

Law Offices of New Mexico Public Defender

Policy and Procedure

Policy Title	Records Retention Policy and Procedure
Policy Number	600.004
Effective Date	05/13/25
Approved by	<ul style="list-style-type: none"> • Adrienne Turner, LOPD, General Counsel • Cydni Sanchez, LOPD, Deputy Chief Public Defender • Theresa Edwards, Deputy Director of Policy and Administration • Matt Bevington, IT Director
Date of Approval	05/13/25
Revision Number	
Authority	<p>The Records Retention Policy and Procedure references the following New Mexico Statutes:</p> <ul style="list-style-type: none"> ✓ New Mexico Administrative Code (NMAC) 1.21.2: Addresses the length of time records shall be retained and the method of disposal of public records from multiple functional categories. ✓ New Mexico Administrative Code (NMAC) 1.13.30: Outlines how public records and non-public records must be disposed of.
Purpose of policy	<ul style="list-style-type: none"> • To ensure that LOPD records are retained as required by state law • To support systematic records management to ensure compliance with legal obligations, facilitate efficient operations, and uphold accountability within LOPD.
Definitions	<ul style="list-style-type: none"> • <u>Public Records</u>: Per the New Mexico Public Records Act, public records include all documents, papers, letters, maps, books, tapes, photographs, recordings, and other materials, regardless of physical form, that are used, created, received, maintained, or held by or on behalf of any public body and relate to public business. • <u>Non-Records</u>: Materials not considered public records, such as personal notes, duplicate copies, and preliminary drafts not retained for official purposes. • <u>Retention Period</u>: Duration for which records must be maintained before they can be disposed of or archived. • <u>Disposition</u>: The final action taken on records, such as destruction or transfer to an archival repository. • Functional Categories: Categories for grouping public records based on functions or activities of LOPD <ul style="list-style-type: none"> ✓ <u>Administration Records</u>: records relating to appointments, correspondence, complaints, reports, surveys, grants, property maintenance and repair, equipment, vehicles, and insurance ✓ <u>Project Records</u>: Records relating to administrative programs and projects and to specific infrastructure projects ✓ <u>Information Technology Records</u>: Records related to security and access to IT; to development and maintenance of networks, infrastructure, and computer applications; and to management of public websites

Law Offices of New Mexico Public Defender

Policy and Procedure

	<ul style="list-style-type: none"> ✓ <u>Human Resource Records</u>: Records related to benefits management, to employer and labor services, to payroll management, to personnel management, to retirement administration, and to staffing and recruiting ✓ <u>Training Records</u>: Records relating to employee training management ✓ <u>Financial Records</u>: Records relating to accounting management; asset management; bank administration; budget management; financial statements; financial aid and loan management; investment management; procurement; tax management; unclaimed property; audit, compliance, and oversight ✓ <u>Governance and Compliance Records</u>: Records relating to appointments, human rights, and records management ✓ <u>Legal and Judiciary Records</u>: Records relating to contracts, Public Defender and District Attorney files (Adult and juvenile case files, including all documentation related to legal representation).
Scope	This policy applies to all public records and non-records created by staff of Law Office of the Public Defender.
Retention Policy	<p>All LOPD staff members will follow the rules concerning the retention and disposal of public records as stated in the following New Mexico Statutes: NMAC 1.21.2 and NMAC 1.13.30. The retention guidelines are stated below. For the full statutory text, go to the online statutes.</p> <p><u>Administration Records</u></p> <ul style="list-style-type: none"> • NMAC 1.21.2.101: Records related to authorization of personnel or entities to perform specific duties and not identified in other classifications—destroy 10 years from date file closed • NMAC 1.21.2.102: Appointments and schedules and related records—destroy one year from close of calendar year in which created • NMAC 1.21.2.105: Routine correspondence and related records of day-to-day office administration and not identified in other classifications—destroy one year from close of calendar year in which created • NMAC 1.21.2.107: Records including, but not limited to, applications, complaints or requests which are incomplete, have no merit or have been denied, rejected or withdrawn—destroy two years from date file closed • NMAC 1.21.2.116: General reports not identified in other classification—destroy two years from date file created • NMAC 1.21.2.118: Statistical reports—destroy five years from date file created • NMAC 1.21.2.120: Surveys or questionnaires and related records—destroy five years from date file created • NMAC 1.21.2.121: Records related to the tracking of data for the purpose of reporting—destroy five years from date file created • NMAC 1.21.2.122: Records related to grant administration—destroy three years from the date file closed • NMAC 1.21.2.137: Records related to work and job orders for repair and maintenance of property—destroy one year from date file closed

