
Coates' Canons Blog: Retention Schedules for Local Governments: Five Things You Should Know

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Article: <https://canons.sog.unc.edu/retention-schedules-for-local-governments-five-things-you-should-know/>

This entry was posted on May 16, 2019 and is filed under Open Government, Public Records (Electronic), Public Records (General), Public Records (Retention)

North Carolina law says: **The public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people.** (GS 132-1(b)) This powerful commitment to transparency wouldn't mean much if the custodians of public records could simply destroy any or all records, at will. Accordingly, the law makes it a crime for public officials to destroy public records without the consent of the Department of Natural and Cultural Resources (DNCR). (GS 132-3) Does that mean public officials have to get permission from the DNCR each time they want to discard or delete records? No! The Archives Division of the Government Records Section of the DNCR promulgates retention schedules, which establish minimum retention periods for the categories of records listed in the schedules. Local governments that have adopted these schedules may destroy records when their retention periods end. As described on the DNCR website:

Retention schedules are the primary way that the Division of Archives and Records gives its consent to state and local governments to destroy their records.

In March 2019 the Archives Division released a new record retention schedule for local governments. You can learn more about changes they've made regarding the organization of the retentions schedules and the timing for future updates at their blog: The G.S. 132 Files. Read on to learn five things you should know about the new schedule.

1. The new General Records Schedule for Local Government Agencies (General Schedule) applies to all local governments, including municipalities, counties, and local education agencies. Previously, schedules were prepared separately for municipalities, counties, local education agencies, and other types of local governments, with provisions unique to each type of agency. The new General Schedule includes the following nine categories of records that are common among all local governments:

- Administration and Management Records
- Budget, Fiscal, and Payroll Records
- Geographic Information System (GIS) Records
- Information Technology Records
- Legal Records
- Personnel Records
- Public Relations Records
- Risk Management Records
- Workforce Development Records

Once a local government adopts the new General Schedule using the procedure described below, it supersedes **all of these standards in any of the previously issued agency-specific schedules.** In other words, any record that is covered in the new General Schedule will be governed by that schedule and not the old individual schedules that apply to municipalities, counties, local educational agencies, and other local governments. But the old schedules still have some life. For records that are not covered by the new General Schedule categories, the Division advises local governments to **continue following their most recently signed agency schedule for all their program records.** This means that if a record is not in the General Schedule, custodians will have to review their most recent agency-specific schedule to ascertain the retention period for that record.

The Division will update the General Schedule annually and will gradually promulgate and update program specific program schedules for activities that are specific to individual local governments.

2. Local governments are required to adopt the new schedule. The local approval process starts with filling in the blanks. Each local government must establish retention times for numerous items listed in the new schedule with the disposition instruction “*destroy when reference value ends.*” This instruction has a blank space below it, in which the local government is to designate the agency’s policy for retention of that particular type of record. With these items, the Division is delegating to the agency the discretion to determine how long the agency needs to retain the record. After all the locally established retention times have been incorporated into the schedule, the local governing board must adopt the completed schedule. The local government finishes the adoption process by sending a signed copy of the schedule to the Division. More specific instructions for adopting the new schedules are provided in a blog post here. **Until the local government approves the new General Schedule, the agency is not allowed to destroy any records that are governed by that schedule.**

3. “Transient” records (formerly “short-term” records) need not be retained. The General Schedule sets out the following definition of transient records: **records that have “little or no documentary or evidential value and that need not be set aside for future use.”** *2019 Local Agencies General Records Retention and Disposition Schedule (General Records Schedule), p. vii, citing, A Glossary of Archival and Records Terminology, Richard Pearce-Moses (2005).* The General Schedule gives example of types of transient records, such as routing slips, transmittal sheets, “while you were out” slips, memory aids and other records requesting follow-up actions, including voicemails. Another category of transitory records is drafts and working papers used to create a final, official record.

Guidance in the General Schedule explains that a record that appears to be transient might actually be a record that is covered by a specific standard in the retention schedule. In that case, the retention period will apply. Similarly, if a record could fall in more than one category, the custodian should apply the standard with the longest retention requirement.

4. There is no single standard in the General Schedule for electronic records. The content, not the medium or format, dictates the retention requirements. When it comes to identifying the applicable retention period, local governments must treat electronic records the same way they do paper records. Guidance about electronic records, e-mail, born-digital records, and digital imaging is found on page 78 of the schedule. For example, “If a particular message would have been filed as a paper memo, it should still be filed...and it should be retained the same length of time as its paper counterparts.” *General Records Schedule, p. 78.*

Likewise, the new General Schedule doesn’t expressly address social media. Instead, at page 78 it links the reader to a set of resources regarding digital records. As with email and text messages, social media must be dealt with based on content. *There is no requirement to archive everything you have on social media or websites every day.* Some of what exists on social media may actually be reference copies of records that exist elsewhere, or may be of transient value. On the other hand, unique records – those that don’t exist elsewhere – may need to be archived. For instance, comments or complaints posted on social media might be subject to retention under Standard 1: Administration and Management Records under item #17.

5. You can learn more by using resources that are available from the Division:

- Subscribe to the Division’s blog: The G.S. 132 Files
- Attend regional training and workshops provided by the Division staff
- Contact the Division specialists for help

Links

- www.ncleg.net/EnactedLegislation/Statutes/PDF/BySection/Chapter_132/GS_132-1.pdf
- www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_132/GS_132-3.html
- archives.ncdcr.gov/government/retention-schedules/local-government-schedules
- ncrecords.wordpress.com/2019/03/01/2019-general-schedule-for-local-records-available/



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- files.nc.gov/dncr-archives/documents/files/2019_local_standards_0.pdf
 - ncrecords.wordpress.com/2019/02/21/how-to-adopt-the-new-local-government-retention-schedules/
 - archives.ncdcr.gov/government/digital-records/digital-records-policies-and-guidelines
 - ncrecords.wordpress.com/
 - ncrecords.wordpress.com/2019/05/07/announcing-june-2019-workshop-managing-public-records-digital-communications/
 - ncrecords.wordpress.com/workshops/
 - archives.ncdcr.gov/government/records-management-services-and-training