

12. Legal

The Legal function involves protecting the rights, obligations, and interests of the agency or its individual employees or constituents.

NOTE: Administrative investigations, employee civil rights complaints, personnel contracts, and employee grievance hearings are under HUMAN RESOURCES. Construction contracts negotiated by the Departments of Administration and Transportation are under INFRASTRUCTURE MANAGEMENT.

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An index for the entire functional schedule is available on the functional schedule page at <https://archives.ncdcr.gov/government/state-government-agencies/functional-schedule>.

The trigger to begin the retention period for many Legal records is the closing of a case, so it is vital to be able to identify cases by this date for the purpose of appropriate destructions. In the case of litigation, records that are listed as standalone series may be subsumed into the case record (RC No. 1265), in which case they should be retained alongside the other records pertaining to the case rather than pulled out and destroyed earlier. For example, an attorney may collect in the course of litigation affidavits, correspondence, pleadings, deposition transcripts, and experts' reports.

NOTE: Settlement agreements sometimes include specifications for the retention of relevant records; the more restrictive retention requirement of this functional schedule or the settlement agreement should be followed.



G.S. § 132-1.1 confers confidentiality under the principle of attorney-client privilege for a period of three years from the date written communications are received, and G.S. § 132-1.9 allows the custodian to deny access to a public record that is also trial preparation material, so care must be taken to protect the confidentiality of these records. The State Archives of North Carolina (SANC) recognizes that some case records bear significance for the entire state because they set precedent or have broad applicability, so SANC will work with agencies to identify these cases for permanent archival retention.

These functional schedules apply to records in all media, unless otherwise specified. The State Archives of North Carolina recommends that agencies develop a file plan that documents the owners of record copies, internal definitions of reference value, and record formats. (A sample is available on the records management tools page at <https://archives.ncdcr.gov/government/rm-tools>.) Information about the NC Public Records Act, confidentiality, destructions, audits and litigation actions, and electronic records can be found in the overview to the functional scheduling initiative. A key for the functional schedule along with definitions of important records management terms can be found in the glossary to this schedule.



12.1 Affidavits, Authorizations, and Authentications
DEFINED: Activities related to assignments of authority and attestations of authenticity.
SEE ALSO: Affidavits for service by publication are part of Legal Case Records (see Legal Matters Management). Permission slips for school field trips are under EDUCATION. Records concerning bond obligations are under FINANCIAL MANAGEMENT. Permits and licenses granted by state agencies are under MONITORING AND COMPLIANCE.

RC No.	Record Types	Description	Disposition Instructions	Citation
1211.P	Affidavits of Publication SEE ALSO: Legal Case Records (below)	proof of publication provided by newspapers regarding publication of ordinances, public hearings, bid solicitations, payment of bills, public sales, etc.; record provides only evidence of publication	PERMANENT	<u>Authority</u> G.S. § 1-600
1211.3		affidavits that provide supplementary evidence of publication	RETAIN UNTIL: Received or created PLUS: 3 years THEN: Destroy	
1212.P	Authentications	certificates of authentication issued by the agency	PERMANENT	
1213.1	Delegation of Authority Records	records documenting delegations of power to authorize agency business; includes signature authorities and powers of attorney	RETAIN UNTIL: Superseded/Obsolete PLUS: 1 year THEN: Destroy	
1214.P	Permissions	records conferring perpetual legal permission; includes copyright permission requests and requests for permission to publish intellectual property or holdings of the agency; also includes copyrights, patents, and trademarks held by the agency	PERMANENT	
1214.3		one-time copyright permissions granted by the agency	RETAIN UNTIL: Expiration PLUS: 3 years THEN: Destroy	

* No destruction of records may take place if audits or litigation are pending or reasonably anticipated.
 ∞ See appendix for list of item numbers for records that should transfer to the State Archives.
 Ω See appendix for list of item numbers for records that are temporarily stored at the State Records Center prior to destruction.



RC No.	Record Types	Description	Disposition Instructions	Citation
1215.5	Release Forms SEE ALSO: Settlements, Tort Claims (below); Field Trip Authorizations (EDUCATION)	records documenting consent and waiving the individual's right to hold the agency responsible for injuries or damages occurring while voluntarily participating in events or activities; also includes consent forms for publicity purposes	RETAIN UNTIL: Termination of release/waiver PLUS: 5 years THEN: Destroy*	
1216.3	Traffic Ordinances	records promulgated by the Department of Transportation concerning approved statewide traffic ordinances for speed limits, no parking zones, route number changes, bridge weight limits, and other traffic ordinances; includes Certificate of Rulemaking (COR), municipal certificate for traffic ordinance requiring concurrent approval, and other related records	RETAIN UNTIL: Superseded/Obsolete PLUS: 3 years THEN: Destroy	
1217.3	Vehicle and Vessel Titles	records concerning vessel titles issued by the Wildlife Resources Commission; includes title transfers, applications, lien releases, bills of sale, original manufacturer's statements of origin, and other related records	RETAIN UNTIL: Canceled/transferred PLUS: 3 years THEN: Destroy	
1217.20		records concerning vehicle titles issued by the Department of Transportation; includes title transfers, applications, lien releases, bills of sale, original manufacturer's statements of origin, and other related records	RETAIN UNTIL: Issued PLUS: 20 years THEN: Destroy <i>NOTE: After 20 years, the Division shall maintain a record of the last two owners.</i>	<u>Authority/Retention</u> G.S. § 20-78

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12.2 Agency Hearings

DEFINED: Records documenting hearings and investigations conducted on behalf of other agencies by the Office of Administrative Hearings (OAH) or by the North Carolina Industrial Commission (NCIC). Also includes evaluations of tort claims by the Department of Justice as well as other administrative hearings outlined in G.S. §150B Article 3A.

SEE ALSO: See Court Records for judicial court proceedings. The records of hearings regarding the provision of services to students with disabilities are under EDUCATION; public hearings that are reviewing proposed administrative rules are under GOVERNANCE; those involving licensed individuals or firms are under MONITORING AND COMPLIANCE; those convened for general public feedback are under PUBLIC RELATIONS. Reports of employee accidents and incidents that are handled within the agency (and do not require a claim to the Workers' Compensation Program) are under RISK MANAGEMENT.

