

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 18 EXECUTIVE RECORDS RETENTION AND DISPOSITION SCHEDULES (ERRDS)
PART 624 ERRDS, AGING AND LONG TERM SERVICES DEPARTMENT

1.18.624.1 ISSUING AGENCY: State Commission of Public Records - State Records Center and Archives.
[1.18.624.1 NMAC - Rp, 1.18.624.1 NMAC, 04/19/2010]

1.18.624.2 SCOPE: aging and long term services department
[1.18.624.2 NMAC – Rp, 1.18.624.2 NMAC, 04/19/2010]

1.18.624.3 STATUTORY AUTHORITY: Section 14-3-1 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.
[1.18.624.3 NMAC - Rp, 1.18.624.3 NMAC, 04/19/2010]

1.18.624.4 DURATION: Permanent
[1.18.624.4 NMAC - Rp, 1.18.624.4 NMAC, 04/19/2010]

1.18.624.5 EFFECTIVE DATE: April 19, 2010, unless a later date is cited at the end of the section.
[1.18.624.5 NMAC - Rp, 1.18.624.5 NMAC, 04/19/2010]

1.18.624.6 OBJECTIVE: To establish a records retention schedule for the orderly management and retirement of records necessary for carrying out the Public Records Act per Section 14-3-6 NMSA 1978.
[1.18.624.6 NMAC - Rp, 1.18.624.6 NMAC, 04/19/2010]

1.18.624.7 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 permanent records of the state of New Mexico, which may include government and private collections of the Spanish, Mexican, territorial and statehood periods, assessed to have significant historical value to warrant their preservation by the state of New Mexico. The term also refers to the organizational unit of the SRCA storing these records.
- D. "Area agency on aging"** means an agency in a planning and service area designated by the state agency to develop and administer the area plan for a comprehensive and coordinated system of services for older persons.
- E. "Audit"** means periodic examination of an organization to determine whether appropriate procedures and practices are followed.
- F. "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).
- G. "Gold mentor"** means a participant of the gold mentor program that provides life skills and employment assistance to clients working to overcome barriers.
- H. "Guardianship or conservator"** means the appointment, by a court, of a person or entity to assume decision making responsibility and to handle the affairs of an individual the court has found to be "incapacitated" as defined in the Probate Code.
- I. "Incapacitated adult"** means any adult with a mental, physical or developmental condition that substantially impairs the adult's ability to provide adequately for the adult's own care or protection.
- J. "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.
- K. "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).

L. "Records custodian" means the statutory head of the agency using or maintaining the records or the custodian's designee.

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

N. "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.

O. "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. [1.18.624.7 NMAC - Rp, 1.18.624.7 NMAC, 04/19/2010]

1.18.624.8 ABBREVIATIONS AND ACRONYMS:

- A. "AAA"** stands for area agency on aging.
- B. "ALTSD"** stands for aging and long term services department.
- C. "CFR"** stands for code of federal regulations.
- D. "ERRDS"** stands for executive records retention and disposition schedule.
- E. "NMSA"** stands for New Mexico statutes annotated.
- F. "SSN"** stands for social security number.
- G. "US"** stands for United States.
- H. "USC"** stands for United States code.

[1.18.624.8 NMAC - Rp, 1.18.624.8 NMAC, 04/19/2010]

1.18.624.9 INSTRUCTIONS:

A. Record retention and disposition schedules identify the types of records maintained by state agencies and specify a period of time which records must be retained. A retention period may be stated in terms of months or years and is sometimes expressed as contingent upon the occurrence of an event. There are two types of record retention and disposition schedules created by the state records center and archives. General schedules that list records common to all agencies and executive schedules which are specific to an agency. Each record series will be represented in the format listed below.

- (1) Program** - describes the function of the records
- (2) Maintenance system** - describes how an agency files (organizes) records
- (3) Description** - describes the purpose and content of a record
- (4) Retention** - The length of time records must be kept before they are eligible for destruction or archival preservation.

