

Laws, Rules, and Regulations

The purpose of this site is to guide Maryland **State**, **county**, and **local** government agencies in the management of public records. The [Annotated Code of Maryland State Government Article 10, sections 631-634](#) and [COMAR 14.18.02](#) require every State, county or local government agency to develop a program to efficiently manage its records. This includes the establishment and/or regular revision of records retention and disposition schedules. The head of each agency or office is responsible for ensuring that all records created or received by that agency are on an approved records retention and disposition schedule.

The willful, unauthorized destruction or alienation of any public record is a misdemeanor subject to criminal penalties set forth in the [Annotated Code of Maryland \(Criminal Law Article 8, section 606\)](#). A public record may not be disposed of without authorization from the State Archivist. This authorization must be obtained by means of filing a records retention and disposition schedule with the State of Maryland. The [Schedule Preparation](#) section of this web site provides guidance on the development and approval of records retention schedules.

If you are a **State** agency with an approved records retention schedule and would like to transfer **non-permanent** records to the State Records Center, please contact the Records Management Division at 410-799-1379. Agencies must complete and submit a [Records Transmittal and Receipt Form \(DGS 550-5\)](#) prior to transfer.

If you already have an approved records retention schedule and would like to arrange for the transfer of **permanent** records to the Archives, please visit the transfer.mdsa.net site. Forms, instructions and contact information for the transfer of permanent records to the Archives are available [online](#).

This web site is provided as a courtesy of the Maryland State Archives. As you develop your records management program, you should consult with the Records Management Division of the Department of General Services and your staff counsel.

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What is a Public Record?

The [International Standards Organization](#) (ISO) defines **records** as "information created, received, and maintained as evidence and information by an organization or person, in pursuance of legal obligations or in the transaction of business." For the State of Maryland, agencies need only be concerned with **public records**.

The [Annotated Code of Maryland State Government Article 10, section 611](#) defines a public record as the original or any copy of any documentary material that is made by a unit or instrumentality of the State government or of a political subdivision or received by the unit or instrumentality in connection with the transaction of public business. This includes records or documents required by law to be filed with or kept by an agency of the State, county, or municipality.

Public records can be in any form and format (paper, microfilm, electronic, etc.). **Electronic records** are records in computerized or machine-readable format, including but not limited to [email](#), voice mail, agency web pages, databases, source data, and derived digital products, such as maps and electronic government publications. Depending on their **content**, electronic records can be either permanent or non-permanent records.

The definition of public record is found in the [Maryland Public Information Act \(Annotated Code of Maryland State Government Article 10, sections 611 through 630\)](#). The purpose of the Public Information Act is to provide the public with a broad right to access records that are in the possession of State, county, and local government agencies. The Act applies to all branches of Maryland State Government, as well as local government.

The [Office of Attorney General](#) publishes a detailed legal analysis of the Act in the [Maryland Public Information Act Manual](#). The Manual is available for purchase for \$10 by sending a check to Office of Attorney General, Opinions and Advice Division, 200 St. Paul Place, Baltimore, Maryland 21202. The Manual also is available without charge on the Attorney General's website at www.oag.state.md.us.

Decisions about the retention and disposition of records should be based on their **content**, not their format.

Examples of public records include but are not limited to:

- cards
- computerized records
- correspondence
- drawings
- film or microfilm
- forms
- maps
- photographs or photostats
- recordings
- tapes
- database records
- security log files
- scanned images
- web pages

Other examples of public records are printed and electronically stored versions of email messages, email messages never printed out, and email messages related to agency business on an agency employee's home computer.

All public records fall into one of two categories:

- **Permanent records** are public records which have been appraised by law, statute, rule, agency personnel and/or the State Archivist as having ongoing administrative, fiscal, legal, historical or other archival value. Permanent records must be transferred to the State Archives for preservation and permanent retention. Examples of permanent records include, but are not limited to: official

correspondence that serves to document the origins, history, and accomplishments of an agency, agendas and minutes of official meetings, books of final entry and general ledgers, and external audits of the agency. An agency's retention schedule should (1) identify which records are permanent and (2) state how long permanent records need to be maintained at the originating agency prior to transfer to the Archives. Records designated as permanent are permanent in any form or format. Electronic records designated as permanent must be maintained and transferred to the State Archives in accordance with [COMAR 14.18.04](#).

- **Non-permanent records** are public records with temporary value which may be disposed of after the passage of a specified period of time. Disposal criteria must be specified in an approved records retention and disposition schedule. Examples of non-permanent records include personnel records and timesheets, purchase orders, agency reference copies of State laws and publications, agency reference copies of legislative audits, and draft agendas and unofficial minutes of meetings.