RC No.	Record Types	Description	Disposition Instructions	Citation
1221.A 	Eugenics Compensation Program Records	Industrial Commission records concerning determination of a claimant's eligibility and awards to eligible claimants; includes claims, medical records, correspondence, determinations, appeals, payment information, records of hearings, and other related records	PERMANENT (archival) ∞	<u>Confidentiality</u> G.S. § 132-1.23
1222.50	OAH Case Records	records concerning contested cases at Office of Administrative Hearings involving state agencies; includes petitions, orders, transcripts, pleadings, and other related records	RETAIN UNTIL: Closed PLUS: 50 years Ω THEN: Destroy	

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RC No.	Record Types	Description	Disposition Instructions	Citation
1223.3	Other Administrative Hearings SEE ALSO: Investigation and Hearing Records (MONITORING AND COMPLIANCE)	records concerning administrative hearings involving individuals or other entities held by occupational licensing boards, the State Banking Commission, the Commissioner of Banks, the Credit Union Division of the Department of Commerce, the Department of Insurance and the Commissioner of Insurance, the State Chief Information Officer, and the North Carolina State Building Code Council; includes notices, pleadings, motions, and intermediate rulings, questions and offers of proof, objections, and rulings thereon, evidence, findings and exceptions, decisions, opinions, orders, or reports, and other related records	RETAIN UNTIL: Closed PLUS: 3 years THEN: Destroy	Authority G.S. § 150B Article 3A
1224.10	Recordings of Hearings	recordings of hearings as well as minutes	RETAIN UNTIL: Closed or final disposition of hearing request PLUS: 10 years THEN: Destroy	
1225.7 ₁	Tort Claims	records concerning claims by adults against the state; includes cases involving Department of Justice representation and cases heard by the Industrial Commission	RETAIN UNTIL: Closed PLUS: 7 years Ω THEN: Destroy	Authority G.S. § 143 Article 31
1225.7 ₂		records concerning claims on behalf of a minor against the state; includes cases involving Department of Justice representation and cases heard by the Industrial Commission	RETAIN UNTIL: Closed PLUS: 7 years or until minor plaintiff attains the age of 21, whichever is greater THEN: Destroy	Retention G.S. § 143-300

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RC No.	Record Types	Description	Disposition Instructions	Citation
1226.60 	Workers' Compensation Program Claims <i>NOTE: All official copies of claims records should be transferred to the North Carolina Industrial Commission (NCIC) in compliance with G.S. § 97-92(a).</i>	records concerning workers' compensation claims with the Industrial Commission (NCIC); includes NCIC forms, correspondence, reports of accidents and occupational disease, medical records, deposition and hearing transcripts, compensation documentation, NCIC decisions, and other related records	RETAIN UNTIL: Received PLUS: 60 years THEN: Destroy	<u>Confidentiality</u> G.S. § 97-92 <u>Retention</u> <i>Hylar v. GTE Prods. Co.</i> , 333 N. C. 258, 425 S.E.2d 698 (1993)
1226.5 ₁ 		any records concerning workers' compensation claims submitted to the NCIC electronically	RETAIN UNTIL: Death of claimant PLUS: 5 years THEN: Destroy	
1226.5 ₂ 		records concerning workers' compensation claims with the Industrial Commission (NCIC) that have been adjudicated noncompensable or have a full and final clincher; includes NCIC forms, correspondence, reports of accidents and occupational disease, medical records, deposition and hearing transcripts, compensation documentation, NCIC decisions, and other related records	RETAIN UNTIL: Closed PLUS: 5 years THEN: Destroy	<u>Confidentiality</u> G.S. § 97-92 <u>Retention</u> G.S. § 97-24(c)
1226.5 ₃ 		exhibits presented or introduced at NCIC hearing or in support of a motion where the exhibit is not capable of being scanned and submitted electronically; includes audio, video, placards, and physical objects	RETAIN UNTIL: Final disposition of hearing request or motion PLUS: 5 years THEN: Destroy	<u>Confidentiality</u> G.S. § 97-92 <u>Retention</u> G.S. § 97-24(c)
1226.2 	(continued on following page)	employee reports of injury to NCIC to which no file number is assigned	RETAIN UNTIL: Received PLUS: 2 years THEN: Destroy*	<u>Confidentiality</u> G.S. § 97-92

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RC No.	Record Types	Description	Disposition Instructions	Citation
1226.5 ₄ 	Workers' Compensation Program Claims SEE ALSO: Accident/Incident Reports (RISK MANAGEMENT), Workers' Compensation Program Administration (HUMAN RESOURCES)	agency's working file for workers' compensation claims by its employees	RETAIN UNTIL: Employee returns to work or separates from agency PLUS: 5 years THEN: Destroy*	<u>Confidentiality</u> G.S. § 126-22

12.2

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12.3 Contract Management

DEFINED: Activities related to the negotiation of and terms for agreements, contracts, and settlements for state agencies. Also includes documentation of legal ownership including titles and deeds and property records such as encroachment agreements and right-of-way claims.

SEE ALSO: Deeds of gift for objects donated to a state repository are under ASSET MANAGEMENT. The monies collected or paid according to the terms of contracts or leases are under FINANCIAL MANAGEMENT, as are contracts associated with grants. Charters and bylaws for governing bodies as well as personal and financial interest statements by individuals covered by the State Government Ethics Act are under GOVERNANCE. Construction contracts authorized by the Departments of Administration and Transportation are under INFRASTRUCTURE MANAGEMENT. Vehicle titles issued by agencies are under section 12.1.

