
This schedule applies to: Office of the Attorney General

Scope of records retention schedule

This records retention schedule authorizes the destruction/transfer of the public records of the Office of the Attorney General relating to the unique functions of providing legal advice and opinions and managing litigation. The schedule is to be used in conjunction with the *State Government General Records Retention Schedule (SGRRS)* which authorizes the destruction/transfer of public records common to all state agencies.

Disposition of public records

Public records covered by records series within this records retention schedule (regardless of format) must be retained for the minimum retention period as specified in this schedule. Washington State Archives strongly recommends the disposition of public records at the end of their minimum retention period for the efficient and effective management of state resources.

Public records designation as “Archival (Permanent Retention)” must not be destroyed. Records designated as “Archival (Appraisal Required)” must be appraised by the Washington State Archives before disposition. Public records must not be destroyed if they are subject to ongoing or reasonably anticipated litigation. Such public records must be managed in accordance with the agency’s policies and procedures for legal holds. Public records must not be destroyed if they are subject to an existing public records request in accordance with chapter 42.56 RCW. Such public records must be managed in accordance with the agency’s policies and procedures for public records requests.

Revocation of previously issued records retention schedules

All previously issued records retention schedules to the Office of the Attorney General are revoked. The Office of the Attorney General must ensure that the retention and disposition of public records is in accordance with current, approved records retention schedules.

Authority

This records retention schedule was approved by the State Records Committee in accordance with RCW 40.14.050 on March 5, 2014.

Signature on File

**For the State Auditor:
Cindy Evans**

Signature on File

**For the Attorney General:
Matt Kernutt**

Signature on File

**For the Office of Financial Management:
Kathy Cody**

Signature on File

**The State Archivist:
Steve Excell**

REVISION HISTORY

Version	Date of Approval	Extent of Revision
1.0	December 5, 2012	Consolidation and revision of all existing disposition authorities.
1.1	March 5, 2014	Minor revisions to litigation case files relating to habeas corpus.

For assistance and advice in applying this records retention schedule,
please contact the Office of the Attorney General's Records Officer
or Washington State Archives at:
recordsmanagement@sos.wa.gov

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1. LEGAL ADVICE AND OPINIONS

This section covers records relating to the development and issuance of legal advice and opinions (formal/informal) by the Office of the Attorney General.

DISPOSITION AUTHORITY NUMBER (DAN)	DESCRIPTION OF RECORDS	RETENTION AND DISPOSITION ACTION	DESIGNATION
75-07-12557 Rev. 2	<p>Attorney General Opinions – Formal/Informal</p> <p>Formal and informal Opinions of the Attorney General on questions of law, processed through the office’s central opinions program.</p> <p>Excludes records covered by Legal Advice, Analysis, and Opinions – Development (DAN 12-12-62289).</p>	<p>Retain for 10 years after issuance of formal/informal opinion</p> <p><i>then</i></p> <p>Transfer to Washington State Archives for permanent retention.</p>	<p>ARCHIVAL (Permanent Retention) ESSENTIAL OPR</p>
04-09-60762 Rev. 1	<p>Legal Advice Records – Significant to the State</p> <p>Records documenting the provision of legal opinions and interpretations, legal documents and other materials pertaining to specific issues to client agencies of the Office of the Attorney General, not arising in the course of litigation.</p> <p>Excludes records covered by:</p> <ul style="list-style-type: none"> • Attorney General Opinions – Formal/Informal (DAN 75-07-12557); • Legal Advice, Analysis, and Opinions – Development (DAN 12-09-68289); • Legal Advice Records – Routine (DAN 12-12-68349). 	<p>Retain for 6 years after issuance of advice</p> <p><i>then</i></p> <p>Transfer to Washington State Archives for appraisal and selective retention.</p>	<p>ARCHIVAL (Appraisal Required) NON-ESSENTIAL OPR</p>