Law Offices of New Mexico Public Defender

Policy and Procedure

- NMAC 1.21.2.142: Records related to complaints by the public relating to policies, procedures or business practices including, but not limited to, filing forms, recommendations, responses and resolution—destroy one year from date file closed
- NMAC 1.21.2.151: Records related to equipment including, but not limited to, history, logs, manuals and operating procedures; and not identified in other classifications—destroy three years from date of disposition of equipment
- NMAC 1.21.2.152: Records related to maintenance and repair of vehicles and equipment—destroy three years from the close of the fiscal year in which created
- NMAC 1.21.2.153: Records related to vehicles including, but not limited to, history, logs, manuals and operating procedures; and not identified in other classifications—destroy three years from date of disposition of vehicle
- NMAC 1.21.2.161: Records related to reporting damage to government owned and operated property including, but not limited to, claims—destroy three years from date file closed
- NMAC 1.21.2.163: Records of insurance certificates and bonds provided by contractors, vendors and other non-governmental entities—destroy five years from date file closed
- NMAC 1.21.2.164: Records related to insurance of government owned and operated property and assets—destroy 10 years from date file closed
- NMAC 1.21.2.165: Waivers and releases of liability and related records—destroy two years from date file closed

Project Files

- NMAC 1.21.2.112: Records related to administrative programs and projects not identified in other classifications—destroy five years from date file closed
- NMAC 1.21.2.133: Records related to the planning, design and construction of specific projects including, but not limited to, facility and infrastructure projects—transfer to archive 25 years from date file closed

Information Technology Records

- NMAC 1.21.2.156: Records related to security and access to information technology—destroy three years from date file closed.
- NMAC 1.21.2.157: Records related to development and maintenance of voice and data networks, infrastructure and computer applications—destroy when superseded or obsolete
- NMAC 1.21.2.158: Records related to management of public websites including, but not limited to, design, graphics, formats and links—destroy one year from date file closed

Human Resource Records

Benefits Management

- NMAC 1.21.2.201: Records related to employee benefit claims—destroy three years from date file closed
- NMAC 1.21.2.202: Records related to employee enrollment in government benefit plans—destroy five years from termination of coverage

Law Offices of New Mexico Public Defender

Policy and Procedure

- NMAC 1.21.2.203: Records related to benefit plans and statements—destroy 10 years from date file closed

Employer and Labor Services

- NMAC 1.21.2.206: Records related to pre-employment screening—destroy five years from date file created
- NMAC 1.21.2.207: Records related to labor relations—destroy three years from date file closed
- NMAC 1.21.2.208: Records related to programs for labor and employer services not identified in other classifications—destroy five years from date file closed

Payroll Management

- NMAC 1.21.2.211: Records related to deduction and garnishments from employee paychecks—destroy three years from close of fiscal year in which created
- NMAC 1.21.2.212: Records related to payroll registers—destroy 50 years from date file created
- NMAC 1.21.2.213: Records related to reports for payroll—destroy three years from the close of the fiscal year in which created
- NMAC 1.21.2.214: Records related to payroll taxes for employees including, but not limited to, withholding, remittances, filings and returns—destroy 10 years from close of calendar year in which created

Personnel Management

- NMAC 1.21.2.221: Records related to programs that award and recognize employee contributions to improvements in service, operations and the work environment—destroy three years from date file closed
- NMAC 1.21.2.222: Records related to adverse action and reduction in force—destroy 30 years from date file closed
- NMAC 1.21.2.223: Records related to employee certifications—destroy three years from date file closed
- NMAC 1.21.2.224: Records related to drug and alcohol testing of employees—destroy five years from date file closed
- NMAC 1.21.2.225: Records related to employee medical records excluding cases of hazardous material exposure—destroy three years from date of separation from employment
- NMAC 1.21.2.226: Records related to employee medical records specific to cases of hazardous material exposure—destroy 30 years from date of separation from employment
- NMAC 1.21.2.227: Records related to the disclosure of secondary employment—destroy one year from close of calendar year in which created
- NMAC 1.21.2.228: Records related to employment eligibility verification form I-9—destroy three years from date of separation from employment
- NMAC 1.21.2.229: Performance evaluations and related records—destroy three years from date of separation from employment

