



Department of Public Advocacy

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 Public Advocacy. **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 Department of Public Advocacy personnel and Archives and Records Management Division staff, and reviewed and approved by the Commission. This schedule provides the legal authority for Department of Public Advocacy to destroy the records listed, after the appropriate retention periods have passed.

Department of Public Advocacy 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 Department of Public Advocacy.

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 Department of Public Advocacy, 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 Public Advocacy

The Department of Public Advocacy provides for the establishment, maintenance and operation of a state-sponsored and controlled system for the representation of indigent persons accused of crimes or suffering psychological conditions that may result in their incarceration or confinement. The system consists of full-time state-employed public defenders, full-time non-state public defenders, and part-time private attorneys who are under contract with the Department. Created by KRS 31.010, the Department also pursues legal, administrative and other appropriate remedies to ensure the protection of the rights of the developmentally disabled.

The Office of Public Defender was created in 1972 and in 1978 the name changed to Office of Public Advocacy. In 1984, the Office became the Department of Public Advocacy and attached to the Public Protection Cabinet. In 2004, the Office of Public Advocacy was attached to the Justice and Public Safety Cabinet.

RECORDS RETENTION SCHEDULE

Signature Page

Department of Public Advocacy
Agency

September 10, 2015
Schedule Date

Unit

March 10, 2016
Change Date

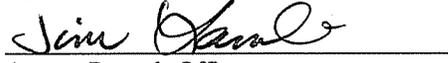
March 10, 2016
Date Approved By Commission

APPROVALS

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


Agency Head

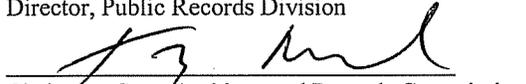
10/2/15
Date of Approval


Agency Records Officer

11/9/15
Date of Approval

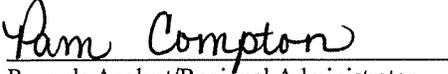
State Archivist and Records Administrator
Director, Public Records Division

Date of Approval


Chairman, State Archives and Records Commission

3/10/16
Date of Approval

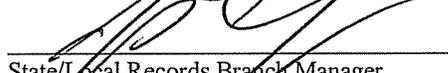
The undersigned Public Records Division staff have examined the record items and recommend the disposition as shown:


Records Analyst/Regional Administrator

Nov. 4, 2015
Date of Approval

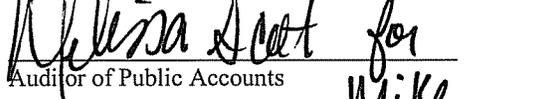

Appraisal Archivist

3/10/2016
Date of Approval


State/Local Records Branch Manager

3/10/16
Date of Approval

The determination as set forth meets with my approval.


Auditor of Public Accounts
for
Mike
Hannan

3/10/16
Date of Approval

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

STATE AGENCY RECORDS
RETENTION SCHEDULE

Justice and Public Safety
Public Advocacy

Record Group
Number
2350

Series	Records Title and Description	Function and Use
01517	Client Log	This series documents the case activity tracking of Department of Public Advocacy attorneys representation of clients pursuant to KRS 31.110.
	Access Restrictions	Agency has responsibility to consult agency's Legal Department re confidential information.
	Contents	Series may contain: Name of county and court; name of client; charges against client; notation if juvenile; case number; name of attorney; court dates and notices; if applicable, conviction and charges
	Retention and Disposition	Retain in Agency thirty (30) years after case closure.
03621	Attorney Litigation Case File - District Court (V)	This series documents an attorney's activity and work product in preparation for litigation in District Court for individuals needing legal counsel pursuant to KRS 31.110 and KRS 31.120.
	Access Restrictions	KRS 61.878 (1)(a) re Date of Birth, Social Security Number, medical history; KRS 61.878 (1)(i) and KRS 61.878 (1)(j); Agency has responsibility to consult agency's Legal Department re confidential information.
	Contents	Series may contain: Complaint or citation; legal documentation, and correspondence
	Retention and Disposition	Retain in Agency five (5) years after case closure, then destroy.
03623	Attorney Post Conviction Service File - Court Action (V)	This series documents an attorney's activity when an inmate files a complaint with the Department of Corrections, along with a request for an attorney. The types of complaints include not limited to: treatment by staff; condition of prison; time served not credited; medicine not given at correct time. The complaints may develop into cause for litigation.
	Access Restrictions	KRS 61.878 (1)(i) and KRS 61.878 (1)(j); Agency has responsibility to consult agency's Legal Department re confidential information.
	Contents	Series may contain: Institutional complaints; attorney complaints; counseling interviews; attorney's personal memoranda and worksheets; legal documentation; and correspondence
	Retention and Disposition	Retain in Agency for two (2) years after case closure; transfer to State Records Center for twenty-eight (28) years, then destroy. Total retention is thirty (30) years.
03631	Attorney Post Conviction Service File - No Court Action	This series documents an attorney's activity when an inmate files a complaint with the Department of Corrections, along with a request for an attorney. The types of complaints include but not limited to: treatment by staff; condition of prison; time served not credited; or medicine not given at correct time. The complaints may be resolved and not result in litigation.
	Access Restrictions	KRS 61.878 (1)(i) and KRS 61.878 (1)(j); Agency has responsibility to consult agency's Legal Department re confidential information.
	Contents	Series may contain: Institutional complaints; attorney complaints; counseling interviews; attorney's work product; correspondence; and legal documentation
	Retention and Disposition	Retain in Agency four (4) years after inmate assistance activity is completed, or, if applicable, transfer to appropriate litigation file and retain per specific series, then destroy.

