Legislative Ethics Commission

Records Retention Schedule

Prepared by the State Records Branch
Public Records Division
Approved by the State Archives and Records Commission

Kentucky Department for Libraries and Archives

This records retention schedule governs retention and disposal of records created, used and maintained by the Legislative Ethics Commission. **Government records in Kentucky can only be disposed of with the approval of the State Archives and Records Commission (the Commission). If records do not appear on a Commission-approved records retention schedule, agencies should not destroy those records.** This agency-specific schedule was drafted by Legislative Ethics Commission personnel and Archives and Records Management Division staff, and reviewed and approved by the Commission. This schedule provides the legal authority for the Legislative Ethics Commission to destroy the records listed, after the appropriate retention periods have passed.

Legislative Ethics Commission personnel should use this agency-specific schedule in combination with the *General Schedule for State Agencies (General Schedule),* also approved by the Commission. The *General Schedule* applies to records that are created, used and maintained by staff at all or most state agencies. Agency-specific retention schedules are used only by specific agencies and apply to records that are created only by a particular state agency, or to records that a state agency is required to retain longer than the approved time period on the *General Schedule*. The *General Schedule* and agency-specific retention schedule should cover all records for the Legislative Ethics Commission.

This retention schedule applies to state agency records and information regardless of how it is created or stored. For example, information created and sent using e-mail is as much a public record as materials created or maintained in paper. Kentucky law defines public records, in part, as "documentary materials, *regardless of physical form or characteristics*, which are prepared, owned, used, in the possession of or retained by a public agency" (KRS 171.410[1]). This means that records management standards and principles apply to all forms of recorded information, from creation to final disposition, regardless of the medium. Records retention scheduling is important in developing, using, and managing computer systems and other electronic devices. Records management practices encourage cost-effective use of electronic media through accurate retention scheduling and legal destruction of records.

All state government employees are responsible for maintaining records according to the retention schedule, whether those records are stored electronically or in paper. Information must be accessible to the appropriate parties until all legal, fiscal, and administrative retention periods are met, regardless of the records storage medium.

This retention schedule covers the content of records created by the Legislative Ethics Commission, including records created or stored using computers and computer systems. The *General Schedule for Electronic and Related Records* applies to records related to computers or a computer system. Examples of these include system documentation and use records, backup files, or website format and control records.

Audits and Legal Action

Agency records may be subject to fiscal, compliance or procedural audit. If an agency should maintain records longer than the approved retention period, as may be the case with some federal audits, then all affected records should be retained until the audit has been completed and the retention period met. In no case should records that are subject to audit be destroyed until the audit has been completed and retention periods met, or the records have been officially exempt from any audit requirements.

Records may also be involved in legal or investigative actions, such as lawsuits, administrative hearings or open records matters. These records must be retained at least until all legal or

investigative matters have concluded, regardless of retention period. This includes all appeals of lawsuits.

Vital Records
Vital records are essential to the continued functioning of an agency during and after an emergency. Vital records are also essential to the protection of the rights and interests of an agency and of the individuals for whose rights and interests it has a responsibility. Vital records are identified in the retention schedule with a (V).

Confidential Records
While all records created, used and maintained by government agency personnel are public records, not all of those records are open to public inspection. Whether a record is open to public inspection is determined by the state's Open Records laws and other relevant state or federal statutes and regulations. Restriction of public inspection of confidential records may apply to the whole record or only to certain information contained in the record.

Kentucky's public records are considered open for public inspection unless there is some specific law or regulation that exempts them. Agency personnel who believe certain records are confidential should submit a citation from Kentucky Revised Statutes, Administrative Regulations, Code of Federal Regulations, or similar authority. **State agency heads have the responsibility to know all the appropriate confidentiality laws, statutes and regulations that apply to the records maintained by their agency and to see that those laws are enforced**. Even though a record series may or may not be marked confidential on a retention schedule, contradictory laws or regulations that are passed after the schedule has been approved must be honored.

Copies of Records
Agency personnel often make copies of records for internal use or reference purposes. Agencies should designate one copy as the official copy and make sure it is retained according to the records retention schedule. Agencies can destroy all other copies when no longer useful.

Updating the Retention Schedule
Per 725 KAR 1:010, the head of each state government agency is required to designate a member of his or her staff to serves as a records officer. The agency records officer represent that agency in its records-related work with the Archives and Records Management Division. The agency records officer is responsible for assisting the Archives and Records Management Division in drafting a records retention schedule, and in finding any schedule updates to bring before the Commission. The retention schedule should be reviewed on a regular basis to suggest appropriate changes to the Commission.

