

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 17 JUDICIAL RECORDS RETENTION AND DISPOSITION SCHEDULES (JRRDS)
PART 215 JRRDS, COURT OF APPEALS

1.17.215.1 ISSUING AGENCY: State Commission of Public Records - State Records Center and Archives
[1.17.215.1 NMAC - Rp, 1.17.215.1 NMAC, 1/09/2007]

1.17.215.2 SCOPE: court of appeals
[1.17.215.2 NMAC - Rp, 1.17.215.2 NMAC, 1/09/2007]

1.17.215.3 STATUTORY AUTHORITY: Section 14-3-6 NMSA 1978. The administrator shall establish a records management program for the application of efficient and economical management methods for the creation, utilization, maintenance, retention, preservation and disposal of public records.
[1.17.215.3 NMAC - Rp, 1.17.215.3 NMAC, 1/09/2007]

1.17.215.4 DURATION: permanent
[1.17.215.4 NMAC - Rp, 1.17.215.4 NMAC, 1/09/2007]

1.17.215.5 EFFECTIVE DATE: January 9, 2007 unless a later date is cited at the end of a section.
[1.17.215.5 NMAC - Rp, 1.17.215.5 NMAC, 1/09/2007]

1.17.215.6 OBJECTIVE: To establish a records retention and disposition schedule for the orderly management and retirement of records necessary for carrying out the Public Records Act per Section 14-3-6 NMSA 1978.
[1.17.215.6 NMAC - Rp, 1.17.215.6 NMAC, 1/09/2007]

1.17.215.7 DEFINITIONS:

- A. "Administrator"** means the state records administrator (Section 14-3-2 NMSA 1978).
- B. "Agency"** means any state agency, department, bureau, board, commission, institution or other organization of the state government, the territorial government and the Spanish and Mexican governments in New Mexico (Section 14-3-2 NMSA 1978).
- C. "Archives"** means the state archives of the commission of public records.
- D. "Disposition"** means final action that puts into effect the results of an appraisal decision for a series of records (i.e., transfer to archives or destruction).
- E. "Microphotography"** means the transfer of images onto film and electronic imaging or other information storage techniques that meet the performance guidelines for legal acceptance of public records produced by information system technologies pursuant to regulations adopted by the commission of public records.
- F. "Mandates of disposition"** means an order issued upon a decision of an appeal by the court of appeals on the disposition of a case that may be issued for failure to comply with the court procedure or filing deadlines or upon a decision which either upholds the decision of the lower court or remands the case to the lower court for the purpose of having some further action taken on it there.
- G. "Non-record"** means extra copies of documents kept solely for convenience of reference, stocks of publications, records not usually included within the scope of the official records of an agency or government entity, and library material intended only for reference or exhibition. The following specific types of materials are non-records: materials neither made nor received in pursuance of statutory requirements nor in connection with the functional responsibility of the officer or agency; extra copies of correspondence; preliminary drafts; blank forms, transmittal letters or forms that do not add information; sample letters; and reading file or informational files.
- H. "Public record"** means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any agency in pursuance of law or in connection with the transaction of public business and preserved, or appropriate for preservation, by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained therein (Section 14-4-2 NMSA 1978).
- I. "Records custodian"** means the statutory head of the agency using or maintaining the records or the custodian's designee.

J. "Records management" means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.

K. "Records retention and disposition schedule" means rules adopted by the commission pursuant to Section 14-3-6 NMSA 1978 describing records of an agency, establishing a timetable for their life cycle and providing authorization for their disposition.

L. "Retention" means the period of time during which records must be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.
[1.17.215.7 NMAC - Rp, 1.17.215.7 NMAC, 1/09/2007]

1.17.215.8 ABBREVIATIONS AND ACRONYMS:

A. "NMAC" stands for the New Mexico administrative code.

B. "NMSA" stands for New Mexico statutes annotated.

[1.17.215.8 NMAC - N, 1/09/2007]

1.17.215.9 INSTRUCTIONS:

A. For records of a general administrative nature, refer to the GRRDS, General Administrative Records Retention and Disposition Schedule, 1.15.2 NMAC.

B. For records of a financial nature, refer to the GRRDS, General Financial Records Retention and Disposition Schedule, 1.15.4 NMAC.

C. For records of a personnel nature, refer to the GRRDS, General Personnel Records Retention and Disposition Schedule, 1.15.7 NMAC.

D. For records of a medical nature, refer to the GRRDS, General Medical Records Retention and Disposition Schedule, 1.15.8 NMAC.