DISPOSITION AUTHORITY NUMBER (DAN)	DESCRIPTION OF RECORDS	RETENTION AND DISPOSITION ACTION	DESIGNATION
12-12-68349 Rev. 0	<p>Legal Advice Records – Routine</p> <p>Records documenting the provision of legal opinions and interpretations, legal documents and other materials pertaining to specific issues to client agencies of the Office of the Attorney General, not arising in the course of litigation, but limited to the following matters:</p> <ul style="list-style-type: none"> • Review and approval as to form of contracts; • Issuance, denial, cancellation, or revocation of any license or permit; • Personnel actions solely related to individual state employees. 	<p>Retain for 6 years after issuance of advice <i>then</i> Destroy.</p>	<p>NON-ARCHIVAL NON-ESSENTIAL OPR</p>
12-12-68289 Rev. 0	<p>Legal Advice, Analysis, and Opinions – Development</p> <p>Records relating to the development of Attorney General Opinions, legal advice and analysis of the law, provided to client agencies, other governmental officers and agencies, or to the public.</p> <p>Includes, but is not limited to:</p> <ul style="list-style-type: none"> • Preliminary drafts; • Comments on preliminary drafts; • Related correspondence. 	<p>Retain until issuance of advice/opinion <i>then</i> Destroy.</p>	<p>NON-ARCHIVAL NON-ESSENTIAL OFM</p>

DISPOSITION AUTHORITY NUMBER (DAN)	DESCRIPTION OF RECORDS	RETENTION AND DISPOSITION ACTION	DESIGNATION
12-12-68294 Rev. 0	<p>Open Government Ombudsman Analysis</p> <p>Records documenting the communications between the Open Government Ombudsman and citizens and government agencies in relation to compliance with the Public Records Act (chapter 42.56 RCW) and the Open Public Meetings Act (chapter 42.30 RCW).</p> <p>Includes, but is not limited to:</p> <ul style="list-style-type: none"> • Constituent contact correspondence; • Reviews of agency denials of public records requests conducted by the Office of the Attorney General in accordance with RCW 42.56.530. <p>Excludes records covered by Legal Advice, Analysis, and Opinions – Development (DAN 12-12-68289).</p>	<p>Retain for 2 years after analysis provided <i>then</i> Transfer to Washington State Archives for appraisal and selective retention.</p>	<p>ARCHIVAL (Appraisal Required) NON-ESSENTIAL OPR</p>

2. LITIGATION

This section covers records relating to the management of litigation.

2.1 CASE FILES

The activity of managing particular cases litigated by the Office of the Attorney General before a state or federal court or administrative forum.

DISPOSITION AUTHORITY NUMBER (DAN)	DESCRIPTION OF RECORDS	RETENTION AND DISPOSITION ACTION	DESIGNATION
04-09-60764 Rev. 1	<i>Litigation Case Files (Administrative Forums)</i> Records relating to a particular case litigated by the Office of the Attorney General before a state or federal administrative forum.	Retain for 6 years after resolution of case <i>then</i> Destroy.	NON-ARCHIVAL NON-ESSENTIAL OPR

2.1 CASE FILES

The activity of managing particular cases litigated by the Office of the Attorney General before a state or federal court or administrative forum.

DISPOSITION AUTHORITY NUMBER (DAN)	DESCRIPTION OF RECORDS	RETENTION AND DISPOSITION ACTION	DESIGNATION
04-09-60766 Rev. 1	<p><i>Litigation Case Files (Judicial) – Highly Significant to the State</i></p> <p>Records relating to a particular case litigated by the Office of the Attorney General before a state or federal court which are highly significant.</p> <p>Highly significant cases involve the following subject matters:</p> <ul style="list-style-type: none"> • Criminal murder litigation files (murder case files from all levels of courts containing police reports, prosecuting attorney files, AGO case file, investigation materials, all pleadings and correspondence, trial notebooks and exhibits); • Habeas corpus cases which have an evidentiary hearing in the Federal District Court and/or oral argument in the Federal Court of Appeals; • Sexually violent predator civil commitment files (all documents relevant to SVP Civil Commitment actions, including but not limited to pleadings, medical files, police reports or court documents regarding the offender’s prior offenses, mental health records, Special Commitment Center (SCC) documents, depositions and attorney notes). Actions included are initial commitment trial, appeals, declines and post-commitment files. • Cases in which the State’s title to real estate, including water rights, is at issue. This includes, but is not limited to, eminent domain/condemnations. • The cases of <i>United States v. Washington</i> and <i>United States v. Oregon</i> (treaty fishing rights cases), including all sub proceedings in which the State participated. <p>Excludes records covered by:</p> <ul style="list-style-type: none"> • Discovery Materials Not Submitted to Court (DAN 12-12-68288); • Litigation Materials – Development (DAN 12-12-68293). <p><i>Note: Assigned attorney should identify and segregate any records considered privileged or otherwise confidential prior to transfer to Washington State Archives.</i></p>	<p>Retain for 6 years after resolution of case (including appeals)</p> <p><i>then</i></p> <p>Transfer to Washington State Archives for permanent retention.</p>	<p>ARCHIVAL (Permanent Retention) ESSENTIAL OPR</p>

2.1 CASE FILES

The activity of managing particular cases litigated by the Office of the Attorney General before a state or federal court or administrative forum.

