

Managing Public Records in State Agencies using Functional Schedules

Agenda

- Discuss the purpose and application of records management
- Analyze public records laws in North Carolina
- Dissect functional retention and disposition schedules

Action Items

- Who is my Chief Records Officer?
- Who is my records liaison?
- Does my division have an electronic records policy?
- For records where numerous copies are circulated, who is responsible for retaining the record copy?
- Does my division have legacy records stored at the State Records Center that need to be reassessed to determine their appropriate disposition?
- What additional training do I need to carry out my records management duties?

State Archives website navigation (<https://archives.ncdcr.gov/>)

- Records Analysts for State Agencies: Government >> Retention Schedules >> State Agency Schedules >> Records Analysts for State Agencies
- Chief Records Officers: Government >> Retention Schedules >> State Agency Schedules >> Chief Records Officers for State Agencies
- Online Tutorials: Government >> Records Management Services and Training >> Online Tutorials
- Functional Schedule for North Carolina State Agencies: Government >> Retention Schedules >> State Agency Schedules
 - Functional Schedule for North Carolina State Agencies
 - State Agency Records Management Tools
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 - Questions
- Agency Functions and Unique Record Types: Government >> Retention Schedules >> State Agency Schedules >> Functional Schedule for North Carolina State Agencies
- Digital Records Policies and Procedures: Government >> Digital Records

Government Records Section blog (<https://ncrecords.wordpress.com/>)

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Functions of North Carolina State Government

1. Agency Management

Agency Management is the overarching management that occurs in all government agencies. Agencies document the processes of making decisions for the agency and overseeing its operations.

2. Asset Management

The Asset Management function encompasses acquisition, maintenance, inventory, and disposal of physical assets. Agencies document the management of physical assets, including facilities, land, equipment, vehicles, etc.

3. Economic Development

Economic Development is the function of encouraging the conditions for economic growth and improved quality of life. Agencies document efforts to support innovation and expand the availability of goods and services.

4. Education

The function of Education is primarily the purview of local education agencies but also has some activities at the state level. Education institutions subject to this schedule include Governor Morehead School for the Blind, North Carolina School for the Deaf, Eastern North Carolina School for the Deaf, state operated healthcare facilities operated by the Department of Health and Human Services, and prisons, youth development centers, and juvenile detention centers operated by the Department of Public Safety. This schedule applies to the Governor's School program and the curriculum and assessment standards developed by the Department of Public Instruction. This schedule also applies to agencies that oversee professional credentialing.

5. Financial Management

Financial Management is the function of caring for the financial resources and obligations of a government agency.

6. Governance

The Governance function involves the creation of statutes and rules, agency liaisons with government officials, the oversight provided by governing or advisory bodies, and the collection of archival election records. Agencies document the actual statutes and regulations along with the process of their development. Governing bodies document their decision making. The State Board of Elections and the Department of the Secretary of State collect key documents regarding the campaign and election processes. The Governor's and Lieutenant Governor's offices document their constitutional and legislative functions. The General Assembly documents the creation of legislation, and the Office of Administrative Hearings documents official administrative rules.

7. Healthcare

The function of Healthcare entails the maintaining and restoration of health by the treatment and prevention of disease. The State Veterans Homes, the Division of State Operated Healthcare Facilities, and the Division of Adult Correction and Juvenile Justice provide medical care to patients and residents in their facilities. The DHHS Central Billing Office handles financial records for DSOHF. The Office of the Chief Medical Examiner and the State Laboratory of Public Health also perform health-related research that is addressed on this schedule.

8. Human Resources

Human Resources records document the management of a government agency's personnel. This function incorporates both the human and the payroll management aspects of personnel.

9. Information Technology

The function of Information Technology addresses tangible resources like networking hardware and computers as well as intangible resources like software and data.

10. Infrastructure Management

The function of Infrastructure Management involves the construction of public buildings, roads, and other public works.

11. Law Enforcement

Law Enforcement records document the efforts of state agencies to protect the lives and property of the state's citizens and people who visit and work in the state as well as to supervise adults and juveniles sentenced after conviction for violations of North Carolina law. This function focuses on efforts to ensure compliance by individuals and organizations with laws.

12. Legal

The Legal function involves protecting the rights, obligations, and interests of the agency or its individual employees or constituents.

13. Monitoring and Compliance

The function of Monitoring entails systematic, periodic reviews to ensure quality products, performance, and the accomplishment of objectives. Compliance ensures that people and organizations meet all obligations and comply with regulations, which may be accomplished through the promulgation and communication of policy guidance to outside entities regarding state and federal regulations.

14. Public Assistance and Support Services

The function of Public Assistance and Support Services involves coordinating needs-related payments and providing a safety net for under-resourced populations. These functions also encompass workforce development and vocational rehabilitation. Agencies document programs offered, eligibility, and services rendered.

