



Department of Charitable Gaming

Records Retention Schedule

Prepared by the State Records Branch
Archives and Records Management Division

Approved by the State Libraries, 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 Department of Charitable Gaming. **Government records in Kentucky can only be disposed of with the approval of the State Libraries, 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 Department of Charitable Gaming personnel and Archives and Records Management Division staff, and reviewed and approved by the Commission. This schedule provides the legal authority for the Department of Charitable Gaming to destroy the records listed, after the appropriate retention periods have passed.

Department of Charitable Gaming 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 Department of Charitable Gaming.

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 Department of Charitable Gaming, 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 serve as a records officer. The agency records officer represents 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.

Department of Charitable Gaming

The Division of Charitable Gaming was created in 1994, as part of the Justice Cabinet. In 1998, the division was elevated to a department and was placed in the Cabinet for Public Protection and Regulation. In 2004, it was placed in the Environmental and Public Protection Cabinet. As of 2010, it is in the Public Protection Cabinet. The Department is empowered to license and regulate the conduct of charitable gaming and to license and regulate charitable gaming organizations, facilities, manufacturers and distributors in Kentucky (KRS 238.510). It also conducts financial auditing and undercover investigations. The Charitable Gaming Advisory Commission provides ongoing advice and input to the Department and the General Assembly to assist in establishing effective policy for the licensing and regulation of charitable gaming.

The Department of Charitable Gaming is composed of the Commissioner's Office and two divisions, the Division of Licensing and Compliance and the Division of Enforcement. The Division of Licensing and Compliance has two branches, Licensing and Compliance. The Division of Enforcement has two branches, Audit and Investigation.

RECORDS RETENTION SCHEDULE

Signature Page

Department of Charitable Gaming

September 14, 2017

Agency

Schedule Date

Unit

September 12, 2019

Change Date

September 12, 2019

Date Approved By Commission

APPROVALS

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

Agency Head

7/9/19
Date of Approval

Agency Records Officer

7-9-19
Date of Approval

State Archivist and Records Administrator
Director, Archives and Records Management Division

SEP 12 2019
Date of Approval

Chairman, State Libraries, Archives, and
Records Commission

SEP 12 2019
Date of Approval

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

Records Analyst/Regional Administrator

9.11.19
Date of Approval

Appraisal Archivist

9/12/19
Date of Approval

State/Local Records Branch Manager

9.12.19
Date of Approval

The determination as set forth meets with my approval.

