

Frequently Asked Questions Related to The Arkansas General Records Retention Schedule

Question: Does the proposed records retention schedule list all the records my agency must hold and, if not, does this mean we must create them?

Answer: Most agencies will not have every record that is listed on the records schedule, and the presence of a record on the schedule does not mean your agency must create it. The records schedule is not intended to require the creation of records, but rather establishes the minimum retention period for records that agencies do hold.

Question: What is meant by a “common” record in the records schedule?

Answer: A “common” record is a record that would be commonly found within most state agencies.

Question: Does the Records Schedule require that we keep copies of an official record?

Answer: No, the retention periods located within the schedule apply only to the official version of a record. Duplicates of the official version have no retention requirements under this proposed schedule, even if duplicates are found in other media.

Question: Should the Arkansas Freedom of Information Act (FOIA) be amended to comply with the Arkansas Records Retention Schedule?

Answer: No. The Arkansas Freedom of Information Act (FOIA) is a disclosure statute and it was never intended to include a retention statute. There would be a problem with modifying the Arkansas FOIA to include retention language. Historically, at the states and federal level, there has always been a clear distinction made between FOI disclosure statutes and retention statutes.

Question: Is there a different retention period for electronic records versus traditional paper records?

Answer: There is no difference. It does not matter in which form the record resides; the retention period is the same. Just like paper records, electronic records must be evaluated for their content and purpose to determine the length of time the message must be retained in accordance with any state and federal retention schedule.

Question: How long do we have to keep correspondence we have received in the mail versus how long we have to keep our electronic mail?

Answer: It does not matter in which form the correspondence was received, paper through the U.S. mail or electronically via the Internet. The e-mail record is still “correspondence” and the retention period would be the same as traditional paper correspondence.

Question: Which government entities have to comply with the Arkansas Records Retention Schedule?

Answer: State agencies, boards and commissions. It does not apply to elected constitutional officers and their staffs, the General Assembly and its committees and staffs, the Supreme Court and the Administrative Office of the Courts, and public institutions of higher education with

respect to academic, research, healthcare, and existing information and technology applications and underlying support

Question: How does the Arkansas Records Retention Schedule affect the state’s existing individual record retention statutes?

Answer: Should any differences in retention periods be found between the Arkansas retention schedule and state or federal retention statute, the existing state or federal retention statute would take precedence.

Question: Is e-mail really a public record?

Answer: All e-mail conducted on state government computers is owned by the state of Arkansas and is a public record.

Question: Are all e-mail records categorized as “correspondence records”?

Answer: Electronic mail systems can transmit a wide variety of information, so records created or received by e-mail will vary according to their content and function. In most cases e-mail will be considered a record of “correspondence,” but many times the email will include attachments such as reports, contracts or fiscal records which should be retained according to that record type.

Question: Who is responsible for retaining the email, the sender or recipient?

Answer: In most cases where e-mail communication is between a sender and a recipient, the sender’s copy would be designated as the official copy (copy of record). In other words, it is the sender’s copy to which any retention requirements would apply. For example, an intra-agency communication is sent via e-mail from an agency’s Personnel Office to all its employees. The copy of record would be the copy within the Personnel Office. All other copies sent are merely “duplicates” and can be disposed of at will. Cases where this principle may not apply include e-mail received from the public.

Question: Does all e-mail need to be retained under the Arkansas General Records Retention Schedule?

Answer: No. Most e-mail does not fit the category of “substantive” correspondence and therefore can be deleted at the point in which the intent of the message has been served. The only e-mails requiring a minimum retention period of four years is “substantive” correspondence. The vast majority of state employees will have a small percentage of their email classified as “substantive” as defined in record retention schedule. Generally, it will be senior administrators that create a greater proportion of “substantive” email, given its greater degree of policy content.

Question: Can I print e-mail messages and then delete them?

Answer: Yes, provided that the message includes the name of sender, name of recipient, and date and time of transmission.

Question: How do I preserve email?

Answer: Several issues should be addressed when developing an e-mail retention program. Email systems in different agencies have a wide range of capabilities and characteristics. In order to determine what will ensure the most accurate, complete and practical method of managing records transmitted by email, agencies need to develop procedures that fit their specific situations. Understanding the capabilities of an agency's email system is a prerequisite to determining how the records will be identified, organized and stored. An agency's LAN administrator is the best reference for understanding agency email software and can suggest possible options for email retention.

Question: Which of the document retention schedules apply to payroll-related records?