DISPOSITION AUTHORITY NUMBER (DAN)	DESCRIPTION OF RECORDS	RETENTION AND DISPOSITION ACTION	DESIGNATION
04-09-60765 Rev. 1	<p><i>Litigation Case Files (Judicial) – Significant to the State</i></p> <p>Records relating to a particular case litigated by the Office of the Attorney General before a state or federal court, including appeals and judicial review if administrative litigation which are <u>not</u> covered by a more specific litigation case file series.</p> <p>Excludes records covered by:</p> <ul style="list-style-type: none"> • Discovery Materials Not Submitted to Court (DAN 12-12-68288); • Litigation Materials – Development (DAN 12-12-68293); <p><i>Note: Assigned attorney is encouraged to indicate in writing at the time the file is closed any views as to whether the file contains materials of legal and/or historical significance. Assigned attorney should also identify and segregate any records considered privileged or otherwise confidential prior to transfer to Washington State Archives.</i></p>	<p>Retain for 6 years after resolution of case (including appeals)</p> <p><i>then</i></p> <p>Transfer to Washington State Archives for appraisal and selective retention.</p>	<p>ARCHIVAL (Appraisal Required) ESSENTIAL OPR</p>
14-03-68493 Rev. 0	<p><i>Litigation Case Files (Judicial) – Habeas Corpus (20 Years or More in Custody)</i></p> <p>Records relating to a particular habeas corpus case by the Office of the Attorney General in which the offender is sentenced to 20 years or more in custody.</p> <p>Excludes habeas corpus cases which have an evidentiary hearing in the Federal District Court and/or oral argument in the Federal Court of Appeals.</p>	<p>Retain for 20 years after resolution of case (including appeals)</p> <p><i>then</i></p> <p>Destroy.</p>	<p>NON-ARCHIVAL ESSENTIAL OPR</p>

2.1 CASE FILES

The activity of managing particular cases litigated by the Office of the Attorney General before a state or federal court or administrative forum.

DISPOSITION AUTHORITY NUMBER (DAN)	DESCRIPTION OF RECORDS	RETENTION AND DISPOSITION ACTION	DESIGNATION
12-12-68291 Rev. 1 <i>Continued from previous page</i>	<p style="text-align: center;"><i>Continued from previous page</i></p> <ul style="list-style-type: none"> • Habeas corpus cases in which the offender is sentenced to less than 20 years in custody <u>AND</u> which do not have an evidentiary hearing in the Federal District Court and/or oral argument in the Federal Court of Appeals; • Issuance, denial, cancellation, revocation of any license or permit, or imposition of disciplinary sanctions on licensee or permittee; • Labor and Industries cases; • Personal restraint petitions; • Personnel actions solely related to individual state employees; • Petitions for review of agency rules; • Post-sentence petitions; • Tax issues; • Tort actions; • Utility rate cases; <u>but</u> <p>2. Exclude any case heard and determined by the United States Supreme Court or the Washington Supreme Court; <u>and</u></p> <p>3. Exclude any case that results in an appellate court decision declaring a state or federal law unconstitutional.</p> <p>Excludes records covered by:</p> <ul style="list-style-type: none"> • Discovery Materials Not Submitted to Court (DAN 12-12-68288); • Litigation Materials – Development (DAN 12-12-68293). 	<p style="text-align: center;"><i>Continued from previous page</i></p>	<p style="text-align: center;"><i>Continued from previous page</i></p>

2.1 CASE FILES

The activity of managing particular cases litigated by the Office of the Attorney General before a state or federal court or administrative forum.

DISPOSITION AUTHORITY NUMBER (DAN)	DESCRIPTION OF RECORDS	RETENTION AND DISPOSITION ACTION	DESIGNATION
12-12-68292 Rev. 0	<p><i>Litigation Case Files (Judicial – Juvenile Matters) – Significant to the State</i></p> <p>Records relating to a particular case litigated by the Office of the Attorney General before a state or federal court involving the Department of Social and Health Services (DSHS) and juveniles, such as cases related to adoptions, alternative residential placement, dependency, guardianship, voluntary relinquishments, termination of parental rights, etc. Significant juvenile cases are limited to those that are:</p> <ul style="list-style-type: none"> • Heard and determined by the United States Supreme Court or the Washington Supreme Court; or • That result in an appellate court decision declaring a state or federal law unconstitutional. <p>Excludes records covered by:</p> <ul style="list-style-type: none"> • Discovery Materials Not Submitted to Court (DAN 12-12-68288); • Litigation Materials – Development (DAN 12-12-68293). <p><i>Note: Assigned attorney is encouraged to indicate in writing at the time the file is closed any views as to whether the file contains materials of legal and/or historical significance. Assigned attorney should also identify and segregate any records considered privileged or otherwise confidential prior to transfer to Washington State Archives.</i></p>	<p>Retain for 21 years after resolution of case (including appeals)</p> <p><i>then</i></p> <p>Transfer to Washington State Archives for appraisal and selective retention.</p>	<p>ARCHIVAL (Appraisal Required) ESSENTIAL OPR</p>