RC No.	Record Types	Description	Disposition Instructions	Citation
1231.P	Compacts	records concerning intrastate and interstate compacts	PERMANENT	
1232.10	Contracts: documents negotiated with vendors and firms concerning services, equipment, property, and other obligations; includes all document references within contract and relevant correspondence; also includes memoranda of agreement (MOA), memoranda of understanding (MOU), Service Level Agreements (SLA), Statements of Work (SOW), and Non-Disclosure Agreements (NDA) SEE ALSO: Real Property Records (below), Grants Management (FINANCIAL MANAGEMENT), Construction Management (INFRASTRUCTURE MANAGEMENT)	sealed contracts	RETAIN UNTIL: Expiration or termination PLUS: 10 years THEN: Destroy*	Retention G.S. § 1-47(2)
1232.6		contracts relating to capital improvements or business associate agreements	RETAIN UNTIL: Expiration or termination PLUS: 6 years THEN: Destroy*	Retention G.S. § 1-50(a)(5) 45 CFR 164.316
1232.3		all remaining contracts (i.e., not sealed or related to capital improvements)	RETAIN UNTIL: Expiration or supersession PLUS: 3 years THEN: Destroy*	Retention G.S. § 1-52

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RC No.	Record Types	Description	Disposition Instructions	Citation
1232.1	Contracts (cont.)	records documenting restrictions and compliance with license and copyright provisions for products and services purchased by the agency	RETAIN UNTIL: Superseded/Obsolete PLUS: 1 year THEN: Destroy	
1232.P		contracts log maintained by the Department of Administration of all contracts valued at more than \$1 million entered into by state agencies	PERMANENT	<u>Authority</u> G.S. § 114-8.3(c)
1233.P	Encroachment Agreements	records concerning agreements granted by outside entities to the agency; also includes maps or drawings detailing construction plans attached to agreements	PERMANENT	
1233.S	SEE ALSO: Real Property Records (below)	records concerning active and completed agreements granted to utilities, municipalities, businesses, and private property owners to encroach upon state property	RETAIN UNTIL: Superseded/Obsolete THEN: Destroy	
1234.P	Real Property Records SEE ALSO: Accession Records (ASSET MANAGEMENT)	titles, deeds, conveyances, or other instruments whereby the state or any state agency or institution has acquired title to any real property, as deposited with the Department of the Secretary of State	PERMANENT	<u>Authority</u> G.S. § 147-39
1234.<		titles, deeds, conveyances, or other instruments whereby the agency has acquired title to any real property (and records are retained in agency)	RETAIN UNTIL: Disposition of property THEN: Destroy*	
1234.10	SEE ALSO: Encroachment Agreements (above)	records concerning easements granted to the agency	RETAIN UNTIL: Expiration PLUS: 10 years THEN: Destroy*	
1234.6		leases negotiated by the agency to rent land or buildings for a specified period of time	RETAIN UNTIL: Expiration PLUS: 6 years THEN: Destroy*	

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RC No.	Record Types	Description	Disposition Instructions	Citation
1235.P	Right-of-Way Records	records concerning open and completed right-of-way projects by the Department of Transportation; includes appraisal cost records, budget records, deeds, judgments, correspondence, notarized right-of-way agreements signed by property owners, and reports detailing the costs and progress of right-of-way activities	PERMANENT	
1236.10	Settlements	records concerning pre-litigation or informal settlements	RETAIN UNTIL: Expiration PLUS: 10 years THEN: Destroy	
1237.T	Vehicle Titles SEE ALSO: Vehicle and Vessel Titles (above)	titles to state-owned vehicles	RETAIN UNTIL: Disposition of vehicle THEN: Transfer to new owner	

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 ∞ See appendix for list of item numbers for records that should transfer to the State Archives.
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12.4 Court Records

DEFINED: Documents put into the official records at the office of the Clerk of the Court for the Court of Appeals or the Supreme Court of North Carolina as well as citations issued by state law enforcement officers.

NOTES: Exhibits submitted to courts are addressed by Rule 9(d) of the North Carolina Rules of Appellate Procedure, and records concerning cases examined by crime laboratories are under LAW ENFORCEMENT. Clerks of Superior Court should abide by the Rules of Recordkeeping and the Records Retention Schedule issued through the Administrative Office of the Courts. Court orders, such as citations, subpoenas, and warrants, that may be served by state law enforcement officers are records that must be maintained in the office of the clerk (pursuant to G.S. § 15A-301); copies held by law enforcement officers are reference copies. According to G.S. § 15A-301.1, “The Administrative Office of the Courts shall create and maintain, in cooperation with State and local law enforcement agencies, an automated electronic repository for criminal process (hereinafter referred to as the Electronic Repository), which shall comprise a secure system of electronic data entry, storage, and retrieval that provides for creating, signing, issuing, entering, filing, and retaining criminal process in electronic form.”

SEE ALSO: Statements of costs are under FINANCIAL MANAGEMENT.

RC No.	Record Types	Description	Disposition Instructions	Citation
1241.A	Court of Appeals Case Records	records concerning Court of Appeals proceedings and legal arguments; includes original opinions, judgments, and certificates of satisfaction of costs	PERMANENT (archival) ∞	<u>Authority</u> G.S. § 15A-1241
1241.10		docket sheets concerning each case in the Court of Appeals	RETAIN UNTIL: Adjudicated PLUS: 10 years THEN: Destroy	
1241.5		briefs, correspondence, motions, and petitions concerning each case in the Court of Appeals	RETAIN UNTIL: Adjudicated PLUS: 5 years THEN: Destroy	
1242.80 	Expunctions (continued on following page)	file maintained by the Administrative Office of the Courts containing the names of those people for whom it received a notice under G.S. § 15A-150	RETAIN UNTIL: Received PLUS: 80 years THEN: Destroy	<u>Confidentiality</u> G.S. § 15A-151

* No destruction of records may take place if audits or litigation are pending or reasonably anticipated.

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RC No.	Record Types	Description	Disposition Instructions	Citation
1242.< 	Expunctions (cont.)	expunction orders received by state agencies	RETAIN UNTIL: Record is expunged THEN: Destroy	
1243.1½ 	Juvenile Court Counselor's Case Records	records concerning cases of juveniles under supervision of the Department of Public Safety; includes family background information; reports of social, medical, psychiatric and psychological information concerning a juvenile or the juvenile's family; probation reports; interviews with the juvenile's family, and other related records	RETAIN UNTIL: Juvenile reaches age 18 (and has left custody) PLUS: 18 months THEN: Destroy*	<u>Confidentiality</u> G.S. § 7B-3000 G.S. § 7B-3100
1244.5	Petitions and Motions	records concerning legal requests for action by the Court of Appeals on matters where no appeal lies of right or where no record on appeal is filed in the Court (e.g., Petition for Writ of Certiorari)	RETAIN UNTIL: Received PLUS: 5 years THEN: Destroy	
1244.1½		records concerning petitions denied by the Supreme Court	RETAIN UNTIL: Received PLUS: 18 months THEN: Destroy	
1245.A	Supreme Court Records (continued on following page)	records concerning each case heard by the Supreme Court; includes index, docket sheets, the record, transcripts, briefs, opinions, and judgments; also includes cases concerning individuals who receive the death penalty	PERMANENT (archival) ∞	

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RC No.	Record Types	Description	Disposition Instructions	Citation
1245.A	Supreme Court Records (cont.)	minutes books; includes oaths of office, listings of cases considered by the Supreme Court and their disposition, listings of successful applicants for law licenses, rules and regulations adopted by the Court, and other related records	PERMANENT (archival) ∞	

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12.5 Deposited Records

DEFINED: In many cases, state agencies in North Carolina are statutorily required to collect information that is generated outside their offices. In cases where these records are collected in the furtherance of a particular function—for example, annual reports that are used to evaluate the compliance of a business with state regulations—the records are included on that specific functional schedule (in that case, MONITORING AND COMPLIANCE). In all other cases where the agency is merely a repository for information, the records are included here.