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

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

D. For records of a personnel nature, refer to the GRRDS, General Personnel Records Retention and Disposition Schedule, 1.15.6 NMAC, and for officers personnel records, refer to the GRRDS, General Personnel Records Retention and Disposition Schedule, 1.15.7 NMAC.

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

F. 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.

G. The 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.

H. Confidentiality is denoted for each file but all materials in a file may be confidential. Refer to note. Where portions of file may be confidential, refer to legal counsel for agency.

I. Access to confidential documents or confidential files shall be only by authorization of agency or attorney general 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.

J. 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).

K. 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.

L. Email messages that contain information sent or received by an agency in connection with the transaction of official state business or in pursuance of law are public records and are subject to retention requirements established in both general and executive records retention and disposition schedules. [1.18.624.9 NMAC - Rp, 1.18.624.9 NMAC, 04/19/2010]

1.18.624.10 - 1.18.624.19 [RESERVED]

1.18.624.20 OMBUDSMAN FILES:

- A. Program:** ombudsman
- B. Maintenance system:** chronological by federal fiscal year, then alphabetical by facility or provider name
- C. Description:** investigations initiated by a complaint against a licensed or unlicensed long term care service or facility. Portions of this file are input to the *aging and long term services system*, 1.18.624.70 NMAC. File may include visit summary sheet, ombudsman interview, ombudsman observation report, ombudsman case report, ombudsman follow up case report, correspondence, etc.
- D. Retention:** five federal fiscal years after case closed
- E. Confidentiality:** Portions of this record may contain confidential information pursuant, but not limited to Section 28-17-14 NMSA 1978 Confidentiality of information, Section 27-7-29 NMSA 1978 Confidentiality of records; penalty, 5 USC Section 552a (i.e., social security number), Section 14-6-1 NMSA 1978 (i.e., medical information), Health Insurance Portability and Accountability Act of 1996 Public Law 104-191 104th Congress (i.e., health information) and Section 9-23-11 NMSA 1978 (i.e., access to information). [1.18.624.20 NMAC - Rp, 1.18.624.27 NMAC, 04/19/2010]

1.18.624.21 - 1.18.624.24 [RESERVED]

1.18.624.25 SCREEN-OUT INTAKE FILES:

- A. Program:** adult protective services
- B. Maintenance system:** chronological by date
- C. Description:** intake form used to collect and assess information that determined incidents of alleged adult abuse, neglect or exploitation was not substantiated. Intake form is output from the *aging and long term services system*, 1.18.624.70 NMAC. File includes intake forms and correspondence.
- D. Retention:** three years from date of screen
- E. Confidentiality:** Portions of this record may contain confidential information pursuant, but not limited to Section 27-7-29 NMSA 1978 Confidentiality of records; penalty, 5 USC Section 552a (i.e., social security number), Section 14-6-1 NMSA 1978 (i.e., medical information), and Health Insurance Portability and Accountability Act of 1996 Public Law 104-191 104th Congress (i.e., health information) and Section 9-23-11 NMSA 1978 (i.e., access to information). [1.18.624.25 NMAC - N, 04/19/2010]

1.18.624.26 ADULT PROTECTIVE SERVICES INVESTIGATION FILES:

- A. Program:** adult protective services
- B. Maintenance system:** chronological by calendar year, then alphabetical by client surname
- C. Description:** records documenting the investigation of alleged abuse, neglect or exploitation of an incapacitated adult. Portions of this record are input to the *aging and long term services system*, 1.18.624.70 NMAC. File may include substantiated intake form, investigation study, risk assessment, safety assessment

summary, treatment plan, photographs, drawings, medical records, court filing copies, investigation result notice, investigation final disposition, correspondence, etc.

D. Retention: 10 calendar years after date case closed

E. Confidentiality: Portions of this record may contain confidential information pursuant, but not limited to Section 27-7-29 NMSA 1978 Confidentiality of records; penalty, 5 USC Section 552a (i.e., social security number), Section 14-6-1 NMSA 1978 (i.e., medical information), Health Insurance Portability and Accountability Act of 1996 Public Law 104-191 104th Congress (i.e., health information) and Section 9-23-11 NMSA 1978 (i.e., access to information).