2.1 CASE FILES

The activity of managing particular cases litigated by the Office of the Attorney General before a state or federal court or administrative forum.

DISPOSITION AUTHORITY NUMBER (DAN)	DESCRIPTION OF RECORDS	RETENTION AND DISPOSITION ACTION	DESIGNATION
77-10-20098 Rev. 4	<p><i>Litigation Case Files (Judicial – Juvenile Matters) – Routine</i></p> <p>Records relating to a particular case litigated by the Office of the Attorney General before a state or federal court involving the Department of Social and Health Services (DSHS) and juveniles, such as cases related to adoptions, alternative residential placement, dependency, guardianship, voluntary relinquishments, termination of parental rights, etc.</p> <p>Excludes any case:</p> <ul style="list-style-type: none"> • Heard and determined by the United States Supreme Court or the Washington Supreme Court; and • That results in an appellate court decision declaring a state or federal law unconstitutional. <p>Excludes records covered by:</p> <ul style="list-style-type: none"> • Discovery Materials Not Submitted to Court (DAN 12-12-68288); • Litigation Materials – Development (DAN 12-12-68293). 	<p>Retain for 21 years after resolution of case (including appeals)</p> <p><i>then</i></p> <p>Destroy.</p>	<p>NON-ARCHIVAL ESSENTIAL OPR</p>

2.2 DEVELOPMENT AND PREPARATION

The activities associated with the investigations and the development and preparation for litigation where the records do not become part of the litigation case file.

DISPOSITION AUTHORITY NUMBER (DAN)	DESCRIPTION OF RECORDS	RETENTION AND DISPOSITION ACTION	DESIGNATION
12-12-68288 Rev. 0	<p><i>Discovery Materials Not Submitted to Court</i></p> <p>Records gathered, received, or produced in relation to discovery requests or civil investigative demands which are not submitted to the court.</p> <p><i>Note: Discovery materials submitted to court are covered by the appropriate litigation case file series.</i></p>	<p>Retain for until resolution of case (including appeals) <i>then</i> Destroy.</p>	NON-ARCHIVAL NON-ESSENTIAL OPR
04-09-60763 Rev. 2	<p><i>Investigations – Not Resulting in Litigation</i></p> <p>Records documenting investigations conducted by the Office of the Attorney General into matters external to the Office of the Attorney General (such as investigations into tort claims, Executive Ethics Board complaints, consumer protection complaints, criminal matters, etc.) which do not result in litigation.</p> <p><i>Note: Investigation records resulting in litigation are covered by the appropriate litigation case file series.</i></p> <p><i>Note: Internal investigations (such as personnel matters) are covered by the State Government General Records Retention Schedule.</i></p>	<p>Retain until no longer needed for agency business <i>then</i> Destroy.</p>	NON-ARCHIVAL NON-ESSENTIAL OFM

2.2 DEVELOPMENT AND PREPARATION

The activities associated with the investigations and the development and preparation for litigation where the records do not become part of the litigation case file.

DISPOSITION AUTHORITY NUMBER (DAN)	DESCRIPTION OF RECORDS	RETENTION AND DISPOSITION ACTION	DESIGNATION
12-12-68290 Rev. 0	<p><i>Litigation – State Does Not Participate</i></p> <p>Records relating to litigation where the Office of the Attorney General chooses not to participate.</p> <p>Includes, but is not limited to:</p> <ul style="list-style-type: none"> • Requests from third parties to join litigation; • Pleadings and other materials; • Records documenting the decision of the Office of the Attorney General not to participate. <p><i>Note: Records relating to litigation where the Office of the Attorney General chooses to participate are covered by the appropriate litigation case file series.</i></p>	<p>Retain until determined not to participate <i>then</i> Destroy.</p>	NON-ARCHIVAL NON-ESSENTIAL OFM
12-12-68293 Rev. 0	<p><i>Litigation Materials – Development</i></p> <p>Records relating to the development of litigation materials (such as pleadings, memoranda, briefs, declarations, discovery materials, reports, etc.) concerning any matter in litigation, or reasonably anticipated to be in litigation before any judicial or administrative forum.</p> <p>Includes, but is not limited to:</p> <ul style="list-style-type: none"> • Preliminary drafts; • Comments on preliminary drafts; • Related correspondence. 	<p>Retain until no longer needed for agency business <i>then</i> Destroy.</p>	NON-ARCHIVAL NON-ESSENTIAL OFM