Law Offices of New Mexico Public Defender

Policy and Procedure

- NMAC 1.21.2.230: Records related to filing of grievances and investigations related to employees—destroy three years from date of separation from employment
- NMAC 1.21.2.231: Employee leave records and related records—destroy three years from close of fiscal year in which created
- NMAC 1.21.2.232: Records related to military service—transfer to archives 62 years from date file closed
- NMAC 1.21.2.233: Records related to an individual government employee who contributes to a retirement plan, does not include medical files—destroy 50 years from date file created
- NMAC 1.21.2.234: Records related to a temporary individual government employee who does not contribute to a retirement plan, does not include medical files—destroy three years from the date file closed
- NMAC 1.21.2.235: Records related to reporting and approving employee attendance—destroy one year from the close of the fiscal year in which file closed
- NMAC 1.21.2.236: Records related to volunteers—destroy three years from date file closed

Retirement Administration

- NMAC 1.21.2.241: Records related to employee contributions to retirement or pension funds—destroy 65 years from date file created
- NMAC 1.21.2.242: Record related to membership in retirement funds and plans for retired employees—destroy five years from date file closed
- NMAC 1.21.2.243: Records related to membership in retirement funds and plans for former employees who are not eligible for retirement benefits—destroy 65 years from date file closed

Staffing and Recruiting

- NMAC 1.21.2.246: Records related to recruitment of employees—destroy three years from date file closed
- NMAC 1.21.2.247: Records related to preparation of job descriptions and position classifications—destroy three years from date file closed

Workers Compensation / Injury

- NMAC 1.21.2.261: Records related to workers' compensation and unemployment claims—destroy three years from date file closed
- NMAC 1.21.2.262: Records related to employer accounts of workers' compensation and unemployment—destroy four years from close of calendar year in which file closed
- NMAC 1.21.2.263—Records related to reports of injuries resulting in no action or claim—destroy two years from date file created

Training Records

- NMAC 1.21.2.251: Records related to management of courses not identified in other classifications—destroy five years from date file closed

Law Offices of New Mexico Public Defender

Policy and Procedure

- NMAC 1.21.2.252: Records related to employee's training history—destroy three years after date of separation from employment
- NMAC 1.21.2.253: Records related to the management of training instructors—destroy five years from date file closed
- NMAC 1.21.2.254: Records related to training and course materials not identified in other classifications—destroy three years from date file closed

Financial Records

Accounting Management

- NMAC 1.21.2.301: Records relating to Accounts Payable including, but not limited to, Purchasing and Reimbursements—destroy six years from date audit report released
- NMAC 1.21.2.303: Records related to accounts receivable including, but not limited to, invoicing—destroy six years from date audit report released
- NMAC 1.21.2.304: Records relating to Transferring of Funds—destroy three years from date audit report released
- NMAC 1.21.2.305: Records related to collections of funds including, but not limited to, bankruptcy—destroy three years from date audit report released
- NMAC 1.21.2.306: Records related to donations of funds and assets to or from a government entity—destroy three years from date audit report released
- NMAC 1.21.2.307: Records related to the management of funds including, but not limited to, inmate and patient funds—destroy three years from date audit report released
- NMAC 1.21.2.307: Journal entries—destroy three years from date audit report released
- NMAC 1.21.2.309: Records relating to ledger management—destroy three years from date audit report released
- NMAC 1.21.2.310: Records related to accounting processes and controls—destroy one year from date audit report released

Asset Management

- NMAC 1.21.2.316: Records related to the control of fixed assets—destroy three years from date audit report released
- NMAC 1.21.2.317: Records related to the control of supplies and stock inventory—destroy three years from date audit report released
- NMAC 1.21.2.318: Records related to the disposal of surplus equipment—destroy three years from date audit report released

Bank Administration

- NMAC 1.21.2.321: Records relating to the establishment, maintenance and termination of bank accounts—destroy three years from the close of the fiscal year in which file closed
- NMAC 1.21.2.322: Records related to bank account and credit card statements and reconciliations—destroy three years from date audit report released

Budget Management

Law Offices of New Mexico Public Defender

Policy and Procedure

- NMAC 1.21.2.326: Records related to the request, recommendation and approved annual budget—transfer to archives when no longer needed for reference

Financial Statements and Reports

- NMAC 1.21.2.331: Records related to reconciliations and balancing for financial reports and statements—destroy three years from date audit report released

Financial Aid and Loan Management

- NMAC 1.21.2.336: Records related to loan programs including, but not limited to, loan documents and tracking—destroy three years from close of fiscal year in which file closed
- NMAC 1.21.2.337: Records related to scholarships, loans, grants and other aid—destroy three years from the date file closed

Investment Management

- NMAC 1.21.2.341: Records related to investments including, but not limited to, bonds, debt issuance and certificates of deposit—destroy six years from date file closed
- NMAC 1.21.2.342: Records related to investment statements and reports—destroy three years from the date file closed

