

TITLE 100 – DEPARTMENT OF STATE

CHAPTER 40 – STATE ARCHIVES, LIBRARY AND PUBLIC INFORMATION

SUBCHAPTER 05 – PUBLIC RECORDS ADMINISTRATION

PART 1 – Records Management

1.1 Purpose

To outline the required procedures for preparing Records Control Schedules, storing inactive records, records disposal, and the transfer of permanent historical records to the State Archives.

1.2 Authority

This Regulation is promulgated pursuant to the authority granted in R.I. Gen. Laws Title 38 (“Public Records”), including expressly but without limitation R.I. Gen. Laws § 38-3-1 *et seq.*, as hereafter revised and amended (the “Public Records Administration Act”).

1.3 Incorporated Material

- A. These Regulations hereby adopt and incorporate by reference the following standards, not including subsequent editions or amendments thereof and only to the extent that the provisions therein are not inconsistent with these Regulations:
1. Federal Information Processing Standards (FIPS) ANSI/AIIM MS44-1988 (R1993) and ANSI/AIIM MS19-1993; and
 2. International Organization for Standardization protocol ISO 19005-1 (2005).

1.4 Definitions

- A. For the purpose of this Regulation:
1. “Agency” means any department, division, board, commission, office, or quasi-public corporation under any branch of State or local government which performs functions relating to government or acts on behalf of a governmental agency.
 2. “Born digital” means Records that are created using computers or other electronic or processing devices.

3. "Certification of records destruction" and "Certification of emergency records destruction" means the form approved by the Agency Head or their designee and the State Archivist and/or Public Records Administrator, authorizing the destruction of a Record and serving thereafter as the valid and legal substitute for the destroyed Record following destruction or other permitted disposition.
4. "Conversion" means the transfer of digital data to an alternate or revised digital format, particularly but not limited to converting data from an obsolete format to a current format.
5. "Digital records preservation strategy" means a plan developed and delivered by an Agency to the Public Records Administration prior to executing a Digitizing project.
6. "Digitizing" means the conversion of physical documents into a digital/electronic format.
7. "Disposal" or "Disposition" means the final destruction of records, as determined by an applicable Records Control Schedule, or transfer of records of historical value to the State Archives for permanent storage.
8. "Electronic mail" or "email" means any message or correspondence created, sent, or received within an electronic mail/email system which concerns public business, demonstrates agency business, or serves a public function.
9. "Electronic record" means all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data processing records, computer stored data, including email messages, or other non-physical materials or media digitally created or scanned into digital form.
10. "General officer" means an official appointed for a term of office specified by the constitution or a statute of this State or who is appointed by or through the governing body or highest official of State government;
11. "Local Government Records Program" means the unit within the Public Records Administration which shall be primarily responsible for assisting cities and towns with the care and management of their public records. The program shall be charged with designing and implementing a training program for local government records keepers; publishing retention schedules for the proper disposition of public records in local governments in adherence to § 1.6 of this Part; and providing technical and advisory assistance in the storage, preservation, and ongoing maintenance of the records of local governments.

12. "Microfilm" means transparent film containing highly reduced copies of documents.
13. "Personal paper(s)" means documents unrelated to work but maintained at a place of work by an employee or general officers of the State government of Rhode Island as established in R.I. Gen. Laws § 42-8.1-2(10).
14. "Public record(s)" or "Record(s)" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, or other materials, regardless of physical form or characteristics, which are created or received by an Agency, office, or general officer, either pursuant to law or relating to the transaction of public business, and which serve as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Agency or otherwise contain official government data.
15. "Public Records Administration" means the function of government established by R.I. Gen. Laws § 38-3-1 *et seq.* (the Public Records Administration Act), as supervised, directed and coordinated by the Public Records Administrator.
16. "Record copy" means the record that an Agency designates as the official record for legal and business purposes, and to which the Agency applies records management policy measures for the protection, security, maintenance and/or preservation thereof.
17. "Record series" means a collection of records maintained as a group and derived from or related to a particular subject, activity or function of an Agency.
18. "Records control schedule" or "Records retention schedule" means the document or documents establishing the official retention, maintenance, and disposal requirements for a record or record series, based upon any administrative, legal, fiscal, and/or historical value related to that record or record series.
19. "Records officer" means the representative designated by the Agency head who is responsible for the operation of the records management program for the Agency and related communications with the Public Records Administration.
20. "Retention" means the duration of time that a record, record series, or other information shall be maintained.
21. "Scanning" means the process by which physical documents are digitally imaged, including without limitation electronic .pdf and .tiff files.

22. "State Archives" means the official State repository for records of long-term or permanent legal or historical value.
23. "State Records Center" means the program managed by the Public Records Administration for the storage and maintenance of Agency records.
24. "Violation" means any act of non-compliance with these Regulations and the applicable laws of the State of Rhode Island.