E. Retention periods shall be extended until six months after all current or pending litigation, current claims, audit exceptions or court orders involving a record have been resolved or concluded.

F. Descriptions of files are intended to be evocative, not complete. For example, there will always be some documents that are filed in a file that are not listed in the description, and similarly not every file will contain an example of each document listed in the description.

G. Confidentiality is denoted for files likely to contain confidential materials, but files without a confidentiality note nonetheless may contain confidential or privileged materials, and failure to include an express confidentiality note in the description of a file does not waive the confidential or privileged nature of those materials. Some or all materials in a file may be confidential. Refer questions concerning the confidentiality of a file or portions of a file to legal counsel for the agency.

H. Access to confidential documents and files shall be only by authorization of the records custodian, or by court order, unless otherwise provided by statute. Release of confidential documents to law enforcement and other government agencies shall only be upon specific statutory authorization or court order.

I. Records, papers or documents may be reformatted thorough microphotography. Such reformatted records shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies (Sections 14-1-5 and 14-1-6 NMSA 1978).

J. Public records placed on magnetic tapes, disks or other data processing media shall be retained for the length of time specified in records retention and disposition schedules and are subject to the same confidentiality and access restrictions as paper records. See also 1.13.70 NMAC, Performance Guidelines for the Legal Acceptance of Public Records Produced by Information Technology Systems.

[1.17.215.9 NMAC - Rp, 1.17.215.9 NMAC, 1/09/2007]

1.17.215.10 - 15 [RESERVED]

1.17.215.16 COURT OF APPEALS CASE FILES:

A. Program: court of appeals

B. Maintenance system: numerical by case number

C. Description: record of appealed court and administrative agency hearing cases. File may contain appellate pleadings, motions, affidavits, requests for extensions, docket sheets, orders, opinion and decision, transcripts, mandate, etc.

D. Retention: permanent, transfer to archives 10 years after case closed

E. Confidentiality: Portions of record may be confidential per Protection of Records, Section 31-21-6 NMSA 1978 (i.e., social records, pre-sentencing reports, etc.), Confidential Communications; Information;

Privileged, and Waiver, Sections 31-25-3 and 31-25-4 NMSA 1978 (i.e., safe house, abuse shelter, other shelter facility, etc.), Appeals, Section 32A-1-17 NMSA 1978 (i.e., children's files, records and transcripts, etc.), Confidentiality; Records, Section 32A-2-32 NMSA 1978 (i.e., children's social records, diagnostic evaluations, medical records, supervision histories, etc.), Confidentiality; Record, Penalty, Section 32A-4-33 NMSA 1978 (i.e., child neglect or abuse records), etc.

[1.17.215.16 NMAC - Rp, 1.17.215.101 NMAC, 1/09/2007]

1.17.215.17 MEDIATION FILES:

- A. Program:** court of appeals
- B. Maintenance system:** numerical by case number
- C. Description:** record of mediation attempts to resolve court or agency administrative hearing cases that have been appealed. File may contain *mediation conference notices*; *notice of follow up telephonic mediation conference*, *re-scheduling notice*, hand written mediation notes, copies of *mandates* of dismissal, etc.
- D. Retention:** upon issuance of mandate of disposition from the court of appeals
- E. Confidentiality:** Portions of records are confidential per *in the matter of the court of appeals settlement conference procedures*, Court of Appeal Order 1-24 (i.e., "statements made during mediation..."), Volume 38, Number 31, August 5, 1999 Bar Bulletin.

[1.17.215.17 NMAC - N, 1/09/2007]

1.17.215.18 COURT OF APPEALS ORAL ARGUMENT TAPES:

- A. Program:** court of appeals
- B. Maintenance system:** numerical by case number
- C. Description:** verbatim tape recordings of oral court of appeal arguments or motion hearings.
- D. Retention:** upon issuance of mandate of disposition from the court of appeals
- E. Confidentiality:** Portions of record may be confidential per Protection of Records, Section 31-21-6 NMSA 1978 (i.e., social records, pre-sentencing reports, etc.), Confidential Communications; Information; Privileged, and Waiver, Sections 31-25-3 and 31-25-4 NMSA 1978 (i.e., safe house, abuse shelter, other shelter facility, etc.), Appeals, Section 32A-1-17 NMSA 1978 (i.e., children's files, records and transcripts, etc.), Confidentiality; Records, Section 32A-2-32 NMSA 1978 (i.e., children's social records, diagnostic evaluations, medical records, supervision histories, etc.), Confidentiality, Record, Penalty, 32A-4-33 NMSA 1978 (i.e., child neglect or abuse records).