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

STATE AGENCY RECORDS
RETENTION SCHEDULE

Justice and Public Safety
 Public Advocacy

Record Group
Number
2350

Series	Records Title and Description	Function and Use
03632	Attorney's Litigation Case File - Circuit Court (V)	This series documents the attorney's activity and work product in preparation for litigation in Circuit Court for individuals needing legal counsel pursuant to KRS 31.110 and KRS 31.120.
	Access Restrictions	KRS 61.878 (1)(a) re Date of Birth, Social Security Number, medical history; KRS 61.878 (1)(i) and KRS 61.878 (1)(j); Agency has responsibility to consult agency's Legal Department re confidential information.
	Contents	Series may contain: Complaints and/or indictment documentation; legal documentation; police investigation; and correspondence ;
	Retention and Disposition	Retain in Agency two (2) years after case closure, transfer to State Records Center for twenty-eight (28) years, then destroy. Total retention is thirty (30) years.
05701	Juvenile Appeals (V)	This series documents an attorney's activity on juvenile cases when an appeal has been filed regarding the decision of either the District or Family court.
	Access Restrictions	KRS 61.878 (1)(a) re Date of Birth, Social Security Number, medical history; KRS 61.878 (1)(i) and KRS 61.878 (1)(j); KRS 610.340 (1)(a) re confidentiality of juvenile records; Agency has responsibility to consult agency's Legal Department re confidential information.
	Contents	Series may contain: Legal documentation; statement of appeal; motion for discretionary review; attorney's work product; attorney notes; correspondence; audio and video court recordings, and medical history.
	Retention and Disposition	Retain in Agency until the individual is eighteen (18) years of age; transfer to the State Records Center five (5) years, then destroy.
05702	Juvenile Status - Public Offenders (V)	This series documents an attorney's representation and activity concerning juvenile status and public offenders as defined by KRS 630 and KRS 635.
	Access Restrictions	KRS 61.878 (1)(a) re Date of Birth, Social Security Number, medical history; KRS 61.878 (1)(i) and KRS 61.878 (1)(j); Agency has responsibility to consult agency's Legal Department re confidential information.
	Contents	Series may contain: Attorney work product and notes; agency information on juvenile; legal proceedings documentation; correspondence; record of criminal charge(s); medical history including mental health evaluations and treatment plan; Court Order(s); if applicable, alternative sentencing plans.
	Retention and Disposition	Retain in agency until individual is eighteen (18) years of age, has been committed for one (1) year, or until case is closed, whichever is later, transfer to the State Records Center for five (5) years, then destroy.
05703	Juvenile Sexual Offenders (V)	This series documents an attorney's representation and activity concerning juvenile sex offenders housed at high security youth development centers.
	Access Restrictions	KRS 61.878 (1)(a) re Date of Birth, Social Security Number, medical history; KRS 61.878 (1)(i) and KRS 61.878 (1)(j); Agency has responsibility to consult agency's Legal Department re confidential information.
	Contents	Series may contain: Attorney work product and notes; agency information on juvenile; legal proceedings documentation; correspondence; record of criminal charge(s); medical history including mental health evaluations and treatment; Court Order(s); and if applicable, alternative sentencing plans.
	Retention and Disposition	Retain in Agency until individual is eighteen (18) years of age or has been committed three (3) years, whichever is later, transfer to the State Records Center for five (5) years, then destroy.

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

STATE AGENCY RECORDS
RETENTION SCHEDULE

Justice and Public Safety
Public Advocacy

Record Group
Number
2350

Series	Records Title and Description	Function and Use
05704	Juvenile Youthful Offenders (V)	This series documents an attorney's representation of juvenile youthful offenders/public offenders as defined by KRS Chapter 640 and the related statutes and regulations cited therein.
	Access Restrictions	KRS 61.878 (1)(a) re Date of Birth, Social Security Number, medical history; KRS 61.878 (1)(i) and KRS 61.878 (1)(j); Agency has responsibility to consult agency's Legal Department re confidential information.
	Contents	Series may contain: Attorney work product; attorney notes; agency information on juvenile; Legal documentation; correspondence; criminal record of charge(s); alternative sentencing plans; medical history including mental health evaluations and treatment.
	Retention and Disposition	Retain in Agency until individual is eighteen (18) years of age or until case is closed, whichever is later. transfer to the State Records Center for five (5) years, then destroy.

