



<b>Westchester County Information Technology Policy</b>	<b>No:</b> 5099 1
<b>Westchester County Records Management, Retention &amp; Disposition Policy</b>	<b>Updated:</b> 04/12/2024
	<b>Issued By:</b> Westchester County Department of Information Technology (DoIT)
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## 1. Purpose

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Under the guidance of the Chief Information Officer (CIO), all departments and agencies of County government are responsible for the proper management, retention and disposition of their records. The purpose of this document is to further clarify the County's policies regarding records in all their various forms. Since most of us are more familiar with paper records, a significant emphasis below is on electronic records, although the rules apply to both kinds.

## 2. Authority

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Section 163 of the Charter and Administrative Code of Westchester County grants the County's Department of Information Technology (DoIT) authority to establish countywide information and communication technology policies and standards. The County's Chief Information Officer has the authority to oversee, direct and coordinate the establishment of ICT policies, protocols and standards for the County's government, including hardware, software, security and business re-engineering processes.

The Chief Information Officer reserves the right to modify, revise, supplement, rescind or archive this Policy.

### 3. Scope

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This policy applies to all employees of Westchester County. It also covers any other individuals, including consultants, interns, temporaries and vendors, who have access to County records, technology facilities, computers or networks.

All individuals – as defined above – are responsible for complying with this policy and for immediately reporting any known or suspected violations of this policy to their immediate supervisor or the Department of Information Technology. The CIO must approve any exceptions to this policy. Requests for exceptions and the CIO's decision must be in writing and come from the appropriate Commissioner or Department Head.

### 4. What is a County Record?

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A County Record is defined in the County Charter as “any book, paper, drawing, plan, picture, sketch, rendering, photograph, map, form, machine-readable information, microfilm, or any other documentary material, regardless of physical form or characteristics...created or received by any department in pursuance of law or in connection with the transaction of governmental business.”

State regulations clearly indicate that all records in electronic format, including email, videotapes, voice mail, etc. are also considered County records and are subject to the same rules and schedules used to manage paper records. DoIT has systems in place to store, backup and retrieve electronic records of data contained in the databases used by your departments. It is clear that such data meets the requirement of a “government transaction.”

Subject to the general regulations and specific ones applicable to their professional areas, the individual departments and users who create general business electronic records, such as email and documents on shared servers and desktop computer hard drives, must decide if each record represents a transaction of government business or policy document.

### 5. Legal and Regulatory Requirements

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There are two general sources of the rules concerning records. The first comes out of State and County legislation and regulation. The second, more recent, applies to the discovery rules in Federal litigation. In addition to these two sources, special rules may apply to your department's handling, retention and disposition of records as a result of legislation – including those from HIPPA (which has additional

confidentiality and privacy requirements), Court Administration, NYS Board of Elections or various higher level criminal justice agencies.

In 2020, the County Board of Legislators formally adopted, for use by all County Officers, the NYS Archives Records Retention and Disposition Schedule LGS-1 – available at <https://www.archives.nysed.gov/records/local-government-record-schedule/lgs-1-title-page>

Ch. 631 of The Laws of Westchester County outlines the County's Records Management and Archives Program. Here are the key points:

- Section 631.21(a) states that the CIO shall establish a process for the transfer of inactive records to the Records Center, which has, of course, been in place for some time.
- Section 631.51(1) states that a "County department is the legal custodian of its records and shall retain custody of records deposited in the County Records Center."
- Section 631.31 further provides that the Chief Information Officer shall initiate action to dispose of these records within six months after their retention period has ended. Moreover, no records of a department shall be destroyed or otherwise disposed of without a certification by the department head that the records are no longer necessary to its administration and a certification the records have no historical value by the CIO, who is the overall County records officer. (The Charter also notes that approval from State authorities is needed prior to disposition, but that approval, according to State regulations, now operates through the County's records officer.) In practice, DoIT's role is to advise and support the departments in their handling of records. However, if a document is of enduring, historical value, it will be moved to the Archives rather than destroyed when the retention period has been reached.

## **6. Department Records Coordinator**

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Chapter 631 also requires a department head to appoint a Records Coordinator to carry out the County's records management policies and procedures on the departmental level. It is also the department head's responsibility to ensure that when a records coordinator either leaves county employment or assumes different responsibilities that a new records coordinator is appointed in a timely fashion and receives the required training. To that end, the County Archives & Records Center (part of DoIT), as well as the NYS Archives, offer training and support to the records coordinators and assist them in the interpretation of LGS-1.