Answer: Any records used in the preparation for payroll (i.e., time sheets and leave requests) are “Employee Wage and Hour Records” (Record # 4009) and are to be retained until authorized by the legislative auditor.

In the case of records requiring the garnishment of an employee’s wages, there are two types of records that could result in the call for garnishment of wages. The first would be a record considered an “Employee Personnel Record” (Record # 4007), which would be a record summarizing the call for garnishment. The retention period for that record is “5 years from the date of separation or until closure of unresolved personnel issues, whichever is greater.”

A second record resulting from a call to garnish wages would be considered a “Litigation File” (Record # 6006), since it documents legal proceedings involving an agency’s employee. The retention period for that record is “5 years after final disposition.”

Note: AASIS remuneration statements (pay stubs) are not included within the record retention schedule, since the official record is within AASIS and statements held in agencies are merely copies.

Question: Is a verbal request for public records covered by these rules?

Answer: No, verbal requests for public records are not covered by these rules, since a verbal request produces no written record.

Question: Are agencies required to create a records retention schedule for agency records that are not common and are not located within the Arkansas General Records Retention Schedule?

Answer: No

Question: Are intermediate revisions of documents or PowerPoint presentations covered under the retention schedule?

Answer: Only major revisions to presentations and official documents are covered within the schedule.

Pertaining to GS 04012 Recruitment, Hiring, Interview and Selection Records:

Question: Does this mean agencies have to keep all employment applications, or only those that were selected for an interview or those applications that met minimum qualification criteria?

Answer: Agencies are required to retain, for the prescribed minimum retention period, all successful and unsuccessful employment applications, regardless of whether the application meets any minimum qualification criteria.

Pertaining to GS 05011 Competitive Bids:

Question: If Agency “A” opens bids on Agency “B’s” behalf, which party is responsible for retaining the competitive bid records, Agency “A” or “B”?

Answer: The agency that is responsible to retain the competitive bid record(s) is the agency that is responsible for awarding the bids regardless of what party opens the bids. Example: If Agency “A” is managing building lease bids, Agency “A” would be responsible to keep the competitive bid record(s).

Pertaining to Fiscal Records:

Question: If the agency is not covered by Legislative Audit requirements but instead utilizes an independent auditor, what does the agency do about the requirement to retain records "until authorized by the legislative auditor"?

Answer: The agency is still required to receive authorization for record disposition through the Arkansas Division of Legislative Audit for these fiscal records.

Pertaining to GS 02002 Meeting - Notes of Governing Bodies:

Question: What if a third party, such as a court reporter, prepares your agency's board minutes or gives you a transcript from which to prepare the minutes? Does the agency have to get the third party's tape or other recorded media?

Answer: No, just the transcript or prepared minutes will be sufficient, unless the agency ordinarily receives the tape or recorded media. If the agency has possession of the recorded media, it is subject to retention requirements.

Pertaining to GS 06002 Complaint Files – Regulated Entity

Question: What if the agency is subpoenaed in regard to a matter involving a regulated entity but the complaint is not filed against the agency?

Answer: The agency is not required to retain that complaint record(s). The agency is only required to retain complaints that are directed to the agency as the subject.

Pertaining to GS06006, Litigation Files

Question: Is the intent of record description 6006 (Litigation Files) just for litigation against an agency, etc., or does it really mean *involving*?

Answer: The term “involving” within this record means to be a party to the litigation (i.e. defendant, plaintiff or intervener). If an agency was called as a mere witness in a case, the agency is not a party and this record does not apply.

Pertaining to GS 05018, Inventory and Capital Assets

Question: Does this inventory record include low value assets?

Answer: Yes. If the capital asset meets the definition of a capital asset according to DFA policy, it should be on the inventory. Capital items valued between \$500 and \$2,499 are considered low-value assets and should be included on the agency's capital asset inventory. If the capital asset is valued at \$2,500 or more, it is considered a capital asset and must be on the list. In addition, any item that is valued at less than \$500 and that may be reimbursed for insurance purposes, reassigned or transferred should also be included on the agency's capital asset list.

Pertaining to GS 05018, Inventory and Capital Assets

Question: Does AASIS create an inventory list as a result of purchase documents?

Answer: An agency can generate a capital inventory report list from AASIS if the data was entered correctly by the agency.

Pertaining to GS 05018, Inventory and Capital Asset

Question: Does an agency need to keep forms it uses for asset requests?

Answer: If an agency utilizes its own forms (outside of AASIS) for capital asset acquisition, it is recommended these completed forms be retained until authorized by legislative audit for disposition.