15. Public Relations

Public Relations is an outward-facing function of state agencies. Agencies document activities, promote initiatives, publicize accomplishments, provide instruction, and gather feedback from constituents.

16. Risk Management

Risk Management is the function of identifying, analyzing, and assessing unacceptable risks along with handling their avoidance, control, minimization, or elimination.

Public Records Laws

a. General Statute 121: Archives and History Act

- § 121-4(2): The Department of Natural and Cultural Resources shall have the power to conduct a records management program, including the operation of a records center or centers and a centralized microfilming program, for the benefit of all State agencies, and to give advice and assistance to the public officials and agencies in matters pertaining to the economical and efficient maintenance and preservation of public records.
- § 121-5(b): No person may destroy, sell, loan, or otherwise dispose of any public record without the consent of the Department of Natural and Cultural Resources, except as provided in G.S. 130A-99. Whoever unlawfully removes a public record from the office where it is usually kept, or alters, mutilates, or destroys it shall be guilty of a Class 3 misdemeanor and upon conviction only fined at the discretion of the court.

<http://www.ncleg.net/gascripts/status/statutelookup.pl?statute=121>

b. General Statute 132: Public Records Act

- § 132-1(a): “Public record” or “public records” shall mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions.
- § 132-1(b): The public records and public information compiled by the agencies of North Carolina government or its subdivisions are the property of the people. Therefore, it is the policy of this State that the people may obtain copies of their public records and public information free or at minimal cost unless otherwise specifically provided by law. As used herein, “minimal cost” shall mean the actual cost of reproducing the public record or public information.
- § 132-3(a): No public official may destroy, sell, loan, or otherwise dispose of any public record, except in accordance with G.S. 121-5 and G.S. 130A-99, without the consent of the Department of Natural and Cultural Resources. Whoever unlawfully removes a public record from the office where it is usually kept, or alters, defaces, mutilates or destroys it shall be guilty of a Class 3 misdemeanor and upon conviction only fined not less than ten dollars (\$10.00) nor more than five hundred dollars (\$500.00).
- § 132-6(a): Every custodian of public records shall permit any record in the custodian’s custody to be inspected and examined at reasonable times and under reasonable supervision by any person, and shall, as promptly as possible, furnish copies thereof upon payment of any fees as may be prescribed by law. As used herein, “custodian” does not mean an agency that holds the public records of other agencies solely for purposes of storage or safekeeping or solely to provide data processing.
- § 132-6(b): No person requesting to inspect and examine public records, or to obtain copies thereof, shall be required to disclose the purpose or motive for the request.
- § 132-6(c): No request to inspect, examine, or obtain copies of public records shall be denied on the grounds that confidential information is commingled with the requested nonconfidential information. If it is necessary to separate confidential from nonconfidential information in

<http://www.ncleg.net/gascripts/status/statutelookup.pl?statute=132>

Examples of confidential records:

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order to permit the inspection, examination, or copying of the public records, the public agency shall bear the cost of such separation.

- § 132-6.1(a): Databases purchased, leased, created, or otherwise acquired by every public agency containing public records unless it first determines that the system will shall be designed and maintained in a manner that does not impair or impede the public agency's ability to permit the public inspection and examination, and to provide electronic examination of public records and provides a means of obtaining copies of such records. Nothing in this subsection shall be construed to require the retention by the public agency of obsolete hardware or software.
- § 132-6.1(a1) Notwithstanding G.S. 132-6.2(a), a public agency may satisfy the requirement under G.S. 132-6 to provide access to public records in computer databases by making public records in computer databases individually available online in a format that allows a person to view the public record and print or save the public record to obtain a copy. A public agency that provides access to public records under this subsection is not required to provide access to the public records in the computer database in any other way; provided, however, that a public agency that provides access to public records in computer databases shall also allow inspection of any of such public records that the public agency also maintains in a nondigital medium.
- § 132-6.2(a): Persons requesting copies of public records may elect to obtain them in any and all media in which the public agency is capable of providing them. No request for copies of public records in a particular medium shall be denied on the grounds that the custodian has made or prefers to make the public records available in another medium. The public agency may assess different fees for different media as prescribed by law.
- § 132-6.2(e): Nothing in this section shall be construed to require a public agency to respond to a request for a copy of a public record by creating or compiling a record that does not exist. If a public agency, as a service to the requester, voluntarily elects to create or compile a record, it may negotiate a reasonable charge for the service with the requester. Nothing in this section shall be construed to require a public agency to put into electronic medium a record that is not kept in electronic medium.
- § 132-7: Insofar as possible, custodians of public records shall keep them in fireproof safes, vaults, or rooms fitted with noncombustible materials and in such arrangement as to be easily accessible for convenient use. All public records should be kept in the buildings in which they are ordinarily used.
- § 132-11(a): Notwithstanding any other provision of law, all restrictions on access to public records shall expire 100 years after the creation of the record.

c. General Statute § 14-113.20: Personal Identifying information

(b) The term “identifying information” as used in this Article includes the following:

- (1) Social security or employer taxpayer identification numbers.
- (2) Driver’s license, State identification card, or passport numbers.
- (3) Checking account numbers.
- (4) Savings account numbers.
- (5) Credit card numbers.
- (6) Debit card numbers.
- (7) Personal Identification (PIN) Code as defined in G.S. 14-113.8(6).