Legislative Ethics Commission

In 1993, the Kentucky Legislative Ethics Commission (KLEC) was established by an extraordinary session of the General Assembly that enacted the Code of Legislative Ethics. The Commission is an independent authority within the Legislative Department of state government. It is charged with the enforcement of the Code and is composed of nine citizen members. The Code regulates conduct by legislators, lobbyists and the employers of lobbyists. Before 1993 a Board of Ethics made up of legislators oversaw legislative ethics while oversight of lobbyists was with the Office of the Attorney General.

KLEC has jurisdiction over legislative agents (lobbyists), employers (individuals or entities who engage legislative agents), and members of the General Assembly. The legislative ethics law covers four broad subject matters: registration of legislative agents and employers; Statements by legislative agents and employers documenting lobbying expenditures and expenses, and financial transactions; conduct of members of the General Assembly; and financial disclosure statements of the General Assembly, legislative candidates, and key legislative staff.

Kentucky Revised Statutes 6.601 to 6.849 authorize KLEC and provide the Code of Legislative Ethics. Kentucky Administrative Regulations 2 KAR 2:010 to 2:040 specify forms for registration and financial reporting required by the Code.

RECORDS RETENTION SCHEDULE

Signature Page

Legislative Ethics Commission
Agency

March 12, 2015
Schedule Date

Unit

Change Date

March 12, 2015
Date Approved By Commission

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APPROVALS

The undersigned approve of the following Records Retention Schedule or Change:

Agency Head — Date of Approval: 2/11/15

Agency Records Officer — Date of Approval: 2/11/15

State Archivist and Records Administrator
Director, Public Records Division — Date of Approval: 3/12/2015

Chairman, State Archives and Records Commission — Date of Approval: 3/12/2015

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The undersigned Public Records Division staff have examined the record items and recommend the disposition as shown:

Records Analyst/Regional Administrator — Date of Approval: 9 February 2015

Appraisal Archivist — Date of Approval: 3/11/2015

State/Local Records Branch Manager — Date of Approval: 3/11/15

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The determination as set forth meets with my approval.

Auditor of Public Accounts — Date of Approval: 3/12/15

STATE ARCHIVES AND RECORDS COMMISSION
Public Records Division
Kentucky Department for Libraries and Archives

STATE AGENCY RECORDS RETENTION SCHEDULE

Legislative Branch
Legislative Ethics Commission

Record Group Number
1645

Series	Records Title and Description	Function and Use
04402	**Employer's Registration Statement File (V)**	This series documents the registration of an employer of legislative agents or lobbyists. Pursuant to KRS 6.807, an employer and/or lobbyist are required to register with the Legislative Ethics Commission (LEC) within seven (7) days following the engagement of an agent. The Commission reviews registrations for compliance, notifies persons regarding failure to file or deficiencies in filing, provides copies to the public if requested, and publishes an annual report containing statistical information on registration statements filed during the preceding year.
	Access Restrictions	None
	Contents	Series may contain: Initial Registration Form-Name/address of employer; Bills to be lobbied; Correspondence; Updated Registration Statement (Employer Information, Agents Engaged by Employer, Specific Bills or Resolutions Agents Lobbied, Terminated Agents previously Listed); Statement of Expenditures (Name of legislator/family, Amount, Description, Date; Reimbursed expenditures, Name of Agent; Expenses directly associated with employer's lobbying activities--food, lodging, entertainment, telephone, office, support staff, and Prorated compensation
	Retention and Disposition	Retain in Agency twelve (12) years and after audit, then destroy.
04403	**Legislative Agent's Registration Statement File (V)**	This series documents the registration of a legislative agent (a/k/a lobbyist). Pursuant to KRS 6.807, an agent must register with the Legislative Ethics Commission (LEC) within seven (7) days following his/her engagement by an employer. Within thirty (30) days of termination from an employer, an agent must file written notice of termination with LEC.
	Access Restrictions	None
	Contents	Series may contain: Registration Statement--Name, Employer of Agent (Name of business, nature of business, Lobbying Activity during reporting period); Statement of Expenditures; Statement of Financial Transactions; Updated Registration Forms
	Retention and Disposition	Retain in Agency twelve (12) and after audit, then destroy.
04404	**Statement of Financial Disclosure File (V)**	This series documents the annual statement of financial interests of a candidate for the legislature, member of the General Assembly, or major management personnel in the Legislative Branch per the requirements of KRS 6.787. The statements are to be filed with the Commission by February 15 each year, complete through December 31 of the preceding year.
	Access Restrictions	None
	Contents	Series may contain: Name, Business address, telephone number, Title of public position or office sought, occupations of filer, spouse, positions held by filer in any business, partnership, corporation for profit, or corporation not for profit from which compensation is received (same with spouse), Sources and form of gross income, positions of a fiduciary nature, sources of gifts of money or property of retail value of more than $200, any relationships with lobbyists, names of clients who are lobbyists; professional licenses held; signatures
	Retention and Disposition	Retain in Agency last five (5) years of completed forms as long as filer is active, and after individual ceases to be a member of the General Assembly or no longer employed in that position, retain an additional three (3) years, then destroy. Total retention is eight (8) years. If the candidate loses his bid for election or ceases to be in the position requiring a Financial Disclosure Statement, retain in Agency three (3) years, then destroy.