SEE ALSO: For reports and directives received from other agencies that are merely reference copies rather than required submissions, see AGENCY MANAGEMENT.

RC No.	Record Types	Description	Disposition Instructions	Citation
1251.100	Advance Health Care Directive Registry	agreements filed with the Department of the Secretary of State; includes health care powers of attorney, declarations of a desire for a natural death, advance instructions for mental health treatment, and declarations of an anatomical gift	RETAIN UNTIL: Received PLUS: 100 years THEN: Destroy <i>NOTE: If the agency is notified of revocation of registration, records may be destroyed at that point.</i>	<u>Authority</u> G.S. § 130A-465
1252.P	Charters	charters, amendments, articles of incorporation, and other creation documents recorded and filed with the Department of the Secretary of State	PERMANENT	
		bank charters and articles of amendment filed with the Department of the Secretary of State	PERMANENT	
1252.A		historic charters and amendments dating from the 1880s to 1960s recorded and filed with the Department of the Secretary of State; includes both accepted and denied petitions, drawings, and correspondence	PERMANENT (archival) ∞	
		current edition of the State Constitution and all amendments maintained by the Department of the Secretary of State	PERMANENT (archival) ∞	<u>Authority</u> G.S. § 147-36 (10)

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RC No.	Record Types	Description	Disposition Instructions	Citation
1253.P	Financing Statements	notices of liens, certificates, and other notices affecting federal tax liens or other federal liens that must be filed with the Department of the Secretary of State	PERMANENT	<u>Authority</u> G.S. § 44-68.12 <u>Retention</u> G.S. § 44-68.14(b)
1253.1		records concerning those who have secured a loan on commercial or agricultural property by filing with the Department of the Secretary of State, per Uniform Commercial Code (UCC)	RETAIN UNTIL: Effectiveness lapses PLUS: 1 year THEN: Destroy	<u>Authority</u> G.S. § 25-9-501 and § 25-9-519 <u>Retention</u> G.S. § 25-9-515 and § 25-9-522
1254.P	Foreign Government Agreements	copies of all executed memoranda of understanding and agreements of a noncommercial nature otherwise subject to disclosure under the public record laws of this state, entered into by the State of North Carolina, or any agency of the state, and a foreign government and filed by the state agency with the Secretary of State	PERMANENT	<u>Authority</u> G.S. § 66-280
1255.A	Land Records	annexation ordinances and maps submitted by North Carolina municipalities to the Department of the Secretary of State	PERMANENT (archival) ∞	
1255.P		maps of county and state boundaries, rivers, roads, watersheds, and other locations recorded and filed with the Department of the Secretary of State	PERMANENT	
1256.A	Licensing Board Reports	reports of licensing boards filed with the Department of the Secretary of State	PERMANENT (archival) ∞	

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RC No.	Record Types	Description	Disposition Instructions	Citation
1257.A	Ordinances and Regulations	records documenting ordinances, rules, regulations, etc. promulgated by entities required to file with the Department of the Secretary of State	PERMANENT (archival) ∞	

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12.6 Legal Matters Management

DEFINED: Records documenting legal matters handled by attorneys on behalf of state agencies.

NOTES: G.S. § 132-1.1 specifies that for a period of three years from the date received, “written communications (and copies thereof) to any public board, council, commission or other governmental body of the State or of any county, municipality or other political subdivision or unit of government, made within the scope of the attorney-client relationship by any attorney-at-law serving any such governmental body, concerning any claim against or on behalf of the governmental body or the governmental entity for which such body acts, or concerning the prosecution, defense, settlement or litigation of any judicial action, or any administrative or other type of proceeding to which the governmental body is a party or by which it is or may be directly affected” are confidential. If any case records are accumulated related to federal grand jury proceedings, those records are confidential pursuant to Federal Rule of Criminal Procedure 6(e). Although the specific case records of District Attorneys are included in this section, they also depend on usage of the records maintained by the Clerks of Superior Court.

SEE ALSO: Civil Rights Cases involving employees are under HUMAN RESOURCES. General operational agency correspondence is under AGENCY MANAGEMENT. Enforcement actions relating to individuals or firms under contract with an agency are under MONITORING AND COMPLIANCE, as are declaratory rulings that resolve a compliance investigation or hearing. Commutations, pardons, and reprieves along with executive orders issued by the Governor are under GOVERNANCE.

RC No.	Record Types	Description	Disposition Instructions	Citation
1261.A	Attorney General’s Advice and Opinions	formal opinions written by the Attorney General to state or local government officials or their attorneys regarding legal matters	PERMANENT (archival) ∞	
1261.10		advisory letters and opinions written by Department of Justice attorneys	RETAIN UNTIL: Complete PLUS: 10 years THEN: Destroy	
1261.P		advisory letters received from Department of Justice attorneys	PERMANENT	