GLOSSARY

Appraisal

The process of determining the value and disposition of records based on their current administrative, legal, and fiscal use; their evidential and informational or research value; and their relationship to other records.

Archival (Appraisal Required)

Public records which may possess enduring legal and/or historic value and must be appraised by the Washington State Archives on an individual basis.

Public records will be evaluated, sampled, and weeded according to archival principles by archivists from Washington State Archives (WSA). Records not selected for retention by WSA may be disposed of after appraisal.

Archival (Permanent Retention)

Public records which possess enduring legal and/or historic value and must not be destroyed. State government agencies must transfer these records to Washington State Archives (WSA) at the end of the minimum retention period.

WSA will not sample, weed, or otherwise dispose of records fitting the records series description designated as "Archival (Permanent Retention)" other than the removal of duplicates.

Disposition

Actions taken with records when they are no longer required to be retained by the agency.

Possible disposition actions include transfer to Washington State Archives and destruction.

Disposition Authority Number (DAN)

Control numbers systematically assigned to records series or records retention schedules when they are approved by the State Records Committee.

Essential Records

Public records that state government agencies must have in order to maintain or resume business continuity following a disaster. While the retention requirements for essential records may range from very short-term to archival, these records are necessary for an agency to resume its core functions following a disaster.

Security backups of these public records should be created and may be deposited with Washington State Archives in accordance with Chapter 40.10 RCW.

Non-Archival

Public records which do not possess sufficient historic value to be designated as “Archival”. Agencies must retain these records for the minimum retention period specified by the appropriate, current records retention schedule.

Agencies should destroy these records after their minimum retention period expires, provided that the records are not required for litigation, public records requests, or other purposes required by law.

Non-Essential Records

Public records which are not required in order for an agency to resume its core functions following a disaster, as described in Chapter 40.10 RCW.

OFM (Office Files and Memoranda)

Public records which have been designated as “Office Files and Memoranda” for the purposes of RCW 40.14.010.

RCW 40.14.010 – Definition and classification of public records.

(2) “Office files and memoranda include such records as correspondence, exhibits, drawings, maps, completed forms, or documents not above defined and classified as official public records; duplicate copies of official public records filed with any agency of the state of Washington; documents and reports made for the internal administration of the office to which they pertain but not required by law to be filed or kept with such agency; and other documents or records as determined by the records committee to be office files and memoranda.”

OPR (Official Public Records)

Public records which have been designated as “Official Public Records” for the purposes of RCW 40.14.010.

RCW 40.14.010 – Definition and classification of public records.

(1) “Official public records shall include all original vouchers, receipts, and other documents necessary to isolate and prove the validity of every transaction relating to the receipt, use, and disposition of all public property and public income from all sources whatsoever; all agreements and contracts to which the state of Washington or any agency thereof may be a party; all fidelity, surety, and performance bonds; all claims filed against the state of Washington or any agency thereof; all records or

documents required by law to be filed with or kept by any agency of the state of Washington; ... and all other documents or records determined by the records committee... to be official public records.”

Public Records

RCW 40.14.010 – Definition and classification of public records.

“... The term "public records" shall include any paper, correspondence, completed form, bound record book, photograph, film, sound recording, map drawing, machine-readable material, compact disc meeting current industry ISO specifications, or other document, regardless of physical form or characteristics, and including such copies thereof, that have been made by or received by any agency of the state of Washington in connection with the transaction of public business...”

Records Series

A group of records, performing a specific function, which is used as a unit, filed as a unit, and may be transferred or destroyed as a unit. A records series may consist of a single type of form or a number of different types of documents that are filed together to document a specific function.

State Records Committee

The committee established by RCW 40.14.050 to review and approve disposition of state government records.

Its four members include the State Archivist and one representative each from the Office of the Attorney General, Office of the State Auditor, and the Office of Financial Management.

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See the State Government General Records Retention Schedule for additional "Archival" records.

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