

RULE 26.

Court Records Management and Retention

******* PLEASE REFER TO SUPREME COURT RULE 26, REVISED AS OF
SEPTEMBER 23, 2004, ON SUPREME COURT WEBSITE *******

PORTIONS OF THE FOLLOWING MAYBE OUTDATED, BUT MAY PROVIDE SOME GUIDANCE

(A) Applicability. (1) This rule and Sup. R. 26.01 to 26.05 are intended to provide minimum standards for the production, maintenance, preservation, and destruction of records within the courts and to authorize alternative electronic methods and techniques. Implementation of this rule and Sup. R. 26.01 to 26.05 is a judicial, governmental function.

(2) This rule and Sup. R. 26.01 to 26.05 shall be interpreted to allow for technological enhancements that improve the efficiency of the courts and simplify the production, maintenance, preservation, and destruction of court records.

(B) Definitions. As used in this rule and Sup. R. 26.01 to 26.05:

(1) "Administrative record" means a record not related to cases of a court that documents the administrative, fiscal, personnel, or management functions of the court.

(2) "Case file" means the compendium of original documents filed in an action or proceeding in a court, including the pleadings, motions, orders, and judgments of the court on a case by case basis.

(3) "Index" means a reference record used to locate journal, docket, and case file records.

(4) "Journal" means a verbatim record of every order or judgment of a court.

(5) "OHS" means the Ohio Historical Society, State Archives Division.

(6) "Record" means any document, device, or item, regardless of physical form or characteristic, created or received by or coming under the jurisdiction of a court that serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the court.

(C) Combined records. Notwithstanding any other provision of the law, a court may combine indexes, dockets, journals, and case files provided that the combination

(D) Allowable record media.

(1) A court may create, maintain, receive, record, copy, or preserve a record on traditional paper media, electronic media, including text or digital images, or microfilm, including computer output to microfilm.

(2) A court may create, maintain, receive, record, copy, or preserve a record using any nationally accepted records and information management process, including photography, microfilm, and electronic data processing, as an alternative to paper. The process may be used in regard to the original or a copy of a record if the process produces an accurate record or copy and the process complies with American National Standards Institute ("ANSI") standards and guidelines or, in the event that ANSI standards cease to exist, other nationally accepted records and information management process standards.

- (a) If a court creates, maintains, receives, records, copies, or preserves a record using a records and information management process in accordance with division (D)(2) of this rule and the record is required to be retained in accordance with the schedules set forth in Sup. R. 26.01 to 26.05, the court shall cause a back-up copy of the record to be made at periodic and reasonable times to insure the security and continued availability of the information. If Sup. R. 26.01 to 26.05 require the record to be retained permanently, the back-up copy shall be stored in a different building than the record it secures.
- (b) Records shall be maintained in conveniently accessible and secure facilities, and provisions shall be made for inspecting and copying any public records in accordance with applicable statutes and rules. Machines and equipment necessary to allow inspection and copying of public records, including public records that are created, maintained, received, recorded, copied, or preserved by an alternative records and information management process in accordance with division (D)(2) of this rule, shall be provided.
- (c) In accordance with applicable law and purchasing requirements, a court may acquire equipment, computer software, and related supplies and services for records and information management processes authorized by division (D)(2) of this rule.
- (d) Paper media may be destroyed after it is converted to other approved media in accordance with division (D) of this rule.
- (E) Destruction of records. (1) Subject to the notification and transfer requirements of divisions (E)(2) and (3) of this rule, a record and any back-up copy of a record produced in accordance with division (D)(2) of this rule may be destroyed after the record and its back-up copy have been retained for the applicable retention period set forth in Sup. R. 26.01 to 26.05.
 - (2) If Sup. R. 26.01 to 26.05 set forth a retention period greater than ten years for a record, or if a record was created prior to 1960, the court shall notify the OHS in writing of the court's intention to destroy the record at least sixty days prior to the destruction of the record.
 - (3) After submitting a written notice in accordance with division (E)(2) of this rule, the court shall, upon request of the OHS, cause the record described in the notice to be transferred to the OHS, or to an institution or agency that meets the criteria of the OHS, in the media and format designated by the OHS.
- (F) Exhibits, depositions, and transcripts. At the conclusion of litigation, including times for direct appeal, a court or custodian of exhibits, depositions, or transcripts may destroy exhibits, depositions, and transcripts if all of the following conditions are satisfied:
 - (1) The court notifies the party that tendered the exhibits, depositions, or transcripts in writing that the party may retrieve the exhibits, depositions, or transcripts within sixty days from the date of the written notification;
 - (2) The written notification required in division (F)(1) of this rule informs the party that tendered the exhibits, depositions, or transcripts that the exhibits, depositions, or transcripts will be destroyed if not retrieved within sixty days of the notification;

