

Timely Destruction of Records

This applies to the disposition of public records created after July 1, 2006 by state agencies, localities, and political subdivisions.

Changes made during the 2006 regular session amended the Virginia Public Records Act (VPRA) through Senate Bill 461. The text below was added to [§ 42.1-86.1](#), Disposition of public records:

C. Each agency shall ensure that records created after July 1, 2006 and authorized to be destroyed or discarded in accordance with subsection A, are destroyed or discarded in a timely manner in accordance with the provisions of this chapter; provided, however, such records that contain identifying information as defined in clauses (iii) through (ix), or clause (xii) of subsection C of §18.2-186.3 shall be destroyed within six months of the expiration of the records retention period.

What does destruction of records in a “timely manner” mean?

The Library of Virginia interprets “timely manner” to mean that records scheduled for destruction will be destroyed no later than the end of the calendar or fiscal year in which the retention period expires.

In order to implement this section, you need to know whether records are maintained by calendar or fiscal year. A calendar year (CY) is the normal chronological year from January 1 to December 31. A fiscal year (FY) is the twelve-month period for which budgets are usually set.

Example: Fiscal year

Series: GS-02 010143 Accounts Payable

Retention and disposition: Retain 3 years or until audit, whichever is longer, then destroy.

The series is closed at the end of FY 2007 and retained for FY 2008, 2009, and 2010. Assuming that the audit required took place in one of those years, FY 2007 accounts payable records may be destroyed at the start of FY 2011 (July 1, 2010) but no later than June 30, 2011.

Example: Calendar year

Series: GS-101 012081 Correspondence/Subject Files – Other Officials

Retention and disposition: Retain 2 years then destroy.

The series is closed at the end of CY 2007 and retained for CY 2008 and 2009. They may be destroyed on January 1, 2010, but no later than December 31, 2010.

What are “records with identifying information?”

Code of Virginia [§ 18.2-186.3C](#) concerns records containing the following categories of identifying information:

(iii) social security number; (iv) driver's license number; (v) bank account numbers; (vi) credit or debit card numbers; (vii) personal identification numbers (PIN); (viii) electronic identification codes; (ix) automated or electronic signatures; or (xii) passwords; or (xiii) any other numbers or information that can be used to access a person's financial resources, obtain identification, act as identification, or obtain goods or services.

If one category of identifying information is present in a record, that record must be destroyed within six months of the expiration of its retention period.

General and Specific Records Retention & Disposition Schedules identify these records in the retention statement. The phrase “destroy in compliance with No. 8 on the schedule cover page,” indicates a record series with identifying information.

Are there any exceptions?

Exceptions to destroying records in accordance with a retention schedule include audits; litigation, whether pending or active; investigations; or request for records pursuant to the Virginia Freedom of Information Act. If records become part of an audit, litigation, or investigation, the retention period does not change. When the hold is lifted, the retention period continues as if the hold never occurred. Therefore, if a retention period expired while a record was on hold, the record should be destroyed immediately after the hold is lifted.

Destruction of records

Custodians of records must ensure that information in confidential or privacy-protected records is protected from unauthorized disclosure through the ultimate destruction of the information. Destruction of confidential or privacy-protected paper records will be done by shredding, pulping, or incineration. Electronic records must be overwritten with meaningless data or the storage media must be physically destroyed. Commercial software applications are available that electronically shred records from media. Deletion of confidential or privacy-protected information in electronic storage media is not acceptable.

The destruction of records containing Social Security numbers are regulated by [17VAC15-120 et al.](#) This statute provides specific guidelines for the destruction of paper and electronic records, including methods of destruction and vendor requirements.

Reference

Code of Virginia, [§ 42.1-86.1C](#), effective July 1, 2006

“What Good Are Retention Schedules If You Don’t Follow Them?” *The Commonwealth Records Manager*, Vol. 6, no. 2 ([Summer 2002](#)) [pdf].