Auditor of Public Accounts

9/12/19
Date of Approval

STATE LIBRARIES, ARCHIVES, AND RECORDS COMMISSION

Archives and Records Management Division

Kentucky Department for Libraries and Archives

STATE AGENCY RECORDS
RETENTION SCHEDULE

Public Protection Cabinet
Department of Charitable Gaming

Record Group
Number
0483

Series	Records Title and Description	Function and Use
04895	License File (V)	<p>This series documents the licensing requirements for organizations, facilities, manufacturers, and distributors to participate in charitable gaming events and activities, as required in KRS 238.525 to 535. A charitable organization is a nonprofit entity organized for charitable, religious, educational, literacy, civic, fraternal, or patriotic purposes. A charitable gaming facility means a person, including a licensed charitable organization, that owns or is a lessee of premises which are leased or otherwise made available to two or more licensed charitable organizations, other than itself, during a one year period for the conduct of charitable gaming. A manufacturer is a person who assembles charitable gaming equipment or supplies used in the conduct of charitable gaming. A distributor is a person who sells, markets, leases, or otherwise furnishes to an organization charitable gaming equipment. The series also includes exempted organizations, such as hospitals, parent/teacher associations, and school organizations. An exempted organization is one that makes less than \$15,000 per year on charitable gaming events and is not required to pay a filing fee or financial reports. Applicants for licenses are subjected to state and national criminal history background checks. Applicants who are denied licenses have recourse through the administrative hearing process. Orders of the Commissioner are final unless overturned through the courts.</p> <p>Access Restrictions Agencies should consult legal counsel regarding open records matters.</p> <p>Contents Series may contain: Application forms, articles of incorporation, by-laws, Internal Revenue Service (IRS) form 990 to report gross receipts over \$25000, IRS 501C form for use by nonprofit entities, employee identification number, federal identification number, copies of leases, invoices, orders, complaints, financial plan (if required), related correspondence.</p> <p>Retention and Disposition Retain in Agency six (6) years, then destroy.</p>
04896	Inspection Report File	<p>This series documents the notes and observations resulting from the inspection of licensees engaged in charitable gaming events and activities. Inspections are at the discretion of the Department, with the overall intent to inspect each and every charity at least two to three times per year. The purpose of the inspections is to ensure compliance with the requirements of KRS 238.500 to 560. Currently, there are eleven inspectors to inspect more than 1,200 licensees. During inspections, emphasis is given to educating organizations, facilities, manufacturers, and distributors regarding the laws governing charitable gaming. The primary thrust of the inspections is to ensure that forty percent of gross receipts are retained for charities and that the required 4/10 of one percent of receipts are returned to the Department. The Department is funded through agency receipts, not through appropriations from the General Assembly. If violations are noted, a period for corrective action is given. If violations are not corrected, licenses can be revoked or suspended.</p> <p>Access Restrictions Agencies should consult legal counsel regarding open records matters.</p> <p>Contents Series contains: Date of inspection, inspector name, day of inspection, license number, arrival time, organization name, address, officer/manager present, person in charge of cash, person in charge of pull tab sales, person calling game, association with organization, distributor, per person paper charge, employees of distributor present, facility, license number, expiration date, address, rent, clean up charges, additional charges, inventory storage, person responsible, investigative notes and observations, involvement by other licensees, charity game ticket rules of play, bingo equipment, rules of play, gross receipts, payout list.</p> <p>Retention and Disposition Retain in Agency six (6) years, then destroy.</p>

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Records Title Series and Description	Function and Use
04897 Quarterly Report File	This series represents captured data on gross receipts by gaming categories, such as bingo, pull tabs, and raffles, as required in KRS 238.550 (2). In addition, the report provides information on the following: 1) the amounts or values of all prizes paid out during the reporting period; 2) the names and addresses of all persons who are winners of prizes of \$600 or more; and 3) all net receipts retained and the names and addresses of all charitable endeavors which received money from the net receipts. The reports are due to the Department thirty days following the end of each calendar quarter. The series is primarily used to determine whether the organization is retaining forty percent of its gross receipts for charitable purposes. It is also used to ensure compliance with the reporting of other types of expenses and to capture statistical information for inclusion in the Department's annual report.
Access Restrictions	Agencies should consult legal counsel regarding open records matters.
Contents	Series may contain: License number, organization name and address, and reporting period; information on gaming activities, gross receipts, payouts, and adjusted gross receipts; information on expenses, such as supplies, equipment, other operating expenses, and signature of organization officer and date; charitable gaming account information, report of all winners of prizes valued at more than \$599, special license activity, summary of gaming activity, report of charitable contributions made by licensee.
Retention and Disposition	Retain in Agency six (6) years, then destroy.
04898 Investigative Case File (V)	This series documents the investigations of allegations of wrongdoing, specifically allegations of willful criminal conduct, as required in KRS 238.560. Investigations may be undertaken based on receipt of complaints or upon the Department's own volition. In carrying out its enforcement responsibilities, the Department can: inspect and examine all premises in which charitable gaming is conducted, or gaming supplies or equipment are manufactured and distributed; remove and impound supplies and equipment for the purpose of examination; inspect and audit books and records of licensees for the purpose of determining compliance with laws and regulations governing charitable gaming; and take any other actions it believes necessary to an investigation. The information from cases that support criminal offenses is turned over to the appropriate county attorney or commonwealth attorney for prosecution, or to the agency that has proper jurisdiction, such as the Internal Revenue Service. Complaints that are received that are not of a criminal nature are turned over to other areas of the Department for resolution.
Access Restrictions	KRS 61.878 (1)(h) - Information to be used in a prospective law enforcement action/administrative adjudication. Agencies should consult legal counsel regarding open records matters.
Contents	Series may contain: investigative report, copy of complaint, witness statements, business records of the organization/facility, audit reports, related correspondence.
Retention and Disposition	Retain in Agency fifteen (15) years after case closure and all appeals have been exhausted. Transfer to State Records Center for sixty five (65) years, then destroy. Total retention is eighty (80) years.
04899 Audit File	This series documents the audits of charitable gaming organizations and facilities. The audits are conducted to ensure that the required 4/10 of one percent of gross gaming receipts are returned to the Department, as required in KRS 238.570. Audits are also conducted to determine the accuracy of quarterly reports (series 04897) submitted to the Department and to ensure compliance with laws and regulations governing charitable gaming activities. The intent of the Department is to audit each organization/facility once within a three-year period. Information from the series also may be used in formal investigations conducted by the Department.
Access Restrictions	Agencies should consult legal counsel regarding open records matters.
Contents	Series may contain: Audit summary, preliminary audit report, response to preliminary audit report, copies of quarterly reports, inspection reports, work papers, complaints from inspectors, final audit report, related correspondence.
Retention and Disposition	Retain in Agency six (6) years, then destroy.

