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TITLE 100 – DEPARTMENT OF STATE

CHAPTER 50 – PUBLIC RECORDS ADMINISTRATION

SUBCHAPTER 10 – GENERAL RECORDS RETENTION SCHEDULES

PART 2 – LEGAL RECORDS (GRS2)

2.1 Purpose, Authority, Severability, and Destruction

2.1.1 Purpose

To establish the official retention, maintenance, and disposal requirements for a public record based upon any administrative, legal, fiscal, and/or historical value related to that record created or received by an agency, department, division, board, commission, office, or quasi-public corporation under any branch of State or local government which performs functions relating to government, or acts on behalf of a governmental agency, pursuant to law or relating to the transaction of public business.

2.1.2 Authority

This Regulation is promulgated pursuant to the authority granted in R.I. Gen. Laws Title 38 (“Public Records”), including expressly but without limitation R.I. Gen. Laws §§ 38-3-1 et seq.

2.1.3 Severability

If any provision of these Regulations or the application thereof to any Person or circumstances is held invalid by a court of competent jurisdiction, the validity of the remainder of the regulations shall not be affected thereby.

2.1.4 Destruction Review Procedure

Government employees should also consult with their administration to determine if any records eligible for destruction may be involved in current, pending, or anticipated litigation, any government investigation or regulatory proceeding, or request under the Access to Public Records Act. (This Part (Legal Records) and R.I. Gen. Laws Chapter 38-2)

GRS2 Legal Records

GRS2.1 Case Files

Records created and received by the agency that document its involvement in legal cases. The files may include, but are not limited to, correspondence, copies of subpoenas, court filings, discovery, internal memoranda, court proceedings, transcripts of testimony, and legal inquiries.

GRS2.1A Routine Cases

Includes all cases that do not result in agency policy changes and do not involve discrimination.

Retention: Retain seven (7) years after final disposition of litigation or ten (10) years after case opens, whichever is later.

GRS2.1B Landmark Cases

Includes cases that result in changes to agency policy and/or procedures.

Retention: Permanent.

GRS2.1C Discrimination Cases (Cases Regarding Accusations of Discrimination)

May involve complaints to the Human Rights Commission, Equal Employment Opportunity complaints and appeals to the Personnel Appeal Board.

Retention: Retain four (4) years after final resolution of case.

Note: Some discrimination cases may result in change to agency policy and thus be reclassified as landmark cases.

GRS2.2 Legal Opinions

Records documenting legal opinions on matters of concern to the agency. May include requests or correspondence requesting opinion and supporting documentation.

GRS2.2A Internal Opinions

Opinions issued by agency legal counsel.

Retention: Permanent.

GRS2.2B Attorney General's Opinions

Opinions issued by the Office of the Attorney General.
(R.I. Gen. Laws § 42-9-6)

Retention: Retain until of no administrative value.

Note: Official/record copy is maintained
permanently by the Attorney General.

GRS2.2C Ethics Commission Opinions

Advisory opinions issued by the Ethic Commission. (R.I.
Gen. Laws § 36-14-11)

Retention: Retain until of no administrative value.

Note: Official/record copy is maintained
permanently by the Ethics Commission.

GRS2.3 Draft Legislation

Legislation drafted by the agency for introduction in the General
Assembly. Includes drafted legislation not subsequently introduced. In
addition to these drafts the files may include, but are not limited to,
compiled data, reports, correspondence, research notes, briefing
records, proposed amendments, memoranda with comments on
legislation by individuals within the agency, and reference material from
other states and/or local government entities.

GRS2.3A Drafts of Legislation

Retention: Permanent.

GRS2.3B Briefing Records

Retention: Permanent.

GRS2.3C Correspondence Involving Agency Director

Retention: Permanent.

GRS2.3D Comments on Legislation by Agency Director

Retention: Permanent.

GRS2.3E All Other Records

Retention: Retain until of no further administrative
value.

GRS2.4 **Legislation Impact Statements**

Statements issued by the agency on how a particular piece of legislation will affect its functions and operations, along with supporting documents. In addition to statements, these files may include, but are not limited to, compiled data, reports, correspondence, research notes, drafts, and reference material from other states and/or local government entities.

Retention: Permanent.