(3) The written notification required in division (F)(1) of this rule informs the party that tendered the exhibits, depositions, or transcripts of the location for retrieval of the exhibits, depositions, or transcripts;

(4) The party that tendered the exhibits, depositions, or transcripts does not retrieve the exhibits, depositions, or transcripts within sixty days from the date of the written notification required in division (F)(1) of this rule.

(G) Local rules. By local rule, a court may establish retention schedules for any records not listed in Sup. R. 26.01 to 26.05 and may extend, but not limit, the retention schedule for any record listed in Sup. R. 26.01 to 26.05. Any record that is not listed in Sup. R. 26.01 to 26.05 but is listed in a general retention schedule established pursuant to section 149.331 of the Revised Code may be retained for the period of time set by the general retention schedule and then destroyed.

(H) Extension of retention period for individual case files. A court may order the retention period for an individual case file extended beyond the period specified in Sup. R. 26.02 to 26.05 for the case file.

Commentary (October 1, 1997)

The Supreme Court's Task Force on Records Management recommended the substantive provisions of this rule and Sup. R. 26.01 to 26.05 after studying the records management procedures of Ohio courts for approximately eighteen months. This rule and Sup. R. 26.01 to 26.05 require courts to keep certain records and mandate minimum records retention schedules for administrative and case records of the courts. The rules also authorize the courts to maintain records in forms other than paper provided that when an alternative process is employed, it conforms to the standards established by the American National Standards Institute ("ANSI"). Courts are not required to use the alternative processes permitted by this rule.

To obtain information concerning ANSI standards, courts may contact the Ohio Historical Society, State Archives Division, 1982 Velma Avenue, Columbus, Ohio 43211-2497, (614) 297-2581.

RULE 26.01. Retention Schedule for the Administrative Records of the Courts.

The following retention schedule shall apply for the administrative records of the courts:

(A) Administrative journal. Administrative journals that consist of court entries, or a record of court entries, regarding policies and issues not related to cases shall be retained permanently.

(B) Annual reports. Two copies of each annual report shall be retained permanently.

(C) Bank records. Bank transaction records, whether paper or electronic, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

(D) Cash books. Cash books, including expense and receipt ledgers, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

(E) Communication records. Communication records, including routine telephone messages on any medium where official action will be recorded elsewhere, may be

destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

(F) Correspondence and general office records. Correspondence and general office records, including all sent and received correspondence, ' in any medium, may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the records.

(G) Drafts and informal notes. Drafts and informal notes consisting of transitory information used to prepare the official record in any other form may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the drafts and informal notes.

(H) Employment applications for posted positions. Employment applications for posted or advertised positions shall be retained for two years.

(I) Employee benefit and leave records. Employee benefit and leave records, including court office copies of life and medical insurance records, shall be retained by the appropriate fiscal officer for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

(J) Employee history and discipline records. Records concerning the hiring, promotion, evaluation, attendance, medical issues, discipline, termination, and retirement of court employees shall be retained for ten years after termination of employment.

(K) Fiscal records. Fiscal records, including copies of transactional budgeting and purchasing documents maintained by another office or agency, shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

(L) Grant records. Records of grants made or received by a court shall be retained for three years after expiration of the grant.

(M) Payroll records. Payroll records of personnel time and copies of payroll records maintained by another office or agency shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

(N) Publications received. Publications received by a court may be destroyed in the normal course of business as soon as they are considered to be of no value by the person holding the publications.

(O) Receipt records. Receipt and balancing records shall be retained for three years or until the issuance of an audit report by the Auditor of State, whichever is later.

(P) Requests for proposals, bids, and resulting contracts. Requests for proposals, bids received in response to a request for proposal, and contracts resulting from a request for proposal shall be retained for three years after the expiration of the contract that is awarded pursuant to the request for proposal.

RULE 26-05. Municipal and County Courts-Records Retention Schedule.

(A) Definition of docket. As used in this rule, "docket" means the record where the clerk of the municipal or county court enters all of the information historically included in the appearance docket, the trial docket, the journal, and the execution docket.

(B) Required records. (1) Municipal and county courts shall maintain an index, docket, journal, and case files in accordance with Sup. R. 26(B) and divisions (A) and (C) of this rule.