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

STATE AGENCY RECORDS
RETENTION SCHEDULE

Justice and Public Safety
 Public Advocacy
 Legal Defense of Indigent Persons

Record Group
Number
2350

Series	Records Title and Description	Function and Use
01507	Attorney Appeal Litigation Case File (V)	This series documents an appeal action taken by a Department attorney in the representation of clients accused of crimes or mental conditions if a client requests that the jurisdiction of his case be moved to an appellate court. It provides for further review of a client's record for use in litigation and protection of the rights of individuals, including the developmentally disabled, who may become incarcerated or confined.
	Access Restrictions	KRS 61.878 (1)(a) re Date of Birth, Social Security Number, medical history; KRS 61.878 (1)(i) and KRS 61.878 (1)(j); Agency has responsibility to consult agency's Legal Department re confidential information.
	Contents	Series may contain: Appellant's initial brief; Briefs; Petition for rehearing; court opinion; motion for discretionary review; attorney's personal memoranda and worksheets; correspondence with client and witnesses
	Retention and Disposition	Retain in Agency two (2) years after case closure, transfer to the State Records Center for an additional twenty-eight (28) years for a total retention of thirty (30) years after case closure, then destroy.
03622	Death Sentence Case Files (V)	This series documents an attorney's litigation files for an client that a death penalty may be or has been imposed per KRS 532.075. A death penalty conviction is automatically appealed to the Kentucky Supreme Court.
	Access Restrictions	KRS 61.878 (1)(i)(j) re preliminary drafts, notes, recommendations, preliminary memoranda; Agency has responsibility to consult agency's Legal Department re confidential information.
	Contents	Series may contain: briefs; motions; pleadings; depositions of expert evidence; police investigation information; photographs; correspondence forms; interview sheets of witnesses; and correspondence
	Retention and Disposition	Retain in Agency for five (5) years after case closure; transfer to State Archives Center to be retained permanently.

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

STATE AGENCY RECORDS
RETENTION SCHEDULE

Justice and Public Safety
 Public Advocacy
 Protection and Advocacy for the Developmentally Disabled

Record Group
Number
2350

Series	Records Title and Description	Function and Use
01519	Protection and Advocacy Client Files	This series documents Department of Public Advocacy's representation of individuals to protect the rights of Kentuckians with disabilities as created by Americans with Disabilities Act (ADA) a federal law and pursuant to 42 USC 6000 and 42 USC 10801 and adapted in KRS 31.010 (2).
	Access Restrictions	KRS 61.878 (1)(a) re Date of Birth, Social Security Number, medical history; KRS 61.878 (1)(i) and KRS 61.878 (1)(j); Agency has responsibility to consult agency's Legal Department re confidential information.
	Contents	Series may contain: Name, date of birth, address, Social Security Number; medical history; complaint; legal documentation; correspondence
	Retention and Disposition	Retain in Agency four (4) years after protection and advocacy efforts have ended; transfer to State Records Center for twenty-six (26) years, then destroy. Total retention is thirty (30) years.

Electronic System With Included Records Series

Justice and Public Safety Cabinet

Department of Public Advocacy

System Description: The JustWare database is used by the Department of Public Advocacy to collect and maintain case data used in order to represent a client in a criminal case in a Kentucky court of law. The system allows for attorneys and their agents to record data to track caseloads, demographics, case details, and share confidential case work in a secure environment.

System Contents: JustWare contains information including Kentucky court data, client demographics, discovery, medical records and other items obtained under the attorney client privilege used in the confidential criminal defense of the Department of Public Advocacy client.

General Schedule Items:

System Title:	JustWare	Alternate Title:
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Series #:	Series Title:	Disposition Instructions:
01507	Attorney Appeal Litigation Case File	Retain in Agency two (2) years after case closure, transfer to the State Records Center for an additional twenty-eight (28) years for a total retention of thirty (30) years after case closure, then destroy.
03621	Attorney Litigation Case File - District Court	Retain in Agency five (5) years after case closure, then destroy.
03622	Death Sentence Case Files	Retain in Agency for five (5) years after case closure; transfer to State Archives Center to be retained permanently.
03623	Attorney Post Conviction Service File - Court Action	Retain in Agency for two (2) years after case closure; transfer to State Records Center for twenty-eight (28) years, then destroy. Total retention is thirty (30) years.
03632	Attorney's Litigation Case File - Circuit Court	Retain in Agency two (2) years after case closure, transfer to State Records Center for twenty-eight (28) years, then destroy. Total retention is thirty (30) years.
05701	Juvenile Appeals	Retain in Agency until the individual is eighteen (18) years of age; transfer to the State Records Center five (5) years, then destroy.

System Title: JustWare

Alternate Title:

Series #: *Series Title:*

Disposition Instructions:

05702 Juvenile Status - Public Offenders

Retain in agency until individual is eighteen (18) years of age, has been committed for one (1) year, or until case is closed, whichever is later, transfer to the State Records Center for five (5) years, then destroy.