1.5 Designation of a Records Officer

- A. The head of each Agency is responsible for designating a person to be the Records Officer for that Agency and its divisions for the management of public records. In the absence of or failure to designate a Records Officer, the head of the Agency shall be responsible for the duties of the Records Officer and records management for the Agency until a Records Officer is appointed.
 1. The annual designation of a Records Officer must be submitted in writing to the State Archives and Public Records Administration. The designation will be complete upon email confirmation by the State Archives and Public Records Administration.
 2. An original of the "Records Officer Designation Form" must be submitted by July 1 of every year, and within thirty (30) days of the appointment of a new Records Officer, to the Office of the Secretary of State, Archives and Public Records Administration, 33 Broad Street, Providence, Rhode Island 02903.
 3. The Records Officer, in consultation with the Public Records Administration, is responsible for the creation of and adherence to the records management policy and Records Control Schedule(s) for the Agency.
 4. The Records Officer is responsible for communicating with the State Archives and Public Records Administration on behalf of the Agency in all matters of public records management and compliance.
 5. The Records Officer is responsible for submission of Certificates of Records Destruction to the State Archives and Public Records Administration to request acceptable destruction of public records.

1.6 Records Control Schedules

- A. The Agency, through the Records Officer, will collaborate with the Public Records Administration on the development, amendment, and revision of Agency-specific Records Control Schedules. The Records Officer shall:

1. Submit a request form to the Public Records Administration for the development of a Records Control Schedule;
 2. Develop a project timetable in collaboration with the Public Records Administration;
 3. Complete appropriate forms for the development of record series and records inventory; and
 4. Acknowledge and certify receipt of the Records Control Schedule draft provided to the Agency by the Public Records Administration.
 5. Approve or provide comments on the draft Records Control Schedule within ninety (90) days of receipt. Failure to respond will nullify the draft Records Control Schedule.
 6. Submit the Agency's signed final approval to the Public Records Administration within sixty (60) days of receipt of the final draft. Failure to submit final approval of the proposed Records Control Schedule will result in the suspension of destruction of all records of the Agency until the Public Records Administration's receipt of final approval.
 7. Implement the Records Control Schedule upon formal notification of approval from the Public Records Administrator, Attorney General, and Auditor General.
- B. The Records Officer is responsible for developing a records management program and protocols in compliance with the Records Control Schedule within one (1) year of the approval and implementation of the Agency's Records Control Schedule. The Records Officer shall:
1. Process and submit proper documentation to the Public Records Administration for disposal or disposition in accordance with the established Records Control Schedule; and
 2. Secure and preserve public records in accordance with all applicable retention and disposal requirements.
- C. A record series is created to document a specific Agency transaction or function, to promote effective retrieval, and to expedite the development of Records Control Schedules.
1. A record series is comprised of the following elements:
 - a. A specific and descriptive title and number unique to the record series;

- b. A description of the function and associated business of the record series;
- c. A reasonable, general description of the types of records included in the record series; and
- d. A specific retention requirement.

1.7 Storing Inactive Record(s)

- A. Records designated essential by the Agency for the transaction of Agency business will be stored on-site in compliance with secure storage standards. These records shall:
 - 1. Be kept in fireproof rooms, vaults, or safes rated to preserve the contents for a minimum of four (4) hours at two thousand degrees Fahrenheit (2,000° F);
 - 2. Be made available and accessible within ten (10) business days of a written Access to Public Records request to the Agency made pursuant R.I. Gen. Laws § 38-2-3(e); and;
 - 3. Be maintained in accordance with the public records policy established by the Records Officer.
- B. Where records are designated as non-essential for the transaction of Agency business and the Agency determines such records are not required to be stored on-site at the Agency's primary offices or place of business, such records shall be stored off-site exclusively with the State Records Center.
 - 1. Records shall be stored in the State Records Center until such time for disposal or disposition as is provided in the applicable Records Control Schedule.
 - 2. The Agency shall retain title and ownership of any record of the Agency stored in the State Records Center.
 - 3. Records stored in the State Records Center shall be made accessible to the Agency in response to requests for access to public records made to the Agency.
 - 4. Records shall be sent into the State Records Center following the transmittals process as set by the Public Records Administration. All records must be identified and described prior to storage and have destruction eligibility dates if not deemed of permanent value.
- C. Electronic Records shall be securely maintained subject to applicable retention periods. Such records shall:

1. Be maintained in reasonable accessible format for the entire life of the record; and
2. Be considered for conversion to updated electronic and file formats no less frequently than once every three (3) years, or as otherwise reflected in current best practices for the reasonable avoidance of media deterioration and/or obsolescence.