STATE LIBRARIES, ARCHIVES, AND RECORDS COMMISSION

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**STATE AGENCY RECORDS
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Public Protection Cabinet
Department of Charitable Gaming

**Record Group
Number
0483**

Series	Records Title and Description	Function and Use
04900	Case Files - Administrative Proceedings (V)	This series documents administrative action against any person licensed under KRS Chapter 238 for violations of the provisions of the Chapter or related administrative regulations. Offenses include but are not limited to violations of rules of play, conducting unlicensed gaming activities, and involvement by a facility in organization's gaming activities. Under the terms of KRS 238.560, the Department may deny a license, suspend or revoke a license, issue a cease and desist order, place a license holder on probation, or levy a fine. The type of action taken is based on the nature, severity, and frequency of the offense. A license holder has ten (10) days after notification of an action to appeal an administrative decision of the Department. Administrative hearings are conducted by the Attorney General's Office. A case is closed upon issuance of a final order by the Commissioner of the Department. A licensee has thirty (30) days in which to appeal a final order to Franklin County Circuit Court.
	Access Restrictions	Agencies should consult legal counsel regarding open records matters.
	Contents	Series may contain: Request for appeal, notice of administrative hearing, order assigning case, pre-hearing conference, disposition of case (find of fact and conclusion of law and recommended order), final order, transcripts, exhibits, related correspondence.
	Retention and Disposition	Retain until five (5) years after case closure and all appeals have been exhausted, then destroy.

Electronic System With Included Records Series

Public Protection Cabinet

Department of Charitable Gaming

System Description: The Charitable Gaming Program holds all information related to a licensee, including information for the licensee itself and personal data for officers, owners, employees, etc. of each licensee. All incoming documents are scanned into the system and output documents and reports are generated from that original data.

System Contents: Content is related to obtaining a license and keeping that information up to date and may include license applications and supporting documentation, invoices, orders, complaints, inspection reports and supporting documentation, quarterly reports, and records relating to administrative actions and appeals. Information is entered by licensing staff, compliance staff, legal staff and Fiscal Officer.

General Schedule Items:

System Title: Charitable Gaming Program		Alternate Title:
Series #:	Series Title:	Disposition Instructions:
04895	License File	Retain in Agency six (6) years, then destroy.
04896	Inspection Report File	Retain in Agency six (6) years, then destroy.
04897	Quarterly Report File	Retain in Agency six (6) years, then destroy.
04899	Audit File	Retain in Agency six (6) years, then destroy.
04900	Case Files - Administrative Proceedings	Retain in Agency until three (3) years after case closure and all appeals have been exhausted, then destroy.