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RC No.	Record Types	Description	Disposition Instructions	Citation
1262.P	Declaratory Rulings SEE ALSO: Investigation and Hearing Records (MONITORING AND COMPLIANCE)	records concerning declaratory rulings issued by the agency to interpret either statutes or rules as applied to a specified set of facts	PERMANENT (appraisal required) ∞	
1263.1 	Discrimination Complaint Investigations	records concerning compliance of providers and contractors with Federal nondiscrimination requirements; includes noncompliance complaints and documentation of resolution; also includes complaints and investigations pursuant to the Retaliatory Employment Discrimination Act (REDA)	RETAIN UNTIL: Resolution PLUS: 1 year THEN: Destroy	<u>Authority/Confidentiality/Retention</u> 49 CFR 27.121 <u>Authority/Confidentiality</u> G.S. § 95-242
1263.5		summaries of discrimination complaints	RETAIN UNTIL: Complete PLUS: 5 years THEN: Destroy	
1264.10	General Legal Correspondence SEE ALSO: Correspondence (AGENCY MANAGEMENT)	letters to private residents and organizations that request legal assistance from the Department of Justice	RETAIN UNTIL: Complete PLUS: 10 years THEN: Destroy	
1265.A	Legal Case Records	records concerning cases holding statewide significance	PERMANENT (archival) ∞	
1265.10 ₁ 	(continued on following page)	records concerning routine cases; includes correspondence, depositions, court filings, and other related records; also includes proofs of claims filed by the agency in bankruptcy cases	RETAIN UNTIL: Closed PLUS: 10 years (appraisal required) THEN: Destroy	<u>Confidentiality</u> G.S. § 132-1.1(a) G.S. § 132-1.9
1265.2	SEE ALSO: RC No. 1265.10 ₁ ; Public Records Requests (PUBLIC RELATIONS)	records that accompany responsive documents to a subpoena for a case to which the responding entity is not a party	RETAIN UNTIL: Submitted PLUS: 2 years THEN: Destroy	

* No destruction of records may take place if audits or litigation are pending or reasonably anticipated.

∞ See appendix for list of item numbers for records that should transfer to the State Archives.

Ω See appendix for list of item numbers for records that are temporarily stored at the State Records Center prior to destruction.

1265.50 	Legal Case Records (cont.)	records concerning cases reviewed by the Innocence Inquiry Commission; includes claims, reviews, investigations, hearings, and other related records	RETAIN UNTIL: Closed PLUS: 50 years Ω THEN: Destroy	Confidentiality G.S. § 15A-1468(e) G.S. § 15A-1468(g) G.S. § 132-1.4(a)
1265.10 ₂ 		records concerning Class B1-E felony cases argued by the Office of the District Attorney	RETAIN UNTIL: Disposition PLUS: 10 years THEN: Destroy	Confidentiality G.S. § 132-1.1(a) G.S. § 132-1.9
1265.3 		records concerning Class F-I felony cases argued by the Office of the District Attorney	RETAIN UNTIL: Disposition PLUS: 3 years THEN: Destroy	Confidentiality G.S. § 132-1.1(a) G.S. § 132-1.9
1265.< ₁ 		records concerning misdemeanor cases argued by the Office of the District Attorney	RETAIN UNTIL: Appeal period expires or appeals are exhausted THEN: Destroy	Confidentiality G.S. § 132-1.1(a) G.S. § 132-1.9
1265.< ₂ 		records concerning Class A felony cases argued by the Office of the District Attorney	RETAIN UNTIL: Death of defendant THEN: Destroy	Confidentiality G.S. § 132-1.1(a) G.S. § 132-1.9
1265.6 ₁ 		records concerning cases for which the Office of Indigent Defense Services has provided legal representation; includes correspondence, depositions, court filings, and other related records	RETAIN UNTIL: Closed PLUS: 6 years THEN: Destroy	Confidentiality G.S. § 132-1.1(a) G.S. § 132-1.9
1265.6 ₂		consumer complaints filed with and reviewed by the Department of Justice	RETAIN UNTIL: Closed PLUS: 6 years Ω THEN: Destroy	
1265.< ₃ 		records presented to the Court of Appeals and Supreme Court by the Department of Justice in criminal action cases; includes briefs, correspondence, and other related records	RETAIN UNTIL: Closed and appeals are exhausted THEN: Destroy	Confidentiality G.S. § 132-1.9
1266.P 	Legal Opinions	legal opinions received from outside counsel	PERMANENT	Confidentiality G.S. § 132-1.1(a)

* No destruction of records may take place if audits or litigation are pending or reasonably anticipated.

∞ See appendix for list of item numbers for records that should transfer to the State Archives.

Ω See appendix for list of item numbers for records that are temporarily stored at the State Records Center prior to destruction.

12.7 Vital Records

DEFINED: Records documenting vital events that take place in North Carolina, including births, deaths, marriages, and divorces. Vital Records, under the Department of Health and Human Services, maintains these records and provides certified or uncertified copies to individuals, researchers, and public health programs.

SEE ALSO: Adoption and foster care records are under PUBLIC ASSISTANCE AND SUPPORT SERVICES.

12.7

RC No.	Record Types	Description	Disposition Instructions	Citation
1271.A 	Birth Records	copies of birth certificates deposited with the Department of Health and Human Services	PERMANENT and PERMANENT (archival) ∞	<u>Authority</u> G.S. § 130A-101, -114, -115 <u>Confidentiality</u> G.S. § 130A-93
1271.P 		records concerning changes to birth certificates due to adoptions, legitimations, and sex changes, deposited with the Department of Health and Human Services; includes certificates of live birth, court orders of adoptions, legitimation, and sex change, and other related records	PERMANENT	<u>Authority</u> G.S. § 130A-118 <u>Confidentiality</u> G.S. § 130A-93
1272.A 	Death Records	copies of death certificates deposited with the Department of Health and Human Services	PERMANENT and PERMANENT (archival) ∞	<u>Authority</u> G.S. § 130A-101, -114, -115 <u>Confidentiality</u> G.S. § 130A-93

* No destruction of records may take place if audits or litigation are pending or reasonably anticipated.
 ∞ See appendix for list of item numbers for records that should transfer to the State Archives.
 Ω See appendix for list of item numbers for records that are temporarily stored at the State Records Center prior to destruction.

<p>1273.A</p> 	<p>Divorce Records</p>	<p>copies of certificates of divorce deposited with the Department of Health and Human Services</p> <p><i>NOTE: Original records are maintained in the counties.</i></p>	<p>PERMANENT and PERMANENT (archival) ∞</p>	<p><u>Authority</u> G.S. § 130A-110, -111</p> <p><u>Confidentiality</u> G.S. § 130A-93</p>
<p>1274.A</p> 	<p>Marriage Records</p>	<p>copies of marriage licenses/certificates and certificates of divorce deposited with the Department of Health and Human Services</p> <p><i>NOTE: Original records are maintained in the counties.</i></p>	<p>PERMANENT and PERMANENT (archival) ∞</p>	<p><u>Authority</u> G.S. § 130A-110, -111</p> <p><u>Confidentiality</u> G.S. § 130A-93</p>

* No destruction of records may take place if audits or litigation are pending or reasonably anticipated.