(2) Upon the filing of any paper or electronic entry permitted by the municipal or county court, a stamp or entry shall be placed on the paper or electronic entry to indicate the day, month, and year of filing.

(C) Content of docket. (1) The docket shall be programmed to allow retrieval of orders or judgments of the municipal or county court in a chronological as well as a case specific manner. Entries in the docket shall be made as events occur, shall index directly and in reverse the names of all parties to cases in the municipal or county court and shall include all of the following:

(a) Names and addresses of all parties in full;

(b) Names, addresses, and Supreme Court attorney registration numbers of all counsel;

(c) The issuance of documents for service upon a party and the return of service or lack of return;

(d) A brief description of all records and orders filed in the proceeding, the date filed, and a cross-reference to other records as appropriate;

(e) A schedule of court proceedings for the municipal or county court and its officers to use for case management;

(f) All actions taken by the municipal or county court to enforce orders or judgments.

(2) "Financial record" means a record that is related to the imposition of fines, costs, and other fees in cases and controversies heard in the municipal and county courts.

(D) Retention schedule for financial records.

(1) Auditor reports. Auditor of State reports shall be retained permanently.

(2) Monetary records. Monetary records shall be retained for three years after the issuance of an audit report by the Auditor of State.

(3) Rental escrow account records. Rental escrow account records shall be retained for five years after the last date of deposit with the municipal or county court.

(4) Yearly reports. Yearly reports shall be retained permanently.

(E) Retention schedule for the index, docket, and journal. The index, docket, and journal shall be retained for twenty-five years.

(F) Judge, magistrate, and clerk notes, drafts, and research. Judge, magistrate, and clerk notes, drafts, and research prepared for the purpose of compiling a report, opinion, or other document or memorandum may be kept separate from the case file, retained in the case file, or destroyed at the discretion of the preparers.

(G) Retention schedule for case files.

(1) Civil case files. Civil case files shall be retained for two years after the issuance of an audit report by the Auditor of State.

~~(2) DUI case files. Driving under the influence of alcohol or drug ("DUI") case files shall be retained for seven years after the date of the final order of the municipal or county court.~~ ***NOTE RULE EFF 09-23-04

(3) First through fourth degree misdemeanor traffic and criminal case files. Except for DUI case files, first through fourth degree misdemeanor traffic and criminal case files shall be retained for five years after the date of the final order of the municipal or county court or one year after the issuance of an audit report by the Auditor of State, whichever is later.

(4) Minor misdemeanor traffic and minor misdemeanor criminal case files. Minor misdemeanor traffic and minor misdemeanor criminal case files shall be retained for two years after the final order of the municipal or county court or one year after the issuance of an audit report by the Auditor of State, whichever is later.

(5) Parking ticket records. Parking ticket records shall be retained until the ticket is paid and the Auditor of State issues an audit report.

(6) Real estate. Case files of matters that resulted in a final judgment determining title or interest in real estate shall be retained permanently.

(7) Search warrant records. Search warrant records shall be indexed and the warrants and returns retained in their original form for five years after the date of service or last service attempt.

The following chart is a guide to the records retention schedule set forth in Administrative Rule IX. The Supreme Court staff created the chart for reference purposes only. The chart has not been adopted by the Supreme Court.

RECORDS RETENTION SCHEDULE
Administrative Rule IX
All Court Offices

Record	Retention Period
Administrative Lists or Directories	Destroyed in normal course of business with senior staff approval
Bank Records	3 years or until audit
Cash Books	10 years or until audit
Communication Records	Destroyed in normal course of business
Copies and Duplicates	Destroyed in normal course of business
Court Rules in Proposed; Public Comments	5 years after final Court action
Court Vehicle Usage Records	3 years or until audit
Databases not Otherwise Referenced in Rule IX	Destroyed in normal course of business with senior staff approval
Drafts and Informal Notes	Destroyed in normal course of business
Employee Records: History and Discipline	10 years, but retained if pending litigation
Short Term	2 years
Employment Applications	10 years, but retained if pending litigation
EEO Records	Destroyed in normal course of business
Fax Cover Sheets	Destroyed in normal course of business
General Office and Correspondence Records	5 years, Administrative Director approves destruction
Litigation Records	Destroyed in normal course of business with senior staff approval
Management/Operations Reports	Retained until superseded or obsolete
Policies, Directive, Procedures, Administrative Rules	2 permanent copies
Publication Created	Destroyed in normal course of business
Publications Received	3 years or until audit
Receipt Records	3 years or until audit
Reimbursement Requests (Travel)	3 years after contract expiration
RFPs' Bids, Resulting Contracts	Destroyed in normal course of business with senior staff approval
Risk Management Records	