<http://www.ncleg.net/gascritps/statutes/statutelookup.pl?statute=14-113.20>

- (8) Electronic identification numbers, electronic mail names or addresses, Internet account numbers, or Internet identification names.
- (9) Digital signatures.
- (10) Any other numbers or information that can be used to access a person's financial resources.
- (11) Biometric data.
- (12) Fingerprints.
- (13) Passwords.
- (14) Parent's legal surname prior to marriage.

d. **General Statute § 126-23. Certain records to be kept by State agencies open to inspection**

<http://www.ncleg.net/gascripts/statutes/statutelookup.pl?statute=126>

- (a) Each department, agency, institution, commission and bureau of the State shall maintain a record of each of its employees, showing the following information with respect to each such employee:
- (1) Name.
 - (2) Age.
 - (3) Date of original employment or appointment to State service.
 - (4) The terms of any contract by which the employee is employed whether written or oral, past and current, to the extent that the agency has the written contract or a record of the oral contract in its possession.
 - (5) Current position.
 - (6) Title.
 - (7) Current salary.
 - (8) Date and amount of each increase or decrease in salary with that department, agency, institution, commission, or bureau.
 - (9) Date and type of each promotion, demotion, transfer, suspension, separation, or other change in position classification with that department, agency, institution, commission, or bureau.
 - (10) Date and general description of the reasons for each promotion with that department, agency, institution, commission, or bureau.
 - (11) Date and type of each dismissal, suspension, or demotion for disciplinary reasons taken by the department, agency, institution, commission, or bureau. If the disciplinary action was a dismissal, a copy of the written notice of the final decision of the head of the department setting forth the specific acts or omissions that are the basis of the dismissal.
 - (12) The office or station to which the employee is currently assigned.

e. **07 NCAC 04M .0510: Methods of Destruction**

- (a) When used in an approved records retention and disposition schedule, the provision that paper records are to be destroyed means that the records shall be:
- (1) burned, unless prohibited by local ordinance;
 - (2) shredded or torn so as to destroy the record content of the documents or materials concerned;
 - (3) placed in acid vats so as to reduce the paper to pulp and to terminate the existence of the document or materials concerned;
or
 - (4) sold as waste paper, provided that the purchaser agrees in writing that the documents or materials concerned will not be resold without pulverizing or shredding the documents so that the information contained within cannot be practicably read or reconstructed.

<http://reports.oah.state.nc.us/ncac/title%2007%20-%20natural%20and%20cultural%20resources/chapter%2004%20-%20archives%20and%20history/subchapter%20m%20rules.html>

- (b) When used in an approved records retention and disposition schedule, the provision that electronic records are to be destroyed means that the data and metadata are to be overwritten, deleted, and unlinked so the data and metadata may not be practicably reconstructed.
- (c) When used in an approved records retention and disposition schedule, the provision that confidential records of any format are to be destroyed means the data, metadata, and physical media are to be destroyed in such a manner that the information cannot be read or reconstructed under any means.

f. 07 NCAC 04M .0503 Procedures for Transfer of Records

- (b) For transfer of paper and other physical media:
 - (1) The State Records Center shall only accept records packed in State Records Center boxes. Upon request of the transferring custodian, the Division shall send the agency State Records Center boxes, labels, paper tape, and instructions on packing and labeling the boxes. The agency shall pay the Division for the materials and shipping.
 - (2) The custodian initiating the transfer shall arrange records in the boxes and label boxes in accordance with instructions. Boxes that do not comply with instructions shall be returned to the custodian for correction.
 - (3) Records that cannot be identified clearly and completely by the information on the label of the State Records Center box shall be accompanied by a typewritten index or box list prepared by the custodian initiating the transfer.
 - (4) Records transferred from within 10 miles of Capitol Square, Raleigh, shall be shipped by arrangement with the State Records Center staff. Records transferred from beyond 10 miles of Capitol Square, Raleigh, shall be shipped by the custodian concerned and at the custodian's expense.
- (c) For transfer of electronic public records:
 - (1) Transfers of databases shall be accompanied by index information required in G.S. 132-6.1.
 - (2) The custodian shall scan records and find them to be free of viruses. The State Records Center shall not accept any electronic public records that contain viruses.
 - (3) The custodian shall generate a hash algorithm for each file being transferred. The custodian shall include the hash algorithm as part of the transfer.
 - (4) The custodian shall include any metadata generated at the time of file creation and any subsequent metadata created during the use of the file in the records transfer.
 - (5) Upon receipt of the transfer of electronic records, the State Records Center shall verify that the electronic records transferred were complete and unaltered by reviewing the hash algorithm and using antivirus software prior to accepting them for storage by the Division of Archives and Records.

