



Executive Branch Ethics Commission

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 Executive Branch 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 Executive Branch 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 Executive Branch Ethics Commission to destroy the records listed, after the appropriate retention periods have passed.

Executive Branch 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 Executive Branch 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 Executive Branch 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 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.

Executive Branch Ethics Commission

The Executive Branch Ethics Commission was attached to the Office of the Governor for administrative purposes in 1994. Senate Bill 63 enacted by the 1992 General Assembly abolished the Financial Disclosure Review Commission, which was created on March 4, 1975 by Executive Order 75-211, and created the Executive Branch Ethics Commission. The Commission is composed of five members appointed by the Governor and is authorized to employ an executive director and other employees. The Commission investigates alleged violations of the ethics law in KRS Chapter 11A. The Commission has the power to issue subpoenas, and the Kentucky Rules of Civil Procedure and the Rules of Evidence apply to all Commission adjudicatory hearings. The Commission may issue advisory opinions, promulgate administrative regulations, publish a manual of guidelines, and provide a continuing program of education, assistance and information to public servants.

RECORDS RETENTION SCHEDULE

Signature Page

Executive Branch Ethics Commission
Agency

December, 1994
Schedule Date

Unit

Change Date
12/08/94
Date Approved by Commission

APPROVALS

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

✓ Jill Mester
Agency Head

11-29-94
Date of Approval

✓ Jill Mester
Agency Records Officer

11-29-94
Date of Approval

Richard L. Felder
State Archivist and Records Administrator
Director, Public Records Division

12-5-1994
Date of Approval

[Signature]
Chairman, Archives and Records Commission

12/8/94
Date of Approval

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

Kathy Gilliland
Records Analyst/Regional Administrator

Nov. 28, 1994
Date of Approval

Jim [Signature]
Appraisal Archivist

12/5/94
Date of Approval

Wiana Moses
State/Local Records Branch Manager

12/5/94
Date of Approval

The determination as set forth meets with my approval.

Cindy M. James
Auditor of Public Accounts
for A. B. Chandler III

12/7/94
Date of Approval

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

STATE AGENCY RECORDS
RETENTION SCHEDULE

General Government
Executive Branch Ethics Commission

Record Group
Number
1032

Series	Records Title and Description	Function and Use
04438	Executive Agency Lobbyist File (V)	This series documents the registration of an executive agency lobbyist (EAL). Pursuant to KRS 11A.211, an EAL must register with the Executive Branch Ethics Commission (EBEC) within ten days following the engagement of his services. An EAL is one that is retained to act for or on the behalf of an employer in an attempt to influence an executive agency official or a member of his staff in order to promote, oppose, or otherwise influence the outcome of an executive agency decision through direct communication. An executive agency official is an officer or employee of an executive branch agency whose principal duties are to formulate policy or to participate in the preparation or review of such, or award contracts, grants, leases, or other financial arrangements with an executive agency. An executive agency decision is a decision of such an agency regarding the expenditure of funds with respect to the contract or arrangement under which those funds are distributed or allocated. An EAL files an updated report the last day of January, May, and September. The updated statement confirms the continuing existence of an engagement described in an initial registration statement. If an EAL is engaged by more than one employer, he must file a separate registration statement for each employer. Within 30 days of termination from an employer, an agent must file written notice to the commission. The legislation for the EAL passed in the 1993 Special Legislative Session. *Reference is not available.
	Access Restrictions	None
	Contents	Registration Forms-Initial, Updated--(EAL Information; Employer Information; Real Party in Interest-if different from employer; Description of EAL engagement to agency; Name of agency(s); Signatures, Dates); Correspondence; Statement of Expenditures, Financial Transactions; Termination Form
	Retention and Disposition	Retain in Agency three (3) years after termination; transfer to State Records for nine (9) years; destroy. Total retention is twelve (12) years.
04439	Employer of Executive Agency Lobbyist File (V)	This series documents the registration of an employer of an executive agency lobbyist (EAL) with the Executive Branch Ethics Commission (EBEC). Pursuant to KRS 11A.211, an employer is required to register with the Commission within ten days following the engagement of an EAL. There is no registration fee, however, all statements are reviewed to determine that they contain all of the required information, and, updates must be filed the end of January, May, and September. Any change in information is reflected in the next updated registration. Employers file statements of expenditures and financial transactions just as the EAL's. No termination statement is required. *Reference is not yet available.
	Access Restrictions	None
	Contents	Registration Forms-Initial, Updated (Employer Information; Real Party in Interest; Description of EAL engagement to agency; Name of agency(s); Signatures, Dates); Correspondence; Statement of Expenditures, Financial Transactions; Updated--Dates, Amended Report, Names of EAL's engaged
	Retention and Disposition	Retain in Agency three (3) years after the last registration statement is submitted; then transfer to State Records Center for nine (9) years; destroy. Total retention is twelve (12) years.
04440	Statement of Financial Disclosure File (V)	This series documents annually the sources of income, outstanding debts (above \$10,000), and other business interests of the elected officials of the executive branch of government and officers as defined in KRS 11A.010 (7). The amount of the items, property, gifts, creditors owed are not required to be disclosed, only the source(s) of each. The purpose of the statement is to reveal potential conflicts of interest. The statements are filed by April 15 of each year for the previous calendar year. *The document replaces the function of the previous Financial Disclosure Review Commission. **Reference not yet available.
	Access Restrictions	None
	Contents	Correspondence; (FORM) Name, address; SS#; State employment (agency); Spouse, employer, title; Other Employers of you/spouse, self-employment; (Questions regarding previous calendar year) Fiduciary or other business positions/partnerships held for profit; Business owned an interest of at least 5% or worth \$10,000 or more; Sources of other income received; Real property owned; Gifts received; Creditors owed; Signature affirming reported information/Date
	Retention and Disposition	Retain in Agency four (4) years; transfer to the State Records Center for eight (8) years. Destroy after audit. Total retention is twelve (12) years.