[1.18.624.26 NMAC - N, 04/19/2010]

1.18.624.27 - 1.18.624.29 [RESERVED]

1.18.624.30 GUARDIANSHIP AND CONSERVATOR ASSIGNMENT FILES:

A. Program: legal

B. Maintenance system: chronological by calendar year, then alphabetical by client surname

C. Description: records concerning the legal assignment of guardianship or conservator of a vulnerable adult resulting from an adult protective services investigation. Portions of this record are input to the *aging and long term services system*, 1.18.624.70 NMAC. File may include protective services case copy (i.e., investigation study, risk assessment, safety assessment summary, treatment plan, photographs, drawings, medical records, etc.), witness affidavit, court filing copies, notice of result of investigation, court order of assignment copy, correspondence, etc.

D. Retention: three years after termination of assignment of guardian or conservator

E. Confidentiality: Portions of this record may contain confidential information pursuant, but not limited to Section 27-7-29 NMSA 1978 Confidentiality of records; penalty, 5 USC Section 552a (i.e., social security number), Section 14-6-1 NMSA 1978 (i.e., medical information), and Health Insurance Portability and Accountability Act of 1996 Public Law 104-191 104th Congress (i.e., health information) and Section 9-23-11 NMSA 1978 (i.e., access to information).

[1.18.624.30 NMAC - N, 04/19/2010]

1.18.624.31 ADMINISTRATIVE ADJUDICATORY FILES:

A. Program: legal

B. Maintenance system: chronological by calendar year, then alphabetical by appellant name

C. Description: record of formal administrative hearings requested by a facility, provider, or individual that has been referred to the employee abuse registry and or assessed civil penalties for failing to: provide documents or certain identifying information; interferes with an investigation; interferes with the provision of voluntary or involuntary protective services; breaches confidentiality; or fails to report or is accused of abuse, neglect, or exploitation of an incapacitated adult. File may include investigation summary, investigation result notice, notice of violation, complaint, adult protective services notification of substantiation or non-substantiation following investigation of alleged abuse, neglect or exploitation; summary of evidence; witness information; written legal arguments; hearing officer notes and recommendation; copy of civil penalty assessment, cabinet secretary decision and order; audio recordings, etc.

D. Retention: 10 calendar years after date of final decision

E. Confidentiality: Portions of this record may contain confidential information pursuant, but not limited to Section 28-17-14 NMSA 1978 Confidentiality of information, Section 27-7-29 NMSA 1978 Confidentiality of records; penalty, 5 USC Section 552a (i.e., social security number), Section 14-6-1 NMSA 1978 (i.e., medical information), Health Insurance Portability and Accountability Act of 1996 Public Law 104-191 104th Congress (i.e., health information) and Section 9-23-11 NMSA 1978 (i.e., access to information).

[The Employee Abuse Registry is maintained by the Department of Health]

[1.18.624.31 NMAC - N, 04/19/2010]

1.18.624.32 - 1.18.624.34 [RESERVED]

1.18.624.35 FAIR HEARINGS CASE FILES:

A. Program: fair hearings

B. Maintenance system:

(1) **Client:** chronological by calendar year, then alphabetical by client surname

(2) **Provider:** chronological by calendar year, then alphabetical by provider name

C. Description: records of hearings that review ALTSD actions which adversely affect applicants or service providers of assistance programs. File may include notice of request for fair hearing, summary of evidence request, late summary of evidence request, acknowledgement letter, history profile, scheduling notice, hearing audio recordings, exhibits, recommendations, fair hearing decision, fair hearing decision notice, inquiry reports, fair hearings appeal notice, correspondence, etc.

D. Retention: 10 calendar years after final disposition of case

E. Confidentiality: Portions of this record may be confidential pursuant, but not limited to 5 USC, Section 552a (i.e., social security number), Section 14-6-1 NMSA 1978 (i.e., health information), 45 CFR 205.50 (i.e., safeguarding information for the financial assistance programs and Section 9-23-11 NMSA 1978 (i.e., access to information).

