

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 18 EXECUTIVE RECORDS RETENTION AND DISPOSITION SCHEDULES (ERRDS)
PART 670 ERRDS, VETERANS' SERVICES DEPARTMENT

1.18.670.1 ISSUING AGENCY: State Commission of Public Records - State Records Center and Archives.
[1.18.670.1 NMAC - Rp, 1.18.670.1 NMAC, 04/30/2012]

1.18.670.2 SCOPE: veterans' services department
[1.18.670.2 NMAC - Rp, 1.18.670.2 NMAC, 04/30/2012]

1.18.670.3 STATUTORY AUTHORITY: Section 14-3-4 NMSA 1978, it shall be the duty of the commission to adopt and publish rules to carry out the purposes of the Public Records Act. 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.
[1.18.670.3 NMAC - Rp, 1.18.670.3 NMAC, 04/30/2012]

1.18.670.4 DURATION: Permanent
[1.18.670.4 NMAC - Rp, 1.18.670.4 NMAC, 04/30/2012]

1.18.670.5 EFFECTIVE DATE: April 30, 2012, unless a later date is cited at the end of the section.
[1.18.670.5 NMAC - Rp, 1.18.670.5 NMAC, 04/30/2012]

1.18.670.6 OBJECTIVE: To establish a records retention schedule for the orderly management, retention, disposition and preservation of records necessary for carrying out the Public Records Act pursuant to Section 14-3-6 NMSA 1978.
[1.18.670.6 NMAC - Rp, 1.18.670.6 NMAC, 04/30/2012]

1.18.670.7 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. "Audit"** means a periodic examination of an organization to determine whether appropriate procedures and practices are followed.
- E. "Commission"** means the state commission of public records (Section 14-3-2 NMSA 1978).
- F. "Conservatorship"** 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.
- G. "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).
- H. "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.
- I. "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.
- J. "Pending litigation"** means a proceeding in a court of law whose activity is in progress but not yet completed.

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. "Record destruction" means the process of totally obliterating information on records by any method to make the information unreadable or unusable under any circumstances.

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

O. "Records retention and disposition schedule" means rules adopted by the commission pursuant to Section 14-3-4 NMSA 1978 describing records of an agency, establishing a timetable for their life cycle and providing authorization for their disposition.

P. "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.
[1.18.670.7 NMAC - Rp, 1.18.670.7 NMAC, 04/30/2012]

1.18.670.8 ABBREVIATIONS AND ACRONYMS:

A. "CFR" stands for code of federal regulations.

B. "EDRRDS" stands for education records retention and disposition schedules.

C. "ERRDS" stands for executive records retention and disposition schedules.

D. "GRRDS" stands for general records retention and disposition schedules.

E. "JRRDS" stands for judicial records retention and disposition schedules.

F. "LRRDS" stands for legislative records retention and disposition schedules.

G. "LGRRDS" stands for local government records retention and disposition schedules.

H. "SRCA" stands for state records center and archives.

I. "USC" stands for United States code.

[1.18.670.8 NMAC - Rp, 1.18.670.8 NMAC, 04/30/2012]

1.18.670.9 INSTRUCTIONS:

A. Records 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 several types of records retention and disposition schedules promulgated by the commission for state agencies. General schedules list records common to all agencies and executive schedules list records 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** - defines 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, 1.15.2 NMAC.

C. For records of a financial nature, refer to the GRRDS, General Financial, 1.15.4 NMAC.

D. For records of a personnel nature, refer to the GRRDS, General Personnel, 1.15.6 NMAC.

E. For records of a medical nature, refer to the GRRDS, General Medical, 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 included 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 files likely to contain confidential materials or information; however files without a confidentiality note may contain confidential or privileged information. Failure to include a

confidentiality note in the description of a record series does not waive confidentiality. Refer questions concerning the confidentiality of a file to legal counsel for the agency.

I. Access to confidential documents, information or files shall be only by authorization of the agency records custodian (Section 14-2-8 NMSA 1978), or by the office of the attorney general or by court order, unless otherwise provided by law. Release of confidential documents to law enforcement and other government agencies, shall only be upon specific statutory authorization or court order.

