

**This is an amendment to 1.21.2 NMAC, amending Sections 7, 9 and 428 and adding section 620 effective 06/12/2018.**

**1.21.2.7 DEFINITIONS:** The following terms shall have the respective meanings provided in this rule. Terms not defined in this rule which are defined in the Public Records Act, Section 14-3-1 et seq. NMSA 1978 shall have the respective meanings accorded such terms in the act.

**A. “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.

**B. “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).

**C. “Executive level”** means elected and appointed officials, statutory agency heads and management personnel with decision making authority granted by the agency head.

**D. ~~“File closed”~~** means ~~the date the trigger event occurred, or, for electronic records, equivalent to the date last modified unless otherwise stated in retention.~~

~~**E.**~~ **“Historical”** means records deemed to have archival value by the commission.

~~**F.**~~ **E. “Non-record”** means extra copies of documents kept solely for convenience of reference, stocks of publications, transitory records, 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 official records, preliminary drafts, blank forms, transmittal letters or forms that do not add information, sample letters, and reading files or informational files.

~~**G.**~~ **F. “Official copy of record”** the single record determined to be the official copy for the purposes of fulfilling the retention requirements.

~~**H.**~~ **G. “Retention”** means the period of time during which the official copy of record shall be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.

~~**I.**~~ **H. “Transitory”** means messages which serve to convey information of temporary importance in lieu of oral communication. Transitory messages are only required for a limited time to ensure the completion of a routine action or the preparation of a subsequent record. Transitory messages are not required to control, support or to document the operations of government.

~~**J.**~~ **I. “Trigger event”** means the ~~closing~~ event ~~[of a record]~~ which begins the retention period.  
[1.21.2.7 NMAC - N, 10/01/2015; A, 11/30/2016; A, 06/12/2018]

**1.21.2.9 INSTRUCTIONS:**

**A.** The records retention and disposition schedule identifies the types of records maintained by all agencies and specifies a period of time for which the official copy of record must be retained. A retention period may be stated in terms of months or years and is contingent upon the occurrence of a trigger event. Each record classification will be itemized by NMAC section number and title in the format listed below.

(1) **Category** - describes the hierarchy of the function

(2) **Description** - describes the function of the record classification

(3) **Retention** - defines the length of time records must be kept before they are eligible for destruction or archival preservation

**B.** Record classification descriptions are not intended to be exhaustive. Descriptions may include records that do not appear in the files, and conversely, files may include records not listed in the description.

**C.** Refer questions concerning the confidentiality of a record to legal counsel for the agency. For the destruction of confidential records, please refer to 1.13.30 NMAC.

**D.** Public records should be maintained in their native format (paper/digital). Records may be microfilmed or digitized provided a microphotography plan has been approved by the state records administrator. Refer to Section 14-3-17 NMSA 1978 and 1.14.2 NMAC. Such photographs, microfilms, photographic film or microphotographs shall be deemed to be an original record for all purposes.

**E.** Agencies are encouraged to create secondary and tertiary descriptors for each classification (e.g., account receivable - invoices - acme inc., goods and services - IT consulting - data hub LLC., infrastructure project files - railroad project - Lamy station upgrade, etc.). These additional descriptors will assist with the accessibility of the records.

**F.** Upon storage or disposition, public records shall be classified according to content and retained at a minimum for the length of time specified in the records retention and disposition schedule.

**G.** For guidance on electronic messaging, refer to 1.13.4 NMAC.

**H.** For guidance on the destruction of non-record material, refer to 1.13.30 NMAC.

**I.** Records classifications related to the legislative [~~and judicial branches~~] branch of government provided herein are applicable for legislative [~~and judicial~~] agencies that utilize the records center services and permanent archival repository.

**J.** Non-scheduled public records created by an agency in pursuance of law or in connection with the transaction of public business shall have a retention period of permanent until such time the non-scheduled record has been scheduled and a retention period adhering to operational, legal, fiscal, historical or other purposes is established.

**K.** For guidance on classifying county and municipal records, refer to the records retention and disposition guidance for counties and municipalities.

**L.** For guidance on destruction of county records, refer to Section 14-1-8 NMSA 1978.

**M.** Classifications that have a disposition of transfer to archives may be submitted for direct transfer before the allotted time period specified in the retention with the approval of the custodial agency and state records administrator.

**N.** Upon adoption of this rule, records retained at the records center shall be reclassified according to the new records classifications for retention and disposition.

**O.** The official copy of a record may contain duplicates of other records. If your program requires the submission of documentation, and your agency is not required to submit this documentation to another agency for additional or final processing, your agency is the keeper of the official copy of record.

**P.** Records transferred to the state archives will be reviewed for final disposition.  
[1.21.2.9 NMAC - N, 10/01/2015; A, 11/30/2015; A, 11/30/2016; A, 06/12/2018]

**1.21.2.428 FINANCIAL - CAMPAIGN:**

**A. Category:** Governance and compliance - election management.

**B. Description:** Records related to candidate, elected and appointed officials financial records.

**C. Retention:** [~~destroy five years from date file closed~~] permanent, transfer to archives 10 years from date file closed.

[1.21.2.428 NMAC - N, 10/01/2015; A, 11/30/2015; A, 06/12/2018]

**1.21.2.620 COURT PROCEEDINGS:**

**A. Category:** Legal and judiciary - court administration.

**B. Description:** records related to court proceedings including, but not limited to, tapes, court reporter notes, and transcripts. Does not include appellate case files.

**C. Retention:** destroy when associated case is no longer eligible for appeal.

[1.21.2.620 NMAC - N, 06/12/2018]