∞ See appendix for list of item numbers for records that should transfer to the State Archives.

Ω See appendix for list of item numbers for records that are temporarily stored at the State Records Center prior to destruction.

Records That Will Transfer to the State Records Center

1221.A Eugenics Compensation Program Records: Transfer to the State Records Center 3 years after final decision. Records will transfer immediately to the custody of the Archives.

Agency	Series Title	Item Number
North Carolina Industrial Commission	Eugenics Asexualization and Sterilization Compensation Program File	50388

1222.50 OAH Case Records: Transfer to the State Records Center after case is closed. Records will be held for agency 50 additional years and then destroyed.

Agency	Series Title	Item Number
Office of Administrative Hearings	Cases File	4105

1224 Tort Claims: Transfer to the State Records Center after case is closed. Records concerning adult claims will be held for agency 7 additional years and then destroyed.

Agency	Series Title	Item Number
North Carolina Industrial Commission	Adult Tort Claims File	497

1241.A Court of Appeals Case Records: Transfer to the State Records Center when reference value ends for immediate transfer to the custody of the Archives.

Agency	Series Title	Item Number
North Carolina Court of Appeals	Judgments File	39469

1245.A Supreme Court Records: Transfer to the State Records Center when reference value ends for immediate transfer to the custody of the Archives.

Agency	Series Title	Item Number
North Carolina Supreme Court	Death Case Records File	39474
	Minute Books File	3379
	Original Case File	2330

1252.A Charters: Transfer to the State Records Center when reference value ends for immediate transfer to the custody of the Archives.

Agency	Series Title	Item Number
Department of the Secretary of State	Amendments to the Constitution of 1971 File	50603
	Constitution of 1971 File	50602
	Historic Charters and Amendments File	48530
	U.S. Constitutional Amendments File	50604

1255.A Land Records: Transfer to the State Records Center when reference value ends for immediate transfer to the custody of the Archives.

Agency	Series Title	Item Number
Department of the Secretary of State	Annexation Ordinances and Maps File	3902

1256.A Licensing Board Reports: Transfer to the State Records Center when reference value ends for immediate transfer to the custody of the Archives.

Agency	Series Title	Item Number
Department of the Secretary of State	Annual Reports of Licensing Boards File	2923

1257.A Ordinances and Regulations: Transfer to the State Records Center when reference value ends for immediate transfer to the custody of the Archives.

Agency	Series Title	Item Number
Department of the Secretary of State	Ordinances and Regulations File	50836

The RC No. listed beside each Record Type is found on the functional schedule; the Item Number is a tracking number that is used only for records that are stored at the State Records Center.



1261.A Attorney General’s Advice and Opinions: Transfer to the State Records Center when reference value ends for immediate transfer to the custody of the Archives.

Agency	Series Title	Item Number
Department of Justice	Attorney General’s Formal Opinions File	38553

1262.P Declaratory Rulings: Transfer to the State Records Center when reference value ends for immediate transfer to the custody of the Archives.

Agency	Series Title	Item Number
North Carolina Utilities Commission	General Order Dockets File	562

1265.A Legal Case Records: Transfer to the State Records Center when reference value ends for immediate transfer to the custody of the Archives.

Agency	Series Title	Item Number
Department of Administration	Legal File	3466
Department of Insurance	Litigation and Docket File	2259
Department of Justice	Administrative Division Archival Case File	50279
	Archival Environmental Cases File	49701
	Archival Federal Habeas Corpus Case File	48040
	Capital Litigation Case File	47040
	Civil Division Director’s Litigation and Mediation File	48421
	Public Safety Civil Rights Cases File	3452
	Special Litigation Cases File	14897
	Special Prosecutions Appellate Cases File	3743
Department of Natural and Cultural Resources	Legal Records File	45686
Department of Public Safety	Operations Division Legal and Legislative File	697
North Carolina Board of Physical Therapy Examiners	Litigation File	50873

The RC No. listed beside each Record Type is found on the functional schedule; the Item Number is a tracking number that is used only for records that are stored at the State Records Center.



1265.50 Legal Case Records: Transfer to the State Records Center after case is closed. Records will be held for agency 50 additional years and then destroyed.

Agency	Series Title	Item Number
North Carolina Innocence Inquiry Commission	Case Records File	48428

Appendix

1265.10 Legal Case Records: Transfer to the State Records Center after case is closed. Records will be held for agency 10 additional years and then destroyed.

Agency	Series Title	Item Number
Department of Health and Human Services	Contested Certificate of Need Case Files	41022
	Continuing Legal Issues File	45958
	Legal Affairs Contested Case Hearings File	45960
	Program Integrity Medicaid Investigation Case Files	50857
Department of Justice	Capital Litigation Master Case/Federal Habeas Corpus File	2378
	Consumer Protection Investigative Cases File	2372
	Education Section Case File	28009
	Environmental Protection Cases File	2363
	Highway Section Contracts and Land Case File	2399
	Insurance Cases File	14294
	Law Enforcement Liaison Administrative Hearings File	14307
	Law Enforcement Liaison Cases File	14305
	Motor Vehicles Cases File	14250
	Occupational Safety and Health Administration Contested Case File	2384
	Public Assistance Case File	30537
	Public Safety Cases File	2362
	State Personnel Cases File	3646
Department of Public Safety	Inmate Grievance Appeals File	661
	Juvenile Justice Litigation File	48059
Department of Transportation	Division of Motor Vehicles Legal File	3158
	Project Property Claims (State and Federal Projects) File	3130

The RC No. listed beside each Record Type is found on the functional schedule; the Item Number is a tracking number that is used only for records that are stored at the State Records Center.



Agency	Series Title	Item Number
Office of Administrative Hearings	Human Relations Commission Fair Housing Act Complaints Case File	11065

1265.6₂ Legal Case Records: Transfer to the State Records Center after case is closed. Records will be held for agency 6 additional years and then destroyed.

Agency	Series Title	Item Number
Department of Justice	Consumer Complaint Cases File	2371

1271.A Birth Records: Transfer original copy (silver-halide) of microfilm along with index to the State Records Center for immediate transfer to custody of the Archives. A duplicate copy of microfilm will be retained in the agency permanently. Transfer microfilmed original certificates to the State Records Center after 100 years for immediate transfer to the custody of the Archives.