BASIC STEPS FOR RECORDS RETENTION AND DISPOSAL

RECORDS COMMISSION NO LONGER APPLICABLE. REFER TO SUPREME COURT RULE 26

1. ~~Activate your record commission.~~

~~Local record commissions are governed by Ohio Revised Code Sections 149.38, County, and 149.39, Municipal Corporations. Refer to the appropriate code section when you are ready to activate your records commission.~~

2. Designate a "Records Officer" Each Department.

It is convenient if a single person in each department is responsible for all aspects of record retention and disposition within that department. The person designated may be the department head or a capable assistant; in any case, it should be someone familiar with the overall responsibilities of the department and the records it creates and maintains.

3. Conduct a complete Records Inventory.

Inventory all records, whether in an office or in storage. Information gathered on each type of record should include its office of origin, location, name information content, inclusive dates, quantity (in cubic feet), frequency of use and purpose. See example of inventory form at end of this file.

4. Determine a Retention period for Records Created by each Department.

A retention period, which is the length of time your records are kept, is based on four values: Administrative, fiscal, legal, and historical.

1. A record possesses Administrative value if it is to be used by the office or agency to perform its current or future work. To determine this value, the following questions must be answered: How frequently is the record referenced: Would a program be curtailed upon disposal of these records: The primary administrative use of most records is exhausted when the transactions to which they relate have been completed.
2. Records possess legal value if they contain evidence of legally enforceable rights and obligations of the government or its citizens. Among records having legal value are those showing the bases for action (legal decisions or opinions), financial and other documents representing legal agreements (leases, titles, and contracts) and records of actions in particular cases (claim papers and legal dockets). The legal value of a records series more often will be evident from the title: Contracts, purchase orders, leases, titles to property, birth certificates, licenses of all types, etc.
3. Records possess fiscal value if the information contained in the series pertains to the receipt, transfer, payment, adjustment or encumbrance of funds, or if it is required by audit. The fiscal value may cease after the audit report is returned and no further corrective action is required, but the record may be useful later, as in the preparation of a budget request.
4. Records have historical value if they contain adequate and authentic evidence of an agency's organization, policies, decisions, procedures, operations, or other activities if they contain significant information about people, places, and events. After determining whether such evidence or information does exist in a record series, the series is appraised as to its completeness as the best or most complete source of information and whether it is duplicated in another records series in other government offices.

5. Prepare One-Time Disposal list for obsolete Records.
An application for one-time records disposal gives you authority to dispose of records which are no longer being created by your office. An application gives you authority to dispose of only those records listed in an application. This differs from a schedule in that once a record series is scheduled for a retention period of five years, for example, those records from that particular series can be disposed of every five years without having to complete another schedule or application for one-time records disposal.
6. Prepare Schedule of Record Retention and Destruction.
Schedules and applications are used for two different kinds of records. Schedules are used for records which are still being created by your office. Correspondence and canceled checks are examples of records listed on a schedule because these records are always being accumulated. Once a schedule has been approved, you can periodically dispose of the records listed on the schedule. You do not need to complete another form whenever you want to dispose of the same records. An approved gives you continuing authority to dispose of records according to their retention periods. See Page K-11 for a completed schedule.
7. ~~Submit Schedules or "One-Times" to Records Commission.~~
~~Following approval by the appropriate heads, the record commission must review and approve the retention schedules of one-time applications. The committee may approve, modify or reject these forms.~~
8. Obtain approval from the Auditor of State and The Ohio Historical Society Prior to Disposal of any Records.
By state law, no local unit of government may destroy records without approval of the Bureau of Inspection and Supervision of Public Offices of the Auditor of State and the Ohio Historical Society. Each of these agencies has sixty days to review records before they are destroyed. (Charter cities should follow their own records ordinance or consult their legal counsel if there are any legal questions about this procedure.)
9. Destroy Records in Accordance with Approved Schedules or "One-Times".
Once all appropriate authorities have approved the various retention and disposal documents, records should be destroyed when they have reached the end of the assigned retention period. The best way to handle this is to dispose of the records once or twice per year, destroying all records in all department that have passed the end of their retention periods.
10. Prepare a Certificate of Records Disposal.
Once records have been destroyed, prepare a certificate of records disposal and send it to the Ohio Historical Society. This certificate serves as the official of the disposal action. See Page K-13 for a sample of a completed certificate.
11. Copies of all Documents Should be Maintained by Records Commission.
A central file will serve as the official record of all actions taken by the records commission and of all record schedules or one-time applications approved by the commission. The documents, including the minutes of the commission's meetings, should be scheduled for permanent retention. Each department should also maintain copies of retention schedules, one-time applications, and certificates of disposal pertaining to its own records.
12. Contact the Ohio Historical Society for any question concerning records of retention and disposal.