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What is Records Management?

Records management is the practice of identifying, classifying, archiving, preserving, and destroying records. Almost every activity of business or government is accomplished or documented through some form of record. Information, instructions, directives, and other communications are routinely circulated through an organization. Historically, such information was circulated in paper form. Now, it is more usual to see these communications accomplished electronically through email or voicemail. Regardless of how it is created and circulated, records in such quantities that we would soon bury ourselves unless proper controls were established to limit the amount of record material to be kept. These controls are embodied in an agency records management program.

An effective records management program is a comprehensive system of guidelines and procedures for efficient and economical control of records and information created, received, used, and kept by agencies of State, county, and local government. It includes control of a piece of paper (or other records media or format) through its life cycle -- from its creation to its transfer to the State Archives for permanent retention or its final disposition (destruction by recycling, burning, shredding, etc.).

Records Life Cycle Management

While controlling the life cycle of records, records management must include the preparation of records retention and disposition plans and programs. The records manager

- determines what agency records exist, and in what formats
- ensures that retention decisions are compatible with organizational missions and goals
- establishes the ultimate disposition of records--that is, their permanent retention or disposition

Some records are **archival** in nature; that is, they have permanent value. Accordingly, decisions of the records manager in regard to the retention and/or disposition of records are subject to review by the State Archivist. Such review is meant to ensure that records of a permanent nature are retained in perpetuity. The State Archivist, after approving records retention and disposition schedules, passes the responsibility back to the individual agency records manager to ensure that archival materials are properly transferred to the State Archives for permanent preservation.

Principal stages in the life cycle of records are

- records creation
- records maintenance, including migration to new storage media
- records disposition or transfer

Techniques which may be applied to creation and maintenance of records include

- correspondence management
- forms control and design
- reports management
- files management
- directives management
- mail management

Records disposition requires a decision that determines when records are no longer needed for current operations. If they are deemed to be permanent, they are transferred to the State Archives for permanent retention. If they are considered non-permanent, the decision can be made to transfer them to a records center, reproduce them digitally or on microfilm (and thereafter destroy the duplicate paper record), or to destroy them.

Benefits of Effective Records Management

Effective records management ensures transparency and efficiency in government. It limits an agency's

financial and legal liability. It also can save money, manpower, time, and space. Ultimately, the attention paid to good records management safeguards the legacy of valuable historical government documents.

Careful adherence to sound records management principles and practices reduces agency risk with respect to security and legal liability. A comprehensive program increases agency protection from costly litigation if records were destroyed when they should have been retained, or were not destroyed at the appropriate time. In addition, effective electronic records management will help to ensure compliance with State IT security standards. The unauthorized destruction or alienation of any public record is a misdemeanor subject to criminal penalties set forth in the [**Annotated Code of Maryland \(Criminal Law Article 8, section 606\)**](#).

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Email Retention Guidance and Policies

Definitions

Email systems store and deliver text messages and attachments from one computer user to another.

Email messages are electronic documents created and sent or received by a computer system. Email messages are similar to other forms of communicated messages, such as correspondence, memoranda, and circular letters. An email message is a record created or received by an agency. Whether the email serves to document the organization, functions, policies, decisions, procedures, operations or other activities of an agency is the deciding factor as to its status as a record.

What email should be kept and how long?

Email should not be given any special treatment because in essence it is just like any other form of written correspondence. The only differentiating quality between email and paper correspondence is the medium or mode of delivery. Email itself is not considered a record series or category. It is a means of transmission of messages or information. Like paper or microfilm, email is the medium by which this type of record is transmitted.

The two criterias in determining the retention and disposition of email are whether the record is non-permanent or permanent. Email messages that have significant administrative, legal, fiscal, and/or historical value should be designated as permanent records.

Records with permanent value include but are not limited to the following:

1. documentation of State policy (*eg. laws, rules, and court decisions*)
2. documentation of the policy process (*eg. policy directives, minutes of meetings, transcripts of selected hearings*)
3. protection of vital public information (*eg. births, deaths, marriages and reports*).

Recommendations re: email retention periods

- Personal email: Delete immediately
- Non-record email: Delete immediately
- Non-permanent email: Delete after a certain period of time, per approved records retention schedule
- Permanent email: Transfer to Archives in accordance with Archives' rules and regulations in [COMAR 14.18.04](#)

Non-permanent emails serve to convey information of temporary importance in lieu of oral communication. They include but are not limited to: routine correspondence, activity reports, and weekly fiscal reports. Permanent documents are records that are deemed to have lasting administrative, legal, fiscal and/or historical value beyond the life of the creator. These may include but are not limited to: meeting minutes, policy statements, and end of year reports.