Agency	Series Title	Item Number
Department of Health and Human Services	Certificates of Live Birth File	1802
	Delayed Certificate of Birth File	4022
	Index to Certificates of Live Birth File	8334
	Index to Delayed Certificate of Birth File	8340

1272.A Death Records: Transfer original copy (silver-halide) of microfilm along with index to the State Records Center for immediate transfer to custody of the Archives. A duplicate copy of microfilm will be retained in the agency permanently. Transfer microfilmed original certificates to the State Records Center after 25 years for immediate transfer to the custody of the Archives.

Agency	Series Title	Item Number
Department of Health and Human Services	Belated Certificates of Death File	46547
	Certificate of Death File	1804
	Index to Certificates of Death File	8342

The RC No. listed beside each Record Type is found on the functional schedule; the Item Number is a tracking number that is used only for records that are stored at the State Records Center.



1273.A Divorce Records: Transfer original copy (silver-halide) of microfilm along with index to the State Records Center for immediate transfer to the custody of the Archives.

Agency	Series Title	Item Number
Department of Health and Human Services	Divorce Records File	8343
	Index to Divorces File	8348

1274.A Marriage Records: Transfer original copy (silver-halide) of microfilm along with index to the State Records Center for immediate transfer to the custody of the Archives.

Agency	Series Title	Item Number
Department of Health and Human Services	Index to License and Certificates of Marriage File	8346
	Licenses and Certificates of Marriage File	8345

Glossary

Audit

The Society of American Archivists *Dictionary of Archives Terminology* defines an audit as “an independent review and examination of records and activities to test for compliance with established policies or standards, often with recommendations for changes in controls or procedures.”¹ The North Carolina Office of the State Auditor defines three types of audits that can be performed for state agencies²:

- Financial Statement Audits that “determine whether an agency’s financial statements are fairly presented”
- Performance/Financial Related Audits that “provide independent and objective appraisals of agency management practices and operational results”
- Information Systems Audits that “evaluate risks relevant to information systems assets and assess controls in place to reduce or mitigate these risks”

Many state agencies also have an internal auditor’s office that is responsible for assessing whether agency employees, units, and business operations are in compliance with applicable federal and state laws and regulations, as well as agency policies and procedures. Some agencies are also responsible for auditing work of external organizations, including consultants and subrecipients. Agencies in receipt of funding from outside sources may be subject to audits to verify the appropriate expenditure of these funds. Audits may be performed on a routine recurring basis; they also may be prompted by concerns reported to the State Auditor’s Hotline.

Historical Value

The term historical value is used interchangeably with archival value. The Society of American Archivists *Glossary of Archival and Records Terminology* defines it as “the importance or usefulness of records that justifies their continued preservation because of the enduring administrative, legal, fiscal, or evidential information they contain.”³ Two criteria for determining historical value are inherent interest and extraordinary documentation:

- Inherent interest is created by non-routine events, by the involvement of famous parties, and by compelling contexts. For instance, foreclosure proceedings from the 1930s have high historical value because they date from the era of the Great Depression.
- Extraordinary documentation is found in records that shed light on political, public, or social history. For instance, the records from the replevin case that returned the Bill of Rights to North Carolina hold more historical value than most property case files because of the political history intertwined with this case.

¹ Society of American Archivists, *Dictionary of Archives Terminology*.

² <https://www.ncauditor.net/pub42/TypesOfAudits.aspx>

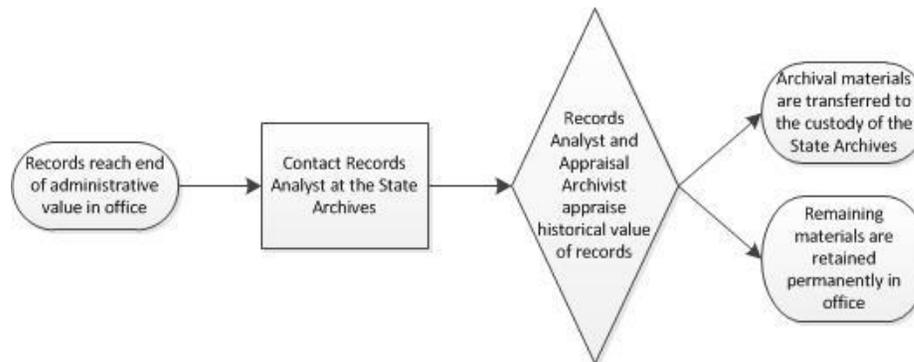
³ *Dictionary of Archives Terminology*

The State Archives of North Carolina (SANC) has further elaborated selection criteria that help distinguish records with archival value:

- Do they protect the rights and property of constituents and organizations?
- Do they have a long-term impact on constituents and organizations?
- Do they document the core functions of an agency?
- Do they document high-level decision-making that shapes an agency’s policies or initiatives?
- Do they summarize an agency’s activities?

Records with historical value are identified with one of three designations in the Disposition Instructions:

- PERMANENT: These records will be retained in office permanently.
- PERMANENT (appraisal required): When these records no longer have administrative value in office, the agency will contact the Government Records Section so the records can be appraised by a records analyst and an appraisal archivist. These individuals will determine whether the records should be retained in office permanently or transferred to the custody of the State Archives of North Carolina.
- PERMANENT (archival): These records will transfer to the State Records Center so they can be transferred to the custody of the State Archives of North Carolina.



Record Copy

A record copy is defined as “the single copy of a document, often the original, that is designated as the official copy for reference and preservation.”⁴ The record copy is the one whose retention and disposition is mandated by these functional schedules; all additional copies are considered reference or access copies and can be destroyed when their usefulness expires. In some cases, postings to social media may be unofficial copies of information that is captured elsewhere as a record copy (e.g., a press release about an upcoming agency event that is copied to various social media platforms). Appropriately retaining record copies and disposing of reference copies requires agencies to designate clearly what position or office is required to maintain an official record for the duration of its designated retention period. To facilitate this process, SANC has provided a sample file plan for agency use (available on the state agency records management page at

⁴ Ibid.

<https://archives.ncdcr.gov/government/rm-tools>). In identified cases where records overlap between state agencies, SANC has specified on the schedules which agency is considered the record owner.

