.S. §121-5. Unless the record series recorded on the media listed above are specifically listed in a records retention and disposition schedule, they must not be erased/destroyed without the concurrence of the NC Department of Cultural Resources.

Many computer applications are operated by DIRM, but record ownership rests with the DHHS division/office creating the records. The division/office creating the records shall establish and maintain a schedule for records management which DIRM will execute. Any records owned by DIRM which are not addressed in the general schedule or DHHS operating division's/office's schedule must be included in the DIRM Records Retention Schedule. DIRM Client Account Representatives (CARs) will work with client agencies to assure compliance. Disposition of these records requires written authorization by the DHHS Division. It will be the division record retention officer's responsibility to obtain written authorization from the DHHS Controller's Office prior to authorizing the destruction of any records. Rotation, erasure and /or destruction of security backup computer media are authorized when done in compliance with guidelines provided by the Office of Archives and History.

The content of electronic mail is a public record (according to G.S. 121-2 (8) and 132-1) and may not be disposed of, erased, or destroyed without specific guidance from the NC Department of Cultural Resources. Accordingly, e-mail should normally be retained or destroyed by following the provisions of either the division's own program-specific records retention and disposition schedule or the NC General Schedule for State Agency Records. These two (2) schedules will guide the filing of e-mail (whether in paper or electronic format) within existing records series, and the handling of it according to the disposition instructions assigned to each such records series. If retained in paper form, the copies must retain transmission and receipt data. If e-mail is retained in electronic form, NC Divisions Records Retention Officer needs to insure that their electronic environment (client server, mainframe computer in or outside their agency, or office personal computer) assures the retention of e-mail for the required period of time.

**Destruction of Records Not Listed in a Schedule**

Authorization shall be secured for destruction of records not listed in a schedule by submitting Form RSB-RC5, Request Approval for Destruction of Unscheduled Records, to the NC Record Retention Officer in the Office of the Controller for written approval to proceed, prior to forwarding the request to the NC Department of Cultural Resources. One-time destruction of an accumulation of an unscheduled or a discontinued records series should be referred to the NC Department of Cultural Resources for authorization.

**Transferring Records to the State Records Center**

If the division's records schedule does not instruct the agency to transfer the records in question, the NC State Records Center will not accept the records. Records listed on the general schedule may not be transferred to the NC State Records Center without a specially granted exception. Notification of eligibility for transfer of records occurs through the SDIR (Scheduled Disposition of Inactive Records) Program administered by the Government Records Branch. A division/office that wishes to transfer records to the NC State Records Center should consult with the NC Department of Cultural Resources for guidance. As of July 1, 2001, there are charges for supplies for transferring records to the NC State Records Center.

**Accessing Records Stored at the State Records Center**

Records transferred for storage in the NC State Record Center remain in the legal, official custody of the creating agency. Access to stored records is restricted to the creating agency's staff. A division/office that needs access to records stored at the NC State Records Center should consult with the NC State Records Center for guidance.

*For questions or clarification on any of the information contained in this policy, please contact [The Office of the Controller](#). For general questions about department-wide policies and procedures, contact the [DHHS Policy Coordinator](#).*