[1.18.624.35 NMAC - N, 04/19/2010]

1.18.624.36 - 1.18.624.39 [RESERVED]

1.18.624.40 [RESERVED]

[1.18.624.40 NMAC - N, 04/19/2010; Repealed, 12/19/2011]

1.18.624.41 [RESERVED]

[1.18.624.41 NMAC - N, 04/19/2010; Repealed, 12/19/2011]

1.18.624.42 [RESERVED]

[1.18.624.42 NMAC - N, 04/19/2010; Repealed, 12/19/2011]

1.18.624.43 - 1.18.624.48 [RESERVED]

1.18.624.49 [RESERVED]

[1.18.624.49 NMAC - N, 04/19/2010; Repealed, 12/19/2011]

1.18.624.50 [RESERVED]

[1.18.624.50 NMAC - N, 04/19/2010; Repealed, 12/19/2011]

1.18.624.51 - 1.18.624.54 [RESERVED]

1.18.624.55 PRESCRIPTION DRUG ASSISTANCE MEDBANK CLIENT FILES:

A. Program: consumer and elder rights

B. Maintenance system: chronological by federal fiscal year, then alphabetical by client surname

C. Description: records concerning assistance to eligible recipients who do not have prescription drug coverage or have used up their allowable benefit coverage. Portions of the record are input to the national *medbank system* and the *aging and long term services system*, 1.18.624.70 NMAC. File may include application (i.e., name, address, social security number, marital status, primary care physician, etc.), prescription copy, financial eligibility documentation, correspondence, etc.

D. Retention: seven federal fiscal years after date of ineligibility

E. Confidentiality: Portions of this record may be confidential pursuant, but not limited to 5 USC, Section 552a (i.e., social security number), Section 14-6-1 NMSA 1978 (i.e., health information), 45 CFR 205.50 safeguarding information for the financial assistance programs and Section 9-23-11 NMSA 1978 (i.e., access to information).

[1.18.624.55 NMAC - N, 04/19/2010]

1.18.624.56 - 1.18.624.59 [RESERVED]

1.18.624.60 AREA AGENCIES ON AGING ASSESSMENT FILES:

A. Program: senior services

B. Maintenance system: chronological by federal fiscal year, then alphabetical by program name

C. Description: assessments conducted by ALTSD of the area agencies on aging program and program providers (i.e., meals on wheels, senior centers, etc.) administered by AAA. The assessment is used as a

tool to monitor, provide technical assistance and ensure regulated compliance. File may include staff member personnel information (i.e., job descriptions, credentials, background checks, etc.), training record information, emergency preparedness plan for both AAA and program providers, customer survey, corrective action request, final report, correspondence, etc.

D. Retention: five federal fiscal years from date final report issued

E. Confidentiality: Portions of this record may contain confidential information pursuant, but not limited to Section 9-23-11 NMSA 1978 (i.e., access to information) and Section 14-2-1 NMSA 1978 (i.e., personnel records).

[1.18.624.60 NMAC - Rp, 1.18.624.32 NMAC, 04/19/2010]

1.18.624.61 - 1.18.624.64 [RESERVED]

1.18.624.65 SENIOR COMMUNITY SERVICE EMPLOYMENT FILES:

A. Program: employment assistance

B. Maintenance system: chronological by federal fiscal year, then alphabetical by client surname

C. Description: records concerning employment history and skills progress of individuals eligible for temporary employment funded by both federal and state monies under the Older Americans Act. File may include application, senior employment program intake form, income worksheet, eligibility verification, application approval letter, job description, daily work schedule, acknowledgement of temporary employment, employee withholding allowance certificate, drivers license copy, social security card copy, physical exam waiver, letter of resignation, memo of termination, correspondence, etc.