While individual users have the tools to meet the requirements of law and regulation for the handling of unstructured records, such as email and documents, the Department Records Coordinator, working with you, especially needs to monitor and check that the requirements are being met. No transfers of inactive records in

excess of 100 cu. ft. boxes will be accepted by the Records Center without advance planning and approval by both the departmental Records Coordinator and supervisory personnel at the Center.

## **7. Retention and Disposition of Business Records in Databases**

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A number of our records are generated by major computer programs that support the work of the County, such as the financial system or the jail system and are stored in databases, which are in turn stored on County servers.

As a general rule, a full backup of these databases is made every other weekend, some are done more often. This includes all files residing on all disk drives. In addition, an incremental backup is run late each night – Monday through Friday – intended to save any new files or changed files, since the last full backup. This method of data protection makes it possible to restore the data from a server as of the last backup in the event of any failure on that server.

As part of your department's formal documentation about authorized disposal, your department's Records Coordinator should prepare annually a proposed list or rules for deleting any records that need to be deleted from databases. The department head should then authorize or veto the proposed deletions. Finally, these should be provided to DoIT staff, who can prepare the appropriate programs to do so.

If there is any County data maintained off-site by a vendor under contract, it is the department's obligation to ensure that similar procedures are followed as if the data were in the County Data Center.

## **8. Retention and Disposition of General Business Records**

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Because the burden of handling general business records falls on the shoulders of users, this section goes into greater detail to help you and your staff understand statutory and regulatory requirements.

Note that this memo is not intended to and cannot address all records retention and disposition requirements under State Law, since special rules apply for particular subjects and professional areas relevant to your department. Please discuss these with your department's Records Coordinator.

### **8.1. Background Information**

If the record is about a significant policy or decision or a significant event, or deals with legal precedents or significant legal issues, it is to be retained permanently.

All business-related records containing routine legal, fiscal or administrative information – in paper or electronic form – are to be kept for a minimum of 6 years. To ensure that your electronic documents are kept properly, there is an Official Docs folder on the computer server that is set up for your department's use. Annual reports, program summaries and web pages that are born digital are examples of e-records you might file in your department's folders.

If an email was used to forward another email, it does need to be retained. But, the original of any attachment might have a different holding period.

All non-business related items may be deleted upon receipt. Transitory communication, such as invitations, cover notes and transmittals, may also be deleted upon receipt.

To efficiently manage email, an employee should save all business-related e-mails in a Personal folder or folders on the hard drive for a minimum of 6 years. Once a folder with business-related records has reached its 6-yr. retention period, it should be examined by the employee and only those emails and/or the attachments originating with that employee that require obvious permanent retention would be kept.

It is important to note that general business records are stored:

- on computer servers, that are devoted to particular departments to hold their shared documents (U: and S: drives) and email messages (on their way to the personal computers) and
- in personal computers on the desks of County staff.

## **8.2. Records on Computer Servers**

As a general rule, a full backup of each server is created every other weekend, some are done more often. This includes all files residing on all disk drives. In addition, an incremental backup is run late each night – Monday through Friday – intended to save any new files or changed files, since the last full backup. Avamar backups are always full backups. This method of data protection makes it possible to restore the data from a server as of the last backup in the event of any failure on that server. In addition, the County maintains an offline air-gap copy of the backups. This is a general rule that may be modified based on the requirements and usage of any specific server.

All backups are created with a specific retention period and are overwritten when they expire. The retention policy differs based upon the use of the server. For servers running major programs, full and incremental backups are kept for 30 calendar days unless special accommodations have been made.

For departmental servers used for email (Exchange) and shared files, both full and incremental backups are also kept for 30 calendar days. Any file that is kept on the server will be backed up no matter how old it is. This is important especially for those electronic files which need to be kept for long periods of time and are stored in the “Official Docs” folder on a departmental server. To safeguard electronic records having enduring historical value, inactive records maintained in “Official Docs” folders may be deleted by your Records Coordinator, only if their retention time is over and the procedure for authorized disposal is followed, as outlined in Section 4 above.