J. Records may be photographed, microfilmed, digitized or converted to computer output microfilm provided a microphotography plan has been approved by the state records administrator (Section 14-3-17 NMSA 1978). Such photographs, microfilms, photographic film or microphotographs shall be deemed to be an original record for all purposes, including introduction as evidence in all courts or administrative agencies (Section 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 is a transmission medium for content that may or may not be a public record. 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 records retention and disposition schedules. Email messages are required to be categorized, filed and retained on the basis of content (1.13.4 NMAC, Records Management Requirements for Electronic Messaging). The content of email messages may vary considerably; therefore, each email shall be evaluated to determine if it meets the definition of a public record as defined in the Public Records Act. Non-records or transitory emails that do not provide evidence of official agency policies or business transactions may be deleted.
[1.18.670.9 NMAC - Rp, 1.18.670.9 NMAC, 04/30/2012]

1.18.670.10 - 1.18.670.25 [RESERVED]

1.18.670.26 VETERANS' TAX EXEMPTION FILES:

- A. Program:** veterans' services
- B. Maintenance system:** chronological by calendar year, then alphabetical by veteran surname
- C. Description:** records documenting a veteran's application for property tax exemption. Portions of files are input to the *veterans' tax exemption database*, 1.18.670.29 NMAC. Files may include *application for certificate of eligibility for veterans' tax exemption form, application for certificate of eligibility for disabled veterans' property tax waiver form, affidavit of loss of veterans' tax exemption certificate, service organization tax exemption form*, etc.
- D. Retention:** three years from close of tax year in which certified
- E. Confidentiality:** Portions of this record may contain confidential information pursuant, but not limited to 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 (1996) (i.e., health information).
[1.18.670.26 NMAC - Rp, 1.18.670.102 & 104 NMAC, 04/30/2012]

1.18.670.27 CONSERVATORSHIP CASE FILES:

- A. Program:** veterans' services
- B. Maintenance system:** chronological by date, then alphabetical by veteran surname
- C. Description:** record of veterans for whom conservatorship has been awarded to the department of veterans' services by the courts. Files may include court actions on veterans receiving conservatorship services, district court approval for annual account expenditures, United States veterans' administration directives, copy of discharge, copy of birth certificate, copies of annual accounting, canceled checks, monthly conservatorship transaction statements, conservatorship savings account statements, ledger sheets, correspondence, etc.
- D. Retention:** six years from date case closed or termination of assignment of guardian or conservator
- E. Confidentiality:** Portions of this record may contain confidential information pursuant, but not limited to 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 (1996) (i.e., health information).
[1.18.670.27 NMAC - Rp, 1.18.670.108 NMAC, 04/30/2012]

1.18.670.28 VIETNAM VETERANS' SCHOLARSHIP FILES:

- A. Program:** veterans' services
- B. Maintenance system:** chronological by calendar year, then alphabetical by veteran surname
- C. Description:** record of a scholarship awarded to a veteran with a Vietnam campaign or Vietnam service medal only. Files may include application form, copies of invoices, transcripts, correspondence, etc.
- D. Retention:**
 - (1) **Approved applications:** 10 years from the close of calendar year in which applicant receives certification or nomination
 - (2) **Denied applications:** one year from the close of calendar year in which created
- E. Confidentiality:** Portions of this record may contain confidential information pursuant, but not limited to 5 USC Section 552a (i.e., social security number).
[1.18.670.28 NMAC - Rp, 1.18.670.114 NMAC, 04/30/2012]

1.18.670.29 VETERANS' TAX EXEMPTION DATABASE:

- A. Program:** veterans' services
- B. Maintenance system:** numerical by primary key
- C. Description:** database tracks, maintains veteran information entered from the veterans' tax exemption forms. Data may include name of veteran, address of veteran, status of veteran, date of certification, certificate number, military service information, date New Mexico residency established, exemption information, social security number, etc.
- D. Retention:** 25 years from date of certification
- E. Confidentiality:** Portions of this record may contain confidential information pursuant, but not limited to 5 USC Section 552a (i.e., social security number).
- F. Input:** All documents used as input for the *veterans' tax exemption database* are filed in the 1.18.670.26 NMAC, *veterans' tax exemption files*.
- G. Output:** Because the *veterans' tax exemption file database* is a data based system, ad hoc reports may be generated on request or on demand. When produced these ad hoc reports are provided to the requesting entity.
[1.18.670.29 NMAC - N, 04/30/2012]

HISTORY OF 1.18.670 NMAC:

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

- SRC Rule 69-19, Records Retention and Disposal Schedule for Veterans Service Commission, filed 9/11/69.
- SRC Rule 74-16, Records Retention and Disposal Schedule Veterans Service Commission, filed 4/29/74.
- SRC Rule 78-2, Records Retention and Disposal Schedule Veterans Service Commission, filed 4/17/78
- SRC Rule 79-11, Retention Schedule for Veterans Service Commission, filed 11/30/79.
- SRC Rule 86-03, Records Retention and Disposition Schedule for Veterans Service Commission, filed 2/28/86.

History of Repealed Material:

1.18.670 NMAC, ERRDS, Veterans Service Commission, filed 6/21/2002 - Repealed effective 04/30/2012.