GRS2.5 **Rulemaking Files**

File created per R.I. Gen. Laws § 42-35-2.2 for each rule proposed or adopted after January 2, 2002. Records include regulatory agendas, petitions, requests, submissions, and comments, transcripts of oral presentations, concise explanatory statement required by R.I. Gen. Laws § 42-35-2.3, studies and reports, copies of all publications in the state register, copies of agency orders and declaratory rulings, meeting notices including copy to newspaper and/or copy to Secretary of State web site, copy of proposed rule, and copy of adopted rule with filing form stamped by the Office of the Secretary of State, and when required, regulatory flexibility analysis (R.I. Gen. Laws § 42-35-3.3). May include all records from contested cases including pleadings, motions and intermediate rulings, evidence received or considered, statement of matters officially noticed, questions and offers of proof and ruling, proposed findings and exceptions, any decision, opinion or report by the officer presiding at the hearing, all staff memoranda or data submitted to the hearing officer, and copies of oral proceedings transcribed on request of any party. (R.I. Gen. Laws § 42-35-9)

Retention: Permanent.

Note: This record series includes rule and regulation development files created prior to January 2, 2002.

GRS2.6 **Regulatory Agendas**

Agency copy of regulatory agendas filed with the Secretary of State in accordance with R.I. Gen. Laws § 42-35-5.1 by rulemaking agencies on January 15 and June 15 of each year. Regulatory agendas contain a listing of all rules and orders promulgated since the preceding regulatory agenda, a brief description of the subject area of any rule which the agency expects to prepare or promulgate prior to the filing of the next regulatory agenda including the objectives and legal basis for such rules, approximate schedule for completing action on the rules, and the name and telephone number of a knowledgeable agency official concerning the items identified. Agencies are not precluded from considering or acting upon any matter not included in the regulatory agenda, nor

required to act upon any matter listed in the agenda. (R.I. Gen. Laws § 42-35-5.1(d))

Retention: Retain three (3) years.

GRS2.7 Notary Journals

As part of standard operating procedure, a notary journal is used to record notarial transactions. This journal of notarial acts records the date and time of the notarial act proceeding or transaction, the type of notarial act, a description of the document, signatures of each principle and witness, printed name and address of each principle and witness, description of the evidence of identity of each person, fee charged, address where the notarization was performed and the recordation of any circumstances for not completing the notarial act. (R.I. Gen. Laws §§ 42-30-14 and 42-30-5)

GRS2.7A Shared Journals

Retention: Cut off at end of calendar years and retain forty-five (45) years or retain forty-five (45) years after last entry.

GRS2.7B Individual Journals

Retention: Retain seven (7) years after expiration of commission.

Note: Retain journal containing real estate or probate transactions forty-five (45) years.

GRS2.8 Legal Advertisements

State agencies and local government entities send notices about legal matters to news media for publication. The matters covered by these notices may include, but are not limited to, meeting notices, changes in operating hours of offices, invitations to submit bids or proposals and considerations of whether or not to grant or revoke certain licenses. Content may include, but is not limited to, date and time of meeting or event, location, and topics to be discussed or considered. Records in the series may include, but are not limited to, the actual notices, documentation of which news media outlets received the notices, indications of where notices were posted, and lists of names of officials that received the notices.

Retention: Retain three (3) years.

GRS2.9 Subpoenas

Subpoenas received by an agency requesting information/records in which the agency is neither a plaintiff nor defendant. May include copies of records requested.

Retention: Retain three (3) years after final disposition of the underlying litigation.

GRS2.10 Liability Waivers

Waivers executed by an agency in response to an activity or event where participation requires consent to the inherent risks involved in the activity or event. Liability waivers may be required for participation in sporting activities, use of premises/buildings or use of government resources. May also be called a Hold Harmless Agreement (HHA). Liability waivers will include the name of both parties, date of agreement and how long it will be in effect, location of activity or event, list of possible risks or injuries that may result, will be in clear language, and include signatures and the date of the agreement. May include, but not limited to, supporting documentation such as correspondence, drafts and reports.

Retention: Retain ten (10) years from the date the activity ends unless in litigation. If in litigation, see GRS2.1 Legal – Case Files. If a minor is involved, retain three (3) years after the minor reaches the age of eighteen (18) or ten (10) years from the date the activity ends, whichever is longer.