Record Custody

The agency that creates or receives a record is the legal custodian of that record and responsibility for fulfilling any retention requirements and public records requests. If an agency transfers records to the State Records Center for temporary storage prior to destruction, those records remain in the legal custody of the originating agency. Any records requests must be authorized by the originating agency, and ultimate destruction must also be authorized by that agency. If an agency transfers archival records to the State Records Center, once those records have been accessioned by the State Archives, their legal custody transfers to the State Archives. From that point forward, all records requests should be channeled through the State Archives. In a few instances, records transfer to the State Records Center to be held in permanent security storage (indicated by a © on the functional schedule); in these cases, the records remain in the legal custody of the originating agency.

Reference Value

The disposition instruction to destroy in office when reference value ends is usually applied to records that were not created by the recipient. Reference files include materials that have no regulatory authority for the recipient and are received from outside the agency or from other units within the agency; subject files containing informational copies of records organized by areas of interest; and reference copies of records where another individual or agency is responsible for maintaining the record copy. The agency is given the discretion to determine how long these records should be retained before destruction, and this decision should be documented in a file plan or other policy so that all members of the agency can be consistent in their handling of these records.

Transitory Records

Transitory records are defined as “record[s] that [have] little or no documentary or evidential value and that need not be set aside for future use.”⁵ North Carolina has a broad definition of public records. However, the Department of Natural and Cultural Resources recognizes that some records may have little or no long-term documentary or evidential value to the creating agency. These records are often called “transitory records.” They may be disposed of according to the guidance below. However, all public employees should be familiar with the *Functional Schedule for North Carolina State Agencies* and any other applicable guidelines for their office. If there is a required retention period for these records, that requirement must be followed. When in doubt about whether a record is transitory or whether it has special significance or importance, retain the record in question and seek guidance from the analyst assigned to your agency.

⁵ Ibid.



Routing slips and transmittal sheets adding no information to that contained in the transmitted material have minimal value after the material has been successfully transmitted. These records may be destroyed or otherwise disposed of after receipt of the material has been confirmed. Similarly, “while you were out” slips, memory aids, and other records requesting follow-up actions (including voicemails and calendar invites) have minimal value once the official action these records are supporting has been completed and documented. These records may be destroyed or otherwise disposed of once the action has been resolved.

Drafts and working papers, including notes and calculations, are materials gathered or created to assist in the creation of another record. All drafts and working papers are public records subject to all provisions of General Statute § 132, but many of them have minimal value after the final version of the record has been approved and may be destroyed after final approval if they are no longer necessary to support the analysis or conclusions of the official record. Drafts and working documents that may be destroyed after final approval include:

- Drafts and working papers for internal and external policies
- Drafts and working papers for internal administrative reports, such as daily and monthly activity reports;
- Drafts and working papers for internal, non-policy-level documents, such as informal workflows and manuals; and
- Drafts and working papers for presentations, workshops, and other explanations of agency policy that is already formally documented.

Forms used solely to create, update, or modify records in an electronic medium may be destroyed in office after completion of data entry and after all verification and quality control procedures, as long as these records are not required for audit or legal purposes. However, if the forms contain any analog components that are necessary to validate the information contained on them (e.g., a signature or notary’s seal), they should be retained according to the disposition instructions for the records series encompassing the forms’ function.

Key



– symbol designating that records in this series may be confidential or may include confidential information

Key

RC No. – a unique identifying number assigned to each record type for ease of reference

Function No.	Sub-function No.	Record Type No.	Retention Abbreviation
15	4	5	A

The example above indicates the numbering scheme for Speeches (1545.A):

- Public Relations is the 15th function
- Marketing and Publicity is the 4th sub-function under Public Relations
- Speeches are the 5th record type under Marketing and Publicity
- Retention abbreviations provide a quick method of identifying the retention requirement for a particular record:

A	transfer to the State Archives
P	retain in office permanently or contact the State Archives for appraisal
R	destroy in office when reference value ends (<i>NOTE: Agencies must establish internal policies to ensure consistency in retention and destructions.</i>)
S	destroy in office when superseded or obsolete
T	transfer completed record to another record series
<	retention period shorter than 1 year
	any numerical designation indicates the number of years the record should be retained

Record Types – groupings of records that are “created, received, or used in the same activity.”¹

Description – a description of the records, often including the types of records that can be frequently found in that series

Disposition Instructions – instructions dictating the length of time a series must be retained, and how the office should dispose of those records after that time (either by destruction or transfer to the State Archives). For any records that will transfer to the State Records

¹ Society of American Archivists, *Dictionary of Archives Terminology*.



Center, either for temporary storage or for transfer to the State Archives, consult the Appendix for the item number that is necessary to track these records. **Note:** No destruction of records may take place if litigation or audits are pending or reasonably anticipated.

This border on the right and left of the Description and Disposition Instruction cells indicates a record that belongs to a particular agency, as identified in the Description. If other agencies possess copies of this record, they are reference copies that can be discarded when their reference value ends.

Key

Citation – a listing of references to statutes, laws, and codes related to the records series. Citations can include Authorities (governing the creation of records), Confidentiality (limiting access to public records), and Retention (setting a retention period).

- CFR = citation from the Code of Federal Regulations
- G.S. = citation from the North Carolina General Statutes
- USC = citation from the United States Code

The Disposition Instructions include a number of triggers that begin the retention period:

- Adoption of plan: With a record such as a strategic plan, the retention period begins as soon as the plan is adopted by the governing body.
- Closed: With a record such as an investigation, the retention period begins once the case is closed.
- Complete: With a record such as a report, the retention period begins once the report has been finalized.
- Execution of plan: With a record such as a business plan, the retention period begins once the plan has been carried out.
- Reference value ends: Once the content of a record is no longer useful or significant, it can be destroyed. This disposition is usually applied to records that were not created by the agency.
- Service ends: With a record relating to an elected or appointed office, the retention period begins once the term of service ends.
- Superseded or Obsolete: With any record that is produced in versions, an older version can be destroyed when the new version is received.

Several symbols are used within the disposition instructions:

- ∞ archival records that should transfer to the State Archives for permanent retention
-  archival records that will transfer to the State Archives in an electronic format
- Ω records that transfer to the State Records Center for temporary storage before destruction
- © records that transfer to the State Records Center for permanent security storage