D. Retention: three federal fiscal years after date employee is separated from program

E. Confidentiality: Portions of this record may be confidential pursuant, but not limited to 5 USC, Section 552a (i.e., social security number), Section 14-6-1 NMSA 1978 (i.e., health information), 45 CFR 205.50 (i.e., safeguarding information for the financial assistance programs) and Section 9-23-11 NMSA 1978 (i.e., access to information).

[1.18.624.65 NMAC - Rp, 1.18.624.15 NMAC, 04/19/2010]

1.18.624.66 GOLD MENTOR CLIENT FILES:

A. Program: employment programs

B. Maintenance system: chronological by federal fiscal year, then alphabetical by client surname

C. Description: records concerning client information and progress of individuals assigned to a gold mentor for life skills assistance towards self sufficiency. File may include referral form, case intake form, client assessment, progress reports, case notes, correspondence, etc.

D. Retention: seven federal fiscal years after case closed

E. Confidentiality: Portions of this record may be confidential pursuant, but not limited to 5 USC, Section 552a (i.e., social security number), Section 14-6-1 NMSA 1978 (i.e., health information) and per 45 CFR 205.50 (i.e., safeguarding information for the financial assistance programs).

[1.18.624.66 NMAC - Rp, 1.18.624.17 NMAC, 04/19/2010]

1.18.624.67 - 1.18.624.69 [RESERVED]

1.18.624.70 AGING AND LONG TERM SERVICES SYSTEM:

A. Program: aging and long term services

B. Maintenance system: numerical by primary key

C. Description: database maintains information concerning intake referrals; information regarding adult protective service; guardianship and conservator assignments; the coordination of client services and ombudsman case information. Data may include information relating to client intake, investigation, guardianship and conservator assignment, client eligibility, service or facility, complaint, treatment, attended care, homecare, financial, licensed and unlicensed facility information, etc.

D. Data retention:

(1) **Ombudsman manager data:** five federal years from date case closed

(2) **Screened out intake data:** three years from date of screen

(3) **Adult protective service client data:** 10 calendar years after date case closed

(4) **Guardianship and conservator assignment data:** three years after termination of assignment

(5) **Client service coordination data:** seven federal fiscal years after date of ineligibility

(6) **Prescription drug assistance medbank client data:** seven federal fiscal years after date of ineligibility

E. Confidentiality: Portions of this record may contain confidential information pursuant, but not limited to Section 28-17-14 NMSA 1978 Confidentiality of information, Section 27-7-29 NMSA 1978 Confidentiality of records; penalty, 5 USC Section 552a (i.e., social security number), Section 14-6-1 NMSA 1978 (i.e., medical information), Health Insurance Portability and Accountability Act of 1996 Public Law 104-191 104th Congress (i.e., health information) and Section 9-23-11 NMSA 1978 (i.e., access to information).

F. Input: records used as input to the *aging and long term services system* are filed in the *ombudsman files* 1.18.624.20 NMAC, *adult protective service investigation files*, 1.18.624.26 NMAC, *guardianship and conservator assignment files*, 1.18.624.30 NMAC, *client service coordination files*, 1.18.624.42 NMAC and *prescription drug assistance medbank client files*, 1.18.624.55 NMAC.

G. Output: because the *aging and long term services system* is a data-based system, ad hoc and regularly scheduled forms and reports may be generated upon request or demand. When produced these reports are forwarded to the requesting entity. Some of these forms and reports include the *intake forms, national ombudsman report, state program report, quarterly reports*, etc.

[1.18.624.70 NMAC - N, 04/19/2010]

[Current brand name of system is Harmony]

HISTORY OF 1.18.624 NMAC:

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

SRC Rule 75-1, Records Retention and Disposal Schedule for Commission on Aging, filed 3/18/75

SRC Rule No. 86-04, Records Retention and Disposition Schedule for Agency on Aging, filed 2/28/86

History of Repealed Material:

1.18.624 NMAC, ERRDS, Agency on Aging, filed 5/16/2001 - Repealed effective 1/5/2004

1.18.624 NMAC, ERRDS, Aging and Long Term Care Department - filed 12/5/2003 - Repealed effective 04/19/2010