Procurement

- NMAC 1.21.2.346: Bids, quotes and proposals and related records—destroy three years from date file closed
- NMAC 1.21.2.347: Records related to management of vendors—destroy three years from date file closed

Tax Management

- NMAC 1.21.2.351: Records related to exemptions from taxation—destroy one year from close of calendar year in which file created
- NMAC 1.21.2.353: Tax reports—destroy 10 years from close of calendar year in which file closed
- NMAC 1.21.2.354: Records related to the general assessment of taxes, reductions and refunds, including, but not limited to, cigarette, alcohol, road and fuel, lodgers, estate, corporate, personal and employer tax—destroy 10 years from close of calendar year in which file created
- NMAC 1.21.2.355: Records related to valuation for tax purposes not identified in other classifications—destroy 10 years from close of calendar year in which file created
- NMAC 1.21.2.356: Records related to valuations for tax purposes including, but not limited to, tax schedules and annual renditions—transfer to archives five years from close of calendar year in which file created

Unclaimed Property

- NMAC 1.21.2.361: Records related to unclaimed property—destroy 10 years from close of calendar year from date of final disposition of property

Audit, Oversight, and Compliance

Law Offices of New Mexico Public Defender

Policy and Procedure

- NMAC 1.21.2.413: Records related to oversight and federal compliance reporting—destroy three years from date file closed
- NMAC 1.21.2.414: Records related to financial audits of agencies and programs—destroy three years from the close of the fiscal year in which file created
- NMAC 1.21.2.415: Records related to general compliance and audits of agencies and programs—destroy five years from date file closed

Governance and Compliance

Appointments

- NMAC 1.21.2.449: Records related to appointments not identified in other classifications—destroy two years from date file closed

Human Rights Management

- NMAC 1.21.2.456: Records related to accommodations for disabilities under the Americans with Disabilities Act—destroy three years from date file closed

Equipment and Vehicles

- NMAC 1.21.2.471: Records related to inspections and monitoring of equipment and vehicles—destroy three years from date file closed

Records Management

- NMAC 1.21.2.517: Records related to the disposition of public records including, but not limited to, approvals—destroy 25 years from date file closed
- NMAC 1.21.2.518: Records related to requests for release of information, does not include public records requests—destroy one year from date file closed
- NMAC 1.21.2.519: Records related to requests for information under the Inspection of Public Records Act including, but not limited to, tracking, responses and written explanations of denials—destroy four years from date request is deemed by the public body to be fulfilled or denied.
- NMAC 1.21.2.520: Records related to withdrawal and receipt of records—destroy 25 years from date file closed

Legal and Judiciary

Contract Management

- NMAC 1.21.2.601: Records related to agreements not identified in other classifications—destroy six years from date file closed
- NMAC 1.21.2.604: Records related to contracting of goods and services—destroy six years from date file closed
- NMAC 1.21.2.605: Leases and related records, does not include mineral leases—destroy six years from date file closed
- NMAC 1.21.2.606: Records related to settlements of contract or agreement disputes—destroy 14 years from date file closed

Legal Matter Management

Law Offices of New Mexico Public Defender

Policy and Procedure

	<ul style="list-style-type: none">• NMAC 1.21.2.631: Records related to signatures including, but not limited to, facsimile and digital signatures—destroy 10 years from date file closed• NMAC 1.21.2.632: Records related to hearings and appeals—destroy 10 years from date file closed• NMAC 1.21.2.634: Records related to investigations with merit of alleged criminal activities and not identified in other classifications—destroy 10 years from date file closed• NMAC 1.21.2.636: Legal case files other than historical case files—destroy 10 years from date file closed• NMAC 1.21.2.642: Records related to waivers and releases—destroy two years from date file closed <p><u>Public Defender and District Attorney Case Files:</u></p> <ul style="list-style-type: none">• NMAC 1.21.2.639: Public defender and district attorney case files for adults, does not include capital offenses—destroy 10 years from date file closed• NMAC 1.21.2.640: Public defender and district attorney case files related to capital offenses—transfer to archives 25 years from date file closed• NMAC 1.21.2.641: Public defender and district attorney case files for juveniles—destroy 22 years from date of birth
Record Disposal Procedure	When LOPD identifies records that need disposal, LOPD will request disposal authority from the State Commission of Public Records and follow the process for destruction of records as outlined in NMAC 1.13.30.
Party responsible for implementing policy	Cydni Sanchez, Deputy Chief Public Defender