

DELAWARE PUBLIC ARCHIVES
OPERATING POLICIES AND PROCEDURES

RECORDS IN TRANSITION

A. GENERAL POLICY

Delaware Public Archives (DPA) accepts records for storage in the State Records Center only if the records are scheduled for disposition to the Archives or State Records Center under an authorized records retention and disposition schedule.

DPA may accept records that are not on an authorized records retention and disposition schedule for storage in the State Records Center for a period not to exceed six (6) months if:

1. A schedule providing for disposition of the specific record series is in preparation and the anticipated authorized retention will call for a disposition to the State Records Center or Archives; or
2. A situation exists whereby the State Archivist determines that the provisions of 29 Delaware Code, §512(b) are applicable. The Archivist shall certify in writing to the agency head that this condition exists and that this provision of the statute will be invoked; or
3. An agency head certifies in writing to the State Archivist that the records storage conditions require that the provisions of 29 Delaware Code, §512(b) be invoked. In this case, the Archivist shall inspect the records and determine the applicability of invoking this statute.

B. DISPOSITION OF ORIGINAL RECORDS

29 Delaware Code, §504(b) requires an agency to obtain the consent of the Department of State prior to destruction or other disposition of "any public records or printed public document or official correspondence...." The process for obtaining this consent is:

1. Notification of Intent to Destroy Records

An agency wishing to destroy records in accordance with an approved records retention and disposition schedule must notify the State Archivist and Records Administrator using a Destruction Notice (Form RM5) provided by DPA. Such notification must include the records retention and disposition schedule number and date of adoption, and identify the specific records series to be destroyed, giving inclusive dates and the volume in cubic feet. The agency administrator, program administrator, and/or agency records officer or authorized agent shall sign the Destruction Notice form, certifying that all audits have been completed and all audit reports have been issued and resolved, and that no legal actions in which the records may be material evidence are pending.

Within a thirty (30) day period, the State Archivist and Records Administrator will notify the agency in writing of the approval or disapproval of the requested destruction action.

2. Notification of Intent to Destroy Records in the State Records Center

When records housed in the State Records Center reach the expiration of their scheduled retention period, DPA will initiate a Destruction Notice form for agency approval of the destruction.

After fourteen (14) days, if DPA has not received the signed Destruction Notice from the agency certifying approval or disapproval of the destruction action, DPA will contact the agency for follow-up. At that time DPA will make arrangements to return the stored records to the agency at the agency's expense.

3. Notification of Intent to Destroy Records That Have Been Imaged

Upon receipt of document images for inspection from contract vendors, an agency has thirty (30) days to review and verify the images for accuracy and readability. At the end of the thirty day period, DPA will initiate a Destruction Notice if destruction of the original records is authorized by an approved records retention and disposition schedule. An agency has fourteen (14) days following the date of the Destruction Notice to notify the State Archivist and Records Administrator in writing of its disapproval of the destruction of the original records and indicate the reason for this disapproval. At the end of the fourteen (14) day period DPA will contact the agency for follow-up.

4. Exemption

The above procedures shall not apply to records that have an approved disposition of "Replace as updated", "Retain in agency until no longer required for administrative purposes; destroy", or "Retain in agency until superseded; destroy". The above procedures also shall not apply to non-record materials as defined in the General Records Retention Schedule.

5. Continuing Authorization for Records Destruction

The State Archivist and Records Administrator may authorize annually each July for the current fiscal year destruction of specific records series scheduled for monthly, weekly, or daily destruction in accordance with an authorized records retention and disposition schedule, without requiring an agency to notify DPA as provided above. An agency shall request this continuing authorization in writing by July 1 of each year, and shall at that time report to the State Archivist and Records Administrator the volume and inclusive dates of records destroyed under continuing authorization during the previous fiscal year.

6. One Time Records Disposition Authorization

An agency wishing to dispose of records no longer being created and not appearing on an agency records retention schedule or General Records Retention Schedule may request the State Archivist and Records Administrator to authorize a one time disposition of such records.

To initiate action, an agency must submit a completed Records Series Inventory Form (RM1) in support of the request to DPA. This authorization shall be limited to and apply only to a one time disposition of specific records described on the Records Series Inventory Form. The Information Resources Specialist will prepare a draft records retention schedule for the item(s) requested and a final approval signature form. The draft records retention schedule must be approved by the agency head and, if appropriate, the Deputy Attorney General assigned to the agency, and the Auditor of Accounts. Upon receipt of the records retention schedule and signed signature approval form, the State Archivist and Records Administrator will approve disposition of the records.

7. Notification of Intent to Transfer Records

An agency wishing to transfer records to the State Records Center for storage, or to the Archives for permanent preservation, in accordance with an approved records retention and disposition schedule, must notify the State Archivist and Records Administrator by completing a Transfer Form (Form RM3) and submitting it to DPA. Such notification shall include the series number, date of schedule adoption, and description of the records to be transferred, giving inclusive dates and the volume in cubic feet.

Any records so accepted must be prepped and/or purged for final disposition.

Within a thirty (30) day period, the State Archivist and Records Administrator will notify the agency of the approval or disapproval of the requested transfer.

8. Transfer of Unpurged Records

If an agency has a critical need to transfer records scheduled for permanent retention to the State Records Center before the records have been purged for permanent transfer, prior permission for such transfer must be received from the State Archivist. At the time approval is given it will be accompanied by a contract establishing a timeline for purging the records while they are in records center storage. The contract will further state that if, at any time during the storage period, the prepping/purging timeline is not maintained, DPA will have the right to return any and all records to the creating agency and/or the agency will be charged, retroactive to the date of receipt, for storage of the records.

EXAMPLE: An agency wishes to transfer into State Records Center storage 24 cubic feet of unpurged records which are scheduled for transfer for permanent retention in the next 2 years. Prior to the transfer, a contract will be signed stating that all prepping and/or purging will be completed before the scheduled retention storage period has expired. The contract will state that each month, a minimum of 1.0 cubic foot of records (24 cubic feet divided by 24 months) must be completed in order to satisfy the contract and keep the records in storage.

9. Disposition Options For Records With Permanent Retentions

NOTE: Records stored in the State Records Center remain in the legal custody of the creating agency. Records transferred to the Archives become the legal property of the Archives.

If an agency has a record series with a permanent retention, yet has no further use for the records once they become inactive, the records will be transferred directly to the Archives as the records become inactive. The records may subsequently be imaged according to a schedule set by DPA. Prior to transfer, records must conform to DPA purging and preparation standards outlined in the DPA handbook "Preparation of Records for Storage".

If an agency has a record series with a permanent retention, and needs the records imaged immediately for continuing administrative use, the agency should annually build funds for imaging services into its budget and contract with the state's contract vendor(s) to do the necessary imaging.

If an agency has records with a permanent retention, and still needs occasional access to them for a period of time after the initial transfer but before transfer to Archives, it should consult with its assigned Information Resources Specialist to adjust the retention instructions for those records to reflect such a need. For example:

FAMILY COURT CASE FILES: Retain at agency until close of case; transfer to State Records Center for 60 yrs; transfer to Archives for permanent preservation.

Records accepted must conform to DPA purging and preparation standards outlined in the DPA handbook "Preparation of Records for Storage".

10. Archival Review

In cases where the initial review of a record series by DPA staff is inconclusive as to what the retention should be, and suggests that review of its function and use over time would assist in determining that retention, the initial retention will be appended with the phrase "archival review" and a period of time not to exceed 25 years. At the end of that period of time the record series will be appraised for final disposition.

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