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

STATE AGENCY RECORDS
RETENTION SCHEDULE

General Government
 Executive Branch Ethics Commission

Record Group
Number
1032

Series	Records Title and Description	Function and Use
04441	Investigative File (V)	This series documents the review and investigation of executive branch employees, and may include executive agency lobbyists (EAL) or their employers. Pursuant to KRS 11A.080, complaints are noted for review and brought before the Commission to determine if a preliminary investigation is required. A complaint, conveyed to the Commission by letter, telephone, or in person, can be referred to another agency for inquiry, or it may be determined that the Commission should conduct the investigation if there appears to be sufficient evidence that a violation of the code of ethics has occurred. Actions by the Commission may be to confidentially inform the alleged violator of potential violations and provide information to ensure future compliance with the law, or confidentially reprimand the alleged violator for potential violations and provide a copy of the reprimand to the alleged violator's appointing authority. The Commission may turn over to the Attorney General's Office evidence for prosecution, or proceed with the adjudicatory hearing itself. The Commission has civil penalizing authority for all prosecution conducted through the hearing process. *Reference is not yet known.
	Access Restrictions	KRS 11A.080 (2) - Until final determination
	Contents	Documentation of complaint; Summary of investigative findings; Relative evidence; Sixty-day letter (notification to person being investigated); Correspondence (from violator, to violator with determination of action or decision)
	Retention and Disposition	Retain in Agency five (5) years after final determination of the case. Transfer to State Records Center for five (5) years. Destroy upon approval of the State Archivist; total retention is ten (10) years.
04442	Investigative File-Permanent (V)	This series documents the special, high profile, and/or historically significant cases of the Executive Branch Ethics Commission that have been separated from the Investigative File (04441) to be retained permanently. Because of the newness of the agency, documentation of complaints with sufficient evidence of violations, and involving adjudicatory hearings that would be permanent, are yet to be identified specifically. The process is the same as described in the Investigation File. The Kentucky Rules of Civil Procedure and Kentucky Rules of Evidence apply to all commission adjudicatory hearings. All testimony is under oath. All proceedings are public unless the members vote to go into executive session. Within thirty days after completion of deliberations, the commission will publish a written report of its findings and conclusions. Anyone found to have committed a violation of the ethics code may appeal a decision to the Franklin Circuit Court. *Reference is not yet known.
	Access Restrictions	KRS IIA.080 (2) - Until final determination
	Contents	Documentation of complaint; Summary of investigative findings; Relative evidence; Sixty-day letter (notification to person being investigated); Correspondence (from violator, his attorney, to violator with determination of action or decision)
	Retention and Disposition	Retain in Agency five (5) years after final determination of the case; transfer to State Archives Center for permanent retention.
04443	Advisory Opinion File	This series documents the opinions of the Executive Branch Ethics Commission on issues regarding interpretation of the ethics law in KRS 11A. An opinion prepared by the Commission staff embodying an understanding of the law(s) as applicable to a state of facts. The opinions are approved by Commission members. Once approved, copies are distributed to the requestor and others identified on the subscribers list. The letter requesting an opinion is not restricted. *Governmental Services Center publishes a summary of significant opinions in Horizons, a newsletter published by them. **Reference is not yet known.
	Access Restrictions	None
	Contents	Letter of request for opinion; Opinion
	Retention and Disposition	Retain permanently in Agency.