

QUICK REFERENCE GUIDE FOR THE OAG RECORDS RETENTION POLICY

This guide is designed to assist those who create, receive, or possess Records, as defined below, for the Office of the New York State Attorney General's ("OAG" or "Agency") in complying with OAG's Records Retention Policy ("Policy").

RESPONSIBILITIES UNDER THE RECORDS RETENTION POLICY

All OAG employees, temporary employees, fellows, interns, volunteers, consultants, and other individuals who act as agents of the Agency and who possess Records (collectively, "Record Holders") **must** adhere to OAG's Records Retention Policy, which generally requires the following:

- For Records in active use, Record Holders must organize, label, and store their Records in accordance with the requirements of the Policy and any applicable management instructions.
- Record Holders must review their Records, both physical Records and electronic Records, on a regular basis and must dispose of all Records that are non-Records (such as personal files and e-mails, communications not related to OAG official business, and copies when the originals are preserved elsewhere) **and/or** Records that are no longer in active use and no longer subject to further retention under a retention schedule (discussed below), a court order, a litigation hold, a contract, or an extension authorized by a member of the Senior Executive Leadership Team or a Chief Deputy Attorney General ("Authorized Extension").
- When transferring from a Division, Bureau, Unit, or office or leaving the Agency entirely, Record Holders must determine if a Record must be further retained or can be disposed of and must follow the instructions in the Policy on how to properly transfer, store, and dispose of Records, as applicable.

RECORDS SUBJECT TO RETENTION REQUIREMENTS

What is a Record?

- Generally, anything in the possession of a Record Holder that is used to support the work, business, efforts, or operations of OAG or the State is considered a "Record," subject to OAG's Record Retention Policy. Records can be physical files or objects, electronic data, or material in any other format and specifically include e-mails, texts, and chats.
- Records **do not** include purely personal notes, communications not related or consequential to OAG official business or activity, or extra copies or duplicate files or information.

What Records must be retained?

All Records are subject to some retention requirement and are governed by both the OAG Records Retention Schedule ("OAG Schedule") and the Schedule issued by the State of New York ("State Schedule"). Records may also be subject to a retention period imposed by a court order, a litigation hold, a contract, or an Authorized Extension. Record Holders **must consult** both Schedules and any of these other documents, if applicable, to determine how long a Record is required to be retained and **must dispose** of Records that are no longer in active use and have met their retention periods under the Schedules and any other applicable mandate or agreement.

Which Schedule should I consult to determine how long a Record must be retained? Both.

- The State Schedule is used for general Records that reflect or support administrative, personnel, and fiscal activities that are common to most or all State agencies. These tend to be Records related to the administration of a State agency (e.g., contracts or fiscal records, employment files, and IT records).
- The OAG Schedule is used for Records that are created, received, or possessed by the Agency or an agent thereof to further OAG's work, policies, or programs. These tend to be Records that are specific to the subject matter of OAG's work, functions, and efforts (e.g., legal filings, research memos, and business contracts).

COMMONLY USED SCHEDULE CATEGORIES AND CODES

The Policy outlines the steps a Record Holder must undertake to determine which Records need to be retained and under which Schedule. This determination turns on the category of a particular Record, which is identified by a specific code. Set forth below are the most common categories and codes.

State Schedule

- **General Administrative Records (90366):** Routine administrative operations, such as office organization, unit procedures and communications, calendars, and phone logs.
- **E-Mail Messages (90369):** Incoming/outgoing e-mail communications, including attachments, used to distribute information or schedule meetings.
- **Personnel/Human Resources Records (90001-15, 90031, 90371, 90380-86)**
- **Fiscal Operations Records (90100-6, 90124 – 25, 90367, 90376, 90390-96)**

OAG Schedule

- **Non-Litigated Resolutions (22,932):** Matters resolved through settlement -- via an AOD, a letter agreement, or a consent judgment -- are closed when all of the obligations of the settlement agreement are completed (i.e., all payments have been made and all injunctive relief obligations completed).
- **Civil Litigated Cases (23,116):** Civil litigation resolved through a jury or bench verdict, contested decision, or on default are closed at the exhaustion of all appeals.
- **Non-Prosecuted Criminal Investigations (23,129):** Criminal matters that are resolved prior to any grand jury presentations, arraignments, or arrests.
- **Criminal Prosecuted Cases (23,126):** Criminal matters that ended in a plea or that went to trial and all appeals are exhausted.
- **Significant Cases and Records with Historical Significance (23,125):** Cases that have precedential value or historical significance, the Records of which a Record Holder wants to retain beyond the retention period ascribed.

For any questions regarding records retention generally or the specific requirements of the Record Retention Policy, please send an e-mail with your question(s) to records.compliance@ag.ny.gov, and we will respond accordingly and promptly.