The statutory requirements are as follows:

Requirements for Municipal Court	§1901.31 (E)
Disposition of case files for same	§1901.41
Requirements for County Courts	§1907.101, §1907.121, §4513.37
Photostat, microfilm or other recordings	§9.01
Outline of retention schedules	§149.351, §149.38
Records not open to Public Inspection	§149.43
Records Commission Required	§149.39

~~Imposes an affirmative duty upon the City to establish a City Records Commission, composed of the Mayor as Chairman, and three (3) officers or citizens named by the Mayor. The Commission may also appoint a secretary and archivist.~~

(REFER TO SUPREME COURT RULE 26 FOR ACTUAL TIME PERIODS FOR DESTRUCTION)

TITLE	RETENTION PERIOD
Annual Report	Permanent
Audit Report	Permanent
Cash Books	Permanent
Civil Appearance Docket	Permanent
Criminal Appearance Docket	Permanent
Foreign Certificate of Judgment Index	Permanent
General Index to Court Cases	Permanent
Journal or Minutes	Permanent
Probation Division Annual Reports	Permanent
Probation Division Master Card File	Permanent
Trusteeship Case Files	26 Years After Final Settlement
Bench Docket (Civil and/or Criminal)	26 Years After Last Entry
Criminal Case Files	25 Years After Case Closed
Civil and Small Claims Case Files	25 years After Case Closed
Foreign Certificate of Judgment Cases	25 Years After Case Closed
Foreign Certificate of Judgment Docket	25 years After Last Entry
Small Claims Appearance Docket	25 years After Last Entry
Trusteeship Docket, Debtor, Account	25 Years After Account Book and Index Closed provided audited
Criminal Minor Misdemeanor Case Files	10 years After Case Closed
Criminal Minor Misdemeanor Docket	10 Years After Last Entry
Traffic Case Files	10 years After Case Closed
Traffic Docket	10 Years
Civil Cash Disbursement Journal	7 Years, Provided Audited
General Debtor Accounts Cash Disbursement Journal	7 Years, Provided Audited

Praeipce Docket	7 Years After Last Entry
Execution Docket	5 Years After Last Judgment Released
Judgment Entry Journal or Docket	5 Years After Last Judgment Released Or Vacated
Monthly and Annual Financial Reports (All divisions)	5 Years, Provided Audited
Correspondence	Until No Longer of Administrative Value Generally 1-5 years
Budgets (Departmental)	5 Years
Bail Bond Record	3 years, Provided Audited
Bank Records	3 Years, Provided Audited
Receipts (All Divisions)	3 Years, Provided Audited
Cancelled Checks and Check Stubs	3 Years, Provided Audited
Daily and Monthly Reports of fines Receive	3 Years, Provided Audited
Posting Ledgers	3 Years, Provided Audited
Employee time and Attendance Record	3 Years, Provided Audited
Witness Docket	3 Years, Provided Audited
Affidavits, Summons, Warrants	3 Years
Probation Division Daily Record Sheet	3 Years
Case Lists	1 Year After Last Case Closed
Cash Sheet for State Cases	1 Year, Provided Audited
Clerk's Entry and Disposition Journal	1 year After Last Entry
Court Calendar	1 year After Last Entry
Daily and Monthly Reports of Fines Collected	1 year, Provided Audited
Trusteeship Cash Receipts Journal	1 Year, Provided Audited
Arrest Record	Until final Disposition of Case
Certificate-Of-Fee Stubs	Until Audited
Monthly Report of Tickets Issues	Until Paid or Canceled
Offense Code File	Until Superseded
Parking Record	Until Audited
Parking Tickets	Until Paid and Audited
Parking Violation Letters	Until Fine is Paid or Canceled
Pay-In Orders	Until Audited
Policy files	Until Superseded
Probation Division Monthly Reports	Until Compiled in Annual Report
Rental Escrow Dockets	Until Grievance Settled Provided Audited