### **8.3. Records in Personal Computers**

DoIT backs up data residing on PCs. The backup software makes a full backup of the disks on the computer only once – when it is installed. After that, incremental backups are automatically scheduled daily, Monday through Friday. (It is possible for the user to make changes to this schedule and, for example, run the backup manually.)

Whether there is an available backup of a particular file depends upon user actions:

- When a user deletes a file/document, it will continue to be saved for 15 calendar days. After 15 days, it is discarded and cannot be restored.
- If a file/document is changed, the older versions will be saved for 15 calendar days before discarding them.
- Any files that have not been deleted or changed will continue to have a backup copy.

As noted before, it is the responsibility of the users (with guidance from the Records Coordinator) to determine when the retention period is over, based upon his/her assessment of the contents of the document and how State regulations are to be interpreted in light of the contents.

### **8.4. Special Considerations for Email**

The availability of old emails is more complicated and it helps to understand a little about how email is stored. Basic Outlook folders – Inbox, Calendar, Contacts, Deleted Items, Drafts, Outbox, Sent Items, and Tasks – are saved on the department server and also on the user’s desktop PC. The two computers are regularly synchronized so they have the same information.

If you delete an email from Outlook on your desktop PC, it will also be marked as deleted on the server. Any email in the standard Outlook folders is saved in the server backup process. But remember: if the email was deleted more than 30 calendar days ago, it is gone forever since that is the longest time an image of your email files will be kept, unless it is part of a legal hold. (In situations where DoIT is notified by the Law Department of a legal proceeding, the retention period is made indefinite.)

Generally, the basic Outlook folders are intended only as a temporary location for email because there is not enough room to keep everyone's email stored on the servers forever. So we recommend that all users move email from the basic Outlook folders, especially your Inbox and Sent Folders, to Personal Folders on your PC.

If you move an email from one of the Outlook folders to a Personal folder, then that email will only be on your PC, and backed up daily along with all other files stored there. (Not to make it more confusing, but if you delete an email from a Personal folder, that email will just go into a separate Deleted Items area of your Personal folders. You'll then have to manually empty out that Deleted Items part of your Personal folders.)

Another possible way to save important e-mails outside of your Inbox is to move them as separate files to folders on your hard drive. You can do this by clicking "Save As" from the email and choosing the appropriate file folder in which to store the email.

### **8.5. Special Considerations for Voice Mail**

As noted above, voice mail messages may also be considered general business documents. If a voicemail message has been saved, it will be held for 30 days. In the current system, it can be saved again.

Voice mail, in particular, may contain messages that do not meet the standard to be considered business records. They are often transitory in nature and not related to County business. Such voice mails may be and should be destroyed after they are heard.

### **8.6. Former Employees' Electronic Records**

When an employee leaves County employment or is transferred to another department, his or her records must be maintained in accordance with the retention schedules. As department head, the business documents of that employee become your responsibility, although you can clearly transfer those records to the person succeeding the departing employee.

## **9. Federal Rules of Discovery**

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At the end of 2006, the Federal Rules of Civil Procedure were extensively amended in order to address the issue of Electronic Discovery ("E-Discovery") – that is, discovery of records which are in electronic form.

Regardless of the requirements for destruction of records according to State retention rules, if a subject becomes part of a Federal Court proceeding, then the Federal Rules of Civil Procedure apply. That means that all relevant documents (including

electronic documents) related to the subject matter of the litigation must be retained and may not be destroyed for as long as the litigation is pending (or the scheduled retention period requires, whichever is longer).

An email that might typically be considered “routine” correspondence could become subject to a litigation hold and must be retained until the end of the litigation. Examples of this could range from a remark about a potential candidate for hire, to a decision to select a particular vendor or to a plan for installation of County equipment on a non-County piece of property. However, if such emails (as well as paper and other similar records) had been destroyed, before the litigation hold, according to State rules “under the normal course of business,” then the issue no longer presents itself as a legal question in a discovery.

There are Search tools in both Outlook and Windows that will assist in locating the requested records. DoIT is available to assist you in showing you how these tools work or in finding records in electronic databases. As noted above, these records – created by your employees – are your records and the determination as to whether or not they are discoverable is yours to make, not DoIT’s.

## 10. Contact Information

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Submit all inquiries and requests for future enhancements to the owner of this Policy:

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