STATE AGENCY RECORDS RETENTION SCHEDULE

Legislative Branch
Legislative Ethics Commission

Record Group Number
1645

Series	Records Title and Description	Function and Use
04405	**Complaint File (V)**	This series documents the investigations of complaints for violation of Code of Ethics by the Commission regarding a lobbyist, employer, or legislator. Investigations by the Legislative Ethics Commission (LEC) are instigated at the time a sworn statement is received by LEC or when LEC determines on its own initiative that an investigation is necessary. If the LEC finds the evidence insufficient to establish probable cause of a violation the complaint is dismissed. If the evidence does establish probable cause, the LEC may initiate a formal adjudicatory proceeding (see Permanent Complaint/Adjudicatory Proceeding File, SN 04406). Evidence of criminal violations uncovered is referred to the Attorney General for prosecution.
	Access Restrictions	KRS 6.686 (2)
	Contents	Series may contain: Letter of complaint, Supporting documentation of investigation; Findings of the Commission's investigation, determination of probable cause; Correspondence; Documentation of the need of an adjudicatory hearing; Agreed Order.
	Retention and Disposition	Retain in Agency ten (10) years after closure of case, then destroy.
04406	**Permanent Complaint/Adjudicatory Proceedings File (C) KRS 6.686 (2)--Complaint case is restricted. Proceedings are open. (V)**	This series documents the investigations of special, high profile, and/or historically significant cases of the Legislative Ethics Commission (LEC) that have been separated from the Complaint File (04405). This series includes but not limited to: BOPTROT or a FBI investigation of political corruption in Kentucky state government. The process is the same as Complaint File (04405) and requirements of KRS 6.686. In the event LEC determines that a violation of the ethics code has occurred, the defendant may appeal the decision to the Franklin Circuit Court.
	Access Restrictions	KRS 6.686 (2)--Complaint case (Proceeding is open)
	Contents	Series may contain: Letter of complaint, supporting documentation of investigation, Findings of the Commission's investigation, determination of probable cause, Correspondence, documentation of the decision for adjudicatory proceeding, Agreed Order.
	Retention and Disposition	Retain in Agency five (5) years after closure of the case; transfer to State Archives Center for permanent retention.
04407	**Attorney Litigation Working File (V)**	This is a series documents an attorney's working litigation file regarding legal representation on behalf of the Legislative Ethics Commission.
	Access Restrictions	KRS 61.878 (1)(h)(i)(j)
	Contents	Series may contain: Pleadings, Correspondence, Research, Court Order, Evidence, Decision and other documentation from the Commission's Adjudicatory Hearing
	Retention and Disposition	Retain in Agency twelve (12) years after case closure, then destroy.
04408	**Advisory Opinion File**	This series documents the opinions of the Legislative Ethics Commission (LEC) concerning matters of the ethics code and per the requirements of KRS 6.681. Advisory opinions are rendered after a written request has been submitted to LEC and are based on the Kentucky Revised Statutes and not based on the personal opinions of commission members as to the legislative intent or the spirit of the law.
	Access Restrictions	KRS 6.681.(2)-Letter of request
	Contents	Series may contain: Opinion, Written request, copies of supporting Kentucky Revised Statutes
	Retention and Disposition	Retain permanently in Agency