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|  <b>NEW YORK</b><br>STATE OF OPPORTUNITY.<br><b>Justice Center for the Protection of People with Special Needs</b><br><b>POLICY</b> | Code #  | OGC_Records Mgmt |
|  | Effective Date                                  | April 22, 2022   |
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|  |   |                  |
| Division:  | Agency-Wide                                     |                  |
| Title:   | Justice Center Record Retention and Disposition |                  |

## A. Introduction

The retention and disposition of state records is governed by Subdivision 11, Section 57.05 of the Arts and Cultural Affairs Law and 8 NYCRR Part 188. State agencies may not destroy or otherwise dispose of any records unless such disposition is authorized by the New York State Archives, acting on behalf of the Commissioner of Education and in cooperation with the State Comptroller and the Attorney General. Under 8 NYCRR 188.10, the State Archives may issue general records and disposition schedules to authorize disposition of records commonly used by agencies.

This document establishes the Policy for the management of New York Justice Center records including guidelines for complying with legal, fiscal, and administrative requirements for records retention and provides authorization to dispose of records on a regularly scheduled basis.

## B. Definitions

- 1) **New York State Archives** – The State Archives supports New York State agencies in managing their records. The Archives is responsible for authorizing retention and disposition of government records, identifying records of enduring value for transfer to the Archives for preservation and operating the State Records Center for low-cost storage of inactive records.
- 2) **New York State Records Center (SRC)** – is part of the State Education Department, and provides secure, efficient, and low-cost inactive-records storage and retrieval for New York State agencies. State Archives operates the SRC and provides temporary storage in accordance with the Records Retention Disposition Authorization Schedule.
- 3) **Record Series** – a group of related records that result from the same activity and can be evaluated together for disposition and other management purposes.
- 4) **Records** – defined as *‘all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by any agency of the state or by the judiciary in pursuance of law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities, or because of the information contained therein, but shall not include the records of the Executive Chamber. Library or museum material made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference, and stocks of publications and of blank forms shall not be deemed to constitute records.’* (8 NYCRR 188.2 (h))
- 5) **Records Disposition Authorizations (RDAs)** – a document describing an individual Record Series which provides a records description, the minimum retention period, and the final disposition of the Record Series. The purpose of an RDA is to ensure that records are retained long enough to satisfy any administrative, fiscal, legal, or archival requirements. State Archives works with

agencies to determine minimum retention periods by carefully studying and analyzing records to determine their potential value for these purposes. Without an RDA in place, agencies have no legal authority to dispose of records.

- 6) **Records Liaison** – is the individual designated by a Program Area Director who is responsible for the day-to-day activities of the Records Management Program for their program unit or area. The Records Liaison is responsible for storage, retrieval, and final disposition of records, and for coordinating with the Program Staff and the RMO, as necessary.
- 7) **Records Management Officer (RMO)** – is the individual responsible for the administration of the Records Management Program at the Justice Center.
- 8) **Records Management Program** – refers to the planning, organizing, directing, controlling and other related activities needed for effective records creation, records maintenance and use, and records disposition in compliance with applicable laws and regulations.
- 9) **Records Retention and Disposition Authorization Schedule** – is a list of RDAs that provides both the minimum retention period and the final disposition for Justice Center records.
- 10) **Retention Period** – is the minimum length of time that records must be retained to meet all administrative, legal, fiscal and archival research requirements before final disposition; usually stated in terms of years.

### C. Policy Statement

- Official New York State Justice Center records must be retained and may not be destroyed unless pursuant to applicable records retention schedules. For commonly used types of State agency records (ex. administrative, financial, personnel), the Justice Center shall adhere to the *General Retention and Disposition Schedule for New York State Government Records* (General Schedule). The General Schedule can be found at the following link: [http://www.archives.nysed.gov/common/archives/files/general-schedule\\_2016.pdf](http://www.archives.nysed.gov/common/archives/files/general-schedule_2016.pdf).
- For records unique to the Justice Center, and for other records that are not included in the State General Schedule, the Justice Center shall adhere to agency-specific RDA schedules approved by State Archives.
- Records obtained from other State agencies pursuant to written agreements, e.g. Division of Criminal Justice Services or the Department of Health, which are not covered by the General Schedule, should be retained and destroyed according to the terms of the agreements with such agencies.
- The General Schedule and agency-specific RDAs dictate minimum retention requirements. Anyone requiring retention schedules with shorter retention periods must seek approval from State Archives.
- All agency staff shall utilize appropriate means to ensure compliance with the applicable schedules and retention periods. Records that have reached the end of their retention period shall be destroyed by appropriate means depending on the contents and nature of the records

and based on the confidentiality of the information contained therein. Any questions on the destruction of records should be directed to the RMO.

- No records should be destroyed until it is determined by the Records Management Officer (RMO) that they fall under the General Schedule or under an approved RDA. The RMO shall be consulted before the transfer or destruction of records that fall under the General Schedule or RDA and will complete the Records Destruction Authorization form, see Appendix A, as necessary.
- Records subject to a litigation hold shall not be disposed of under any circumstances. Notification that the records are subject to a litigation hold or are otherwise relevant to a legal action or audit shall result in suspension of routine destruction activities until the audit is satisfied or the legal action ends, even if their minimum retention period has passed.
- Archival or historical records shall not be disposed of under any circumstances. These records are defined by their continuous preservation because they have enduring administrative, legal, fiscal, educational, historical, or other research value to state government and/or its citizens. Inquiries on potential archival/historical records should be directed to the RMO to seek appraisal by the New York State Archives.
- The RMO shall coordinate an agency Records Management Program which includes the planning, organizing, directing, controlling and other related activities needed for effective records creation, records maintenance and use, and records disposition in compliance with applicable laws and regulations.

## **D. Scope / Applicability**

### **1. Scope**

This policy applies to all recorded information, regardless of the format or media in which it exists, including but not limited to, electronic and paper documents; electronic documentation stored in the VPCR and secure networks; computers which access DCJS portals; computers which may have documents stored on disks; hard drives or other modes of storage; laptop computers which may be used by employees; and electronic devices which may contain Justice Center records such as copiers, thumb drives, other external drives, cell phones, and other portable electronic devices.

### **2. Applicability**

The directives outlined in this policy apply to all Justice Center employees.

## **E. Agency Processes**

The RMO shall plan, promote, and monitor the Agency's Records Management Program in consultation with Program Area Directors, Program Area Records Liaisons, and the New York State Archives.

The duties of the RMO shall include, but need not be limited to, the following:

- Prepare and submit to State Archives proposed records retention and disposition schedules, or other plans which delineate proposed records retention and disposition practices;

- Arrange appropriate storage for inactive records that have not met their legal retention period, and coordinate the retrieval of inactive records from storage as needed;
- Oversee the continuing disposition of records in accordance with approved Records Retention Disposition Authorization Schedule, or other plans which delineate records retention and disposition practices;
- Maintain an updated list of Program Area Records Liaisons and communicate records management policies to them on a periodic basis;
- Contribute to the development of and review of plans and programs to improve the management of agency records;
- Participate in the comprehensive Records Management Training offered by the State Archives to the extent necessary to fulfill the responsibilities of the RMO.

#### **F. Related Policy and Authoritative Sources**

- *Arts and Cultural Affair Law Section 57.05 Subdivision 11*
- *8 NYCRR Part 188.10*
- NYS Archives Retention and Disposition of Records, April 2021
- General Retention And Disposition Schedule For New York State Government Records, Sept 2016

#### **Appendix A - Records Destruction Authorization form**