State Records Center

- a. State Records Center Handbook
<https://archives.ncdcr.gov/documents/state-records-center-handbook>
- b. Records Retrieval Form
<https://archives.ncdcr.gov/documents/rc-14-records-retrieval-form>

5.3 Grants Management

DEFINED: Activities related to the administration of grants received by or awarded by state agencies including the re-granting of Federal monies (i.e., pass-through grants).

*NOTES: Some record types are replicated here because grant records have specific retention requirement, usually stipulated by the funder. For instance, according to 2 CFR 200.333(c), records for real property and equipment acquired with Federal funds must be retained for 3 years after final disposition of the property/equipment. If there is a discrepancy between the retention period listed here and that required by the funder, abide by the more restrictive requirement. All grants managed by the Department of Health and Human Services must receive clearance from the DHHS Office of the Controller before documentation may be purged. **In any case where the retention requirement of the funder is longer than the disposition indicated here, records custodians must abide by the stricter requirement.***

RC No.	Record Types	Description	Disposition Instructions	Citation
531.1	Denied Applications	records relating to grant applications that are denied by the agency and to unsuccessful grant applications submitted by the agency; includes applications, evaluations, and correspondence	RETAIN UNTIL: Complete PLUS: 1 year THEN: Destroy*	
532.5	Grants Administered by Agency (continued on following page)	records relating to state pass-through grants administered by the agency; includes applications, evaluations, grant monitoring, modifications and amendment request, progress reports, correspondence, and other related records	RETAIN UNTIL: Submission of final report PLUS: 5 years Ω THEN: Destroy*	<u>Authority/Retention</u> 09 NCAC 03M .0703
532.3		records relating to Federal pass-through grants administered by the agency; includes applications, evaluations, grant monitoring, modifications and amendment request, progress reports, correspondence, and other related records	RETAIN UNTIL: Submission of final report PLUS: 3 years Ω THEN: Destroy*	<u>Retention</u> 2 CFR 200.333

* No destruction of records may take place if audits or litigation are pending or reasonably anticipated.

∞ See appendix for list of item numbers for records that should transfer to the State Archives.

Ω See appendix for list of item numbers for records that are temporarily stored at the State Records Center prior to destruction.

RC No.	Record Types	Description	Disposition Instructions	Citation
532.10	Grants Administered by Agency (cont.)	records relating to disbursement of funds from the Centers for Medicare & Medicaid Services (CMS); also includes financial records, rate sheets, invoices for payment, utilization data, and other related records	RETAIN UNTIL: Inactive or submission of final report PLUS: 10 years Ω THEN: Destroy*	<u>Retention</u> 42 CFR 422.504(d) DHHS Office of the Controller memorandum (April 20, 2016)
533.5	Grants Issued by Agency	records relating to grants issued by the agency using state appropriations; includes applications, evaluations, grant monitoring, modifications and amendment requests, progress reports, correspondence, and other related records	RETAIN UNTIL: Submission of final report PLUS: 5 years THEN: Destroy*	<u>Authority/Retention</u> 09 NCAC 03M .0703
533.A		final reports and deliverables	PERMANENT (archival) ∞	
534.5	Grants Program Administration	records relating to the agency's oversight of grant funding; includes fiscal and allocation reports, audit reports, correspondence, and other related records	RETAIN UNTIL: Submission of final report PLUS: 5 years THEN: Destroy*	<u>Authority/Retention</u> 09 NCAC 03M .0703
535.P	Grants Received by Agency	records relating to major grants received by the agency that begin new initiatives or promote core functions of the agency	PERMANENT (appraisal required) ∞	
535.5		records relating to routine state or non-governmental grants received by the agency; includes applications, notifications, periodic reports, time and effort (cost-sharing) reports, modification requests, correspondence, and other related records	RETAIN UNTIL: Submission of final report PLUS: 5 years THEN: Destroy*	<u>Authority/Retention</u> 09 NCAC 03M .0703
535.3		records relating to routine Federal grants received by the agency; includes applications, notifications, periodic reports, time and effort (cost-sharing) reports, modification requests, correspondence, and other related records	RETAIN UNTIL: Submission of final report PLUS: 3 years THEN: Destroy*	<u>Retention</u> 2 CFR 200.333

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