Who should save email and how?

Some feel the individual who sends an email message should maintain a record copy of the message. However, the varied use and wide distribution of email may result in many exceptions to this rule that will have to be dealt with internally. There are clearly instances when the recipient should maintain the record.

After a specified periods of time in the employees inboxes, messages of permanent value should be transferred to other boxes or designated files on the agency's server, in accordance with retention requirements. Email that is designated as permanent should be saved to an online storage folder or permanent near-line storage periphery. Permanent emails must be periodically transferred to the archives in accordance with Archives' rules and regulations in [COMAR 14.18.04](#).

In order to aid in the managing of the email system, the creator should provide descriptive subject lines. This not only enhances the email but also makes retention much easier.

The system should be maintained in a format that preserves contextual information and that facilitates retrieval and access. The system should allow for periodic deletion of non-permanent messages as well as transfer of permanent messages to a central repository. Both permanent and non-permanent records should be stored in a logical filing system.

The system administrator and records management officer of the agency should manage the email system and transfer to the Archives, per retention schedule, file folders containing saved permanent email in accordance with Archives' rules and regulations in [COMAR 14.18.04](#)

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Roles & Responsibilities

Three main groups in State, county, and local government have roles and responsibilities for records management:

- [State, county, and local agencies](#)
- [Department of General Services, Records Management Division](#)
- [Maryland State Archives](#)

Agency Responsibilities

[COMAR 14.18.02.01](#) defines "agency" as any unit of State, county, or local government or any instrumentality of the State.

All agencies shall identify and preserve permanently valuable records, safeguard their legal and fiscal accountability; document their administrative history, and ensure ongoing public access to the public records. This is accomplished by

- Developing a records management program according to guidance provided on this web site and in the [Records Management Handbook](#) provided by the Department of General Services, Records Management Division.
- Appointing a records management officer for the agency. This is the individual designated by the agency to coordinate the records management program for that agency. The records management officer provides agency-wide guidance and information concerning its records management program and serves as the contact point for program information. Ideally, all records management information into and out of the agency should flow through this individual.
- Designating records liaisons at the appropriate organizational levels within the agency where knowledge of specific records series exist. This should be an individual who possesses enough familiarity with an agency's mission and records to provide meaningful information and advice concerning records retention and disposition actions.
- Establishing, implementing, maintaining, and revising the records retention and disposition schedules. [COMAR 14.18.02](#) mandates that schedules shall be established, reviewed, and revised, if necessary, every 5 years. A schedule may be amended or revised at any time by an agency or office, or at the request of the Records Management Division or State Archives. Reasons for amendments or revisions include the creation of new records series, changes in record-keeping practices, changes in record formats, and reorganization of an agency or office.
- Transferring permanent government records to the Maryland State Archives in accordance with Archives' rules and regulations.
- Transferring non-permanent State agency records to the Department of General Services, Records Management Division, as needed.
- Submitting to the State Archives for review any proposed legislation that will alter the manner or nature of record-keeping within that agency. This proposed legislation must be accompanied by any relevant Attorney General opinions.

[Department of General Services](#)

The Department of General Services, [Records Management Division](#) supports records management by

- Developing programs and policies for efficient records management for State, county, and local agencies.
- Providing consultation and advice to State, county, and local agencies with respect to records management.
- Assisting agency and office personnel in the development of records retention schedules and providing necessary forms for schedule development and revision.
- Reviewing proposed records retention and disposition schedules.
- Maintaining approved records retention and disposition schedules.
- Providing storage space as available for non-permanent State agency records at the State Records Center.

- Retrieving upon the records stored in the State Records Center.
- Disposing of records stored in the State Records Center on behalf of State agencies, in accordance with approved retention schedules.
- Reviewing and maintaining disposal certificates for State agencies.
- Overseeing the survey of all State records every five years.
- Compiling forms management statistical information by forms category from each department or independent unit and producing the annual Forms Management Report for the [Maryland General Assembly](#).

Maryland State Archives

The Maryland State Archives is the repository of all permanent government records in the State of Maryland. The Archives supports State, county, and local records management by

- Providing assistance upon request to State, county, and local agencies with respect to the determination of what records may or may not be deemed permanent.
- Reviewing and approving records retention schedules.
- Maintaining approved records retention and disposition schedules.
- Reviewing, approving, and maintaining disposal certificates for the [Maryland Judiciary](#).
- Assisting agencies in the development of file specifications and procedures for transfer and retention of permanent electronic records.
- Providing storage space for permanent State, county, and local agency records and assisting with the transfer of permanent records to the Archives.
- Maintaining a web-based records survey tool for agency use with instructions at <http://transfer.mdsa.net>.

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