1.8 Disposition of Record(s)

- A. The Records Officer, or local government representative, shall submit to the Public Records Administrator, or Local Government Records Program, the Certification of Records Destruction prior to destruction of any record, regardless of format. The Certification of Records Destruction:
 1. Shall be signed by the Agency Head or their designee.
 2. Shall be signed by the State Archivist/Public Records Administrator or their designee.
 3. Shall be eligible for disposal by the Agency solely upon confirmation by the Public Records Administrator or their designee that the Certification of Records Destruction has been executed by each required party. The Certification of Records Destruction shall thereafter be a permanent record of the Agency, and will be maintained as the legal replacement for destroyed records.
 4. No public record shall be destroyed or otherwise disposed of by any agency without prior notice to, and approval by, the program. For records which have been affected by natural or other disaster, see § 1.8(C) of this Part.
- B. Records which have met the applicable retention requirement in compliance with the approved Records Control Schedule shall be physically and permanently destroyed in a timely and appropriate manner, as follows:
 1. Records in custody of the Agency shall be destroyed by the Agency or an approved vendor.
 2. Records in custody of the State Records Center shall be destroyed by the Public Records Administration or an affiliate vendor.
- C. Records which have been compromised, rendered illegible, reasonably evidenced as posing a public health hazard or otherwise unusable due to catastrophe, natural disaster or other event shall be issued a Certification of Emergency Records Destruction and may be disposed of thereafter with prior written approval from the Public Records Administration, including confirmation

by the Public Records Administrator of execution by each of the required parties. If you identify records that may be compromised, your Agency must:

1. Contact the Public Records Administration immediately at records@sos.ri.gov or (401) 222-2353.
 2. Allow a member of the Public Records Administration to conduct a site visit to assess the records before any action is taken to dispose of records.
 3. Provide clear evidence, such as photo documentation and a detailed incident report, that records are unsalvageable and that every effort has been made to either create a reproduction or rescue the records prior to seeking approval for disposition via the Certification of Emergency Records Destruction. The Certification of Emergency Records Destruction:
 - a. Shall be signed by the Agency Head or their designee.
 - b. Shall be signed by the State Archivist/ Public Records Administrator or their designee.
 - c. Will be maintained as a permanent record and will serve as the legal replacement for destroyed records.
 - d. Upon approval, records shall be safely destroyed by the Agency or an appropriate affiliate vendor contracted by the Agency and specializing in disaster mitigation and document destruction.
- D. Records which the Agency seeks to preserve digitally shall adhere in each instance to the standards set forth in § 1.3 of this Part. In addition to the foregoing:
1. Digitizing of public records to archival standards shall be deemed the digital preservation of non-permanent records.
 - a. The Records Officer shall submit to the Public Records Administration the Notice of Intent to Digitize form prior to executing a digitizing project.
 - b. The Records Officer may be required by the Public Records Administrator to submit a Digital Records Preservation Strategy prior to executing a digitizing project.
 - c. The Records Officer shall submit to the Public Records Administration the Certification of Records Destruction prior to the destruction of digitized physical records.

2. Except as otherwise determined hereafter by the Public Records Administration, Microfilm of physical public records with a permanent retention requirement shall serve as the sole permitted, legal replacement for said public records.
 - a. Records with a permanent or long-term retention requirement are eligible for microfilming pursuant to R.I. Gen. Laws § 38-3-5.1.
 - b. Microfilming must be completed in adherence to the ANSI/AIIM MS19–1993 standards and recommendations incorporated above at § 1.3 of this Part.

E. Transfer to State Archives

1. The Agency may request the State Archives, as the official State Repository, to accept the possession and custody of records with a permanent retention requirement, and which have no present legal or administrative value to the Agency but are deemed by the State Archivist/Public Records Administrator and the Attorney General or the Auditor General to be of permanent or historical value.
2. Public records determined to be of permanent value according to the Records Control Schedule and by the State Archivist/Public Records Administrator, shall be transferred to the State Archives following assessment after the twentieth (20th) year if transfer of custody is in the best interest of the record(s).
3. A list of all such records transferred, together with a statement certifying compliance with the provisions of research and access as provided in R.I. Gen. Laws § 42-8.1-11, shall be preserved in the files of both the Agency and the State Archives.
4. Public records created or received by general officers or other senior officials which relate to or have an effect upon the carrying out of the constitutional, statutory, or other official duties carried out on behalf of the State, shall be transferred at the end of the elected official's term within thirty (30) days of leaving such office.
5. The State Archives shall organize and administer the transfer of custody of such records.

1.9 Severability

If any provision of these Regulations or the application thereof to any Person or circumstances is held invalid by a court of competent jurisdiction, the validity of the remainder of the Regulations shall not be affected thereby.

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