[1.17.215.18 NMAC - Rp, 1.17.215.104 NMAC, 1/09/2007]

1.17.215.19 LOWER COURT RECORDS OF PROCEEDINGS:

- A. Program:** court of appeals
- B. Maintenance system:** numerical by case number
- C. Description:** record of civil actions and criminal proceedings that have been appealed from district courts or administrative agencies. This record series is comprised of transcribed proceedings on audio tapes, compact disks, paper and any other recording medium.
- D. Retention:**
 - (1) **Criminal cases:** 20 years after final resolution
 - (2) **Civil cases:** six months after issuance of mandate of disposition from the court of appeals
- E. Confidentiality:** Portions of record may be confidential per Protection of Records, Section 31-21-6 NMSA 1978 (i.e., social records, pre-sentencing reports, etc.), Confidential Communications; Information; Privileged, and Waiver, Sections 31-25-3 and 31-25-4 NMSA 1978 (i.e., safe house, abuse shelter, other shelter facility, etc.), Appeals, Section 32A-1-17 NMSA 1978 (i.e., children's files, records and transcripts, etc.), Confidentiality; Records, Section 32A-2-32 NMSA 1978 (i.e., children's social records, diagnostic evaluations, medical records, supervision histories, etc.), Children's Code Confidentiality; Record, Penalty, Section 32A-4-33 NMSA 1978 (i.e., child neglect or abuse records), etc.

[1.17.215.19 NMAC - Rp, 1.17.215.105 NMAC, 1/09/2007]

1.17.215.20 EXHIBITS AND DEPOSITIONS:

- A. Program:** court of appeals
- B. Maintenance system:** numerical by case number
- C. Description:** record of evidence admitted by the district court or administrative agency. Record may include photos, audio tapes, compact disks, reports, poster board, etc.

D. Retention: returned to district court or administrative agency after mandate of disposition is issued

E. Confidentiality: Portions of record may be confidential per Protection of Records, Section 31-21-6 NMSA 1978 (i.e., social records, pre-sentencing reports, etc.), Confidential Communications; Information; Privileged, and Waiver, Sections 31-25-3 and 31-25-4 NMSA 1978 (i.e., safe house, abuse shelter, other shelter facility, etc.), Appeals, Section 32A-1-17 NMSA 1978 (i.e., children's files, records and transcripts, etc.), Confidentiality; Records, Section 32A-2-32 NMSA 1978 (i.e., children's social records, diagnostic evaluations, medical records, supervision histories, etc.), Confidentiality; Record, Penalty, Section 32A-4-33 NMSA 1978 (i.e., child neglect or abuse records), etc.

[1.17.215.20 NMAC - Rp, 1.17.215.106 NMAC, 1/09/2007]

1.17.215.21 UNOPENED CASE MATERIALS:

A. Program: court of appeals

B. Maintenance system: chronological by calendar year, then by date of receipt

C. Description: documents received by court of appeals for which no appellate case has been opened. Materials may include pleadings, affidavits, notices of appeal, correspondence, etc.

D. Retention: two calendar years after date received

E. Confidentiality: Portions of record may be confidential per Protection of Records, Section 31-21-6 NMSA 1978 (i.e., social records, pre-sentencing reports, etc.), Confidential Communications; Information; Privileged, and Waiver, Sections 31-25-3 and 31-25-4 NMSA 1978 (i.e., safe house, abuse shelter, other shelter facility, etc.), Appeals, Section 32A-1-17 NMSA 1978 (i.e., children's files, records and transcripts, etc.), Confidentiality; Records, Section 32A-2-32 NMSA 1978 (i.e., children's social records, diagnostic evaluations, medical records, supervision histories, etc.), Confidentiality; Record, Penalty, Section 32A-4-33 NMSA 1978 (i.e., child neglect or abuse records), etc.

[1.17.215.21 NMAC - Rp, 1.17.215.108 NMAC, 1/09/2007]

HISTORY OF 1.17.215 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center under:

SRC Rule 75-17, Records Retention and Disposal Schedule for Court of Appeals, 9-15-75.

SRC Rule No. 86-16, Records Retention and Disposal Schedule for Court of Appeals, 4-1-87.

SRC Rule No. 94-09, Records Retention and Disposal Schedule for New Mexico Court of Appeals, 7-1-94.

History of Repealed Material:

1.17.215 NMAC, JRRDS, New Mexico Court of Appeals, filed 12/7/2001, repealed 1/09/2007.