

PERSONNEL

Personnel encompasses recruitment and appointment of agency staff, monitoring and development of the agency work force, development and implementation of agency personnel policies and procedures, and administration of employee benefits programs. Records Disposition Authorizations (RDAs) for this section are subdivided into three functional areas as follows:

- Personnel Administration
- Civil Service Administration
- Benefits and Health Insurance Administration.

Records for payroll, training, affirmative action, and employee relations are covered in separate sections of the schedule.

Control Agency: The Department of Civil Service is the primary control agency for personnel functions in New York State government.

Records Not Covered: *Records created and retained by the Department of Civil Service in its capacity as a control agency for state government personnel matters.*

PERSONNEL ADMINISTRATION

◆ **90001 Personal History Files** -- Records related to an individual's employment history with an agency. Personal history files generally include applications, résumés, appointment letters, probation reports, performance program evaluations, disciplinary actions, veterans status certifications, employee information forms, memoranda and correspondence related to employee, health insurance enrollment and declination records, retirement system declination forms, and survivors benefit information. Item can also be used for personal history files of volunteers and interns.

Minimum Retention and Disposition: **Destroy 6 years after employee separation from agency, unless earlier disposition is permitted under terms of a labor-management contractual agreement.**

Justification: Inactive records in this series are often used to answer inquiries by former employees, their prospective employers, and others. Information in the series would not necessarily be representative of the current attributes of a former employee after a 6-year period. The Department of Civil Service maintains master summary employee history records on all state employees.

Records Not Covered: *Personal History Files of employees who left state service prior to 1945. Please contact the State Archives regarding these records. Also does not cover employment history records on the state work force maintained by the Department of Civil Service.*

Note: *Agencies which maintain as part of their Personal History Files records of workers' compensation claims, employee hazardous substance exposure or other records covered by separate items in this schedule or by agency-specific authorizations should retain those records for the retention periods indicated by those items or authorizations. In some cases, this may require retention of those records for longer periods than indicated for Personal History Files.*

90002 Employee Summary Service Records -- Summary record of employee's service in an agency, including demographic information, positions held, and grade levels.

Minimum Retention and Disposition: **Destroy 10 years after separation from agency service.**

Justification: Agencies use this series to provide summary information to former employees. After retention period expires such information is available from Department of Civil Service summary records.

Records Not Covered: *Employment history records on the state work force maintained by the Department of Civil Service.*

◆ **90003 Employee Attendance and Leave Records --** Time and attendance cards/sheets, overtime certification sheets, vacation exchange information, leave records, Family and Medical Leave Act leave requests, requests for military leave, and other records used to account for time, attendance, time accruals and leave.

Minimum Retention and Disposition: **Destroy after 3 fiscal years.**

Justification: Records are needed for 3 years to meet OSC auditing requirements and for agency reference. Retention period also meets 3-year records retention requirement for the federal Family and Medical Leave Act of 1993 (29 CFR 825.500).

Note: *Agencies may need to retain certain time records for added periods to meet current requirements of the Department of Civil Service, Governor's Office of Employee Relations*

or other agencies regarding overtime eligibility issues. Consult with those agencies to determine current requirements. In some agencies the last time card or timesheet that an employee submits at separation is the only record of final time accruals. Employees may need this information to claim unused leave credits if they re-enter state service, which potentially can occur many years later. Agencies should retain a summary record of final accruals or the last time card/sheet showing those accruals for those departing employees who might later return to state service and seek re-crediting of unused leave credits. These records can be retained in the employee Personal History Files or separately if the retention period for the Personal History Files is insufficient to meet possible future needs for leave accrual records. Agencies should also be aware of potential needs to retain time records for extended periods for employees involved in workers' compensation cases.

◆ **90004 Summary Reports Regarding Personnel/Payroll Functions** -- Statistical and narrative summary reports produced by an agency, the Department of Civil Service, and OSC of personnel/payroll used for operational, management analysis or planning purposes, including reports on vacant positions, nonpermanent positions, payroll additions and separations, health insurance transactions, employees on probation, and performance evaluations due.

Minimum Retention and Disposition: Destroy after report is updated or superseded.

Justification: Reports have minimal administrative value after they are superseded or updated. Agencies may choose to retain selected summary reports as long as needed to recap or reconstruct personnel or payroll trends or for planning purposes.

◆ **90380 Personnel Transaction Forms** -- Forms and related records used to process routine personnel transactions, including transfers, promotions, salary adjustments, leaves, and similar personnel actions.

Minimum Retention and Disposition: Destroy 3 years after completion of transaction.

Justification: Administrative needs for these records are met within a three year period.

90005 Subject and Correspondence Files -- Records used to support general agency personnel administration (usually arranged alphabetically by subject), including reports, memoranda, and correspondence pertaining to employee benefits, health insurance, retirement, Personnel Council, Civil Service administration, and personnel policies and procedures.

Minimum Retention and Disposition: Destroy when obsolete or superseded.

Justification: These records have no legal or fiscal value.

- ◆ **90006 Employment Inquiry Files** -- Job inquiries, applications, résumés, and other records prospective employees submit to personnel and program offices for employment consideration.

Minimum Retention and Disposition: For applicants who are hired, transfer records to Personal History Files for continued retention. For applicants who are not hired, destroy 4 years from the date of the personnel action on the vacancy to which the records relate. Destroy general employment inquiries and résumés which are not related to posted vacancies when no longer needed.

Justification: Federal regulations (29 CFR 1602.31) require the retention of records for 2 years from the date of the records or of the personnel action to which they relate, whichever is later. Actions under New York State's Human Rights Law (Executive Law Article 15) alleging unlawful employment practice must commence within 3 years, while actions under federal civil rights law (42 USC 1981) must commence within 4 years (28 USC 1658).

Note: Before disposing of these records, agencies must ensure that no legal actions have been initiated which might require access to them. If a case-by-case review of files is impractical, the Office of the Attorney General advises retaining the records an additional 3 months beyond the minimum retention period.

- ◆ **90381 Recruitment, Hiring, Interview and Selection Records** -- Records of agency actions related to the hiring, promotion, demotion, transfer, layoff and termination of employees, including job announcements, correspondence, reports, selection criteria, interview notes, rating and ranking forms, evaluations and other records.

Minimum Retention and Disposition: Destroy 4 years after completion of personnel action.

Justification: Federal regulations (29 CFR 1602.31) require the retention of records for at least 2 years from the date of the personnel action to which they relate. Actions under New York State's Human Rights Law (Executive Law Article 15) alleging unlawful employment practice must commence within 3 years, while actions under federal civil rights law (42 USC 1981) must commence within 4 years (28 USC 1658).

Note: Before disposing of these records, agencies must ensure that no legal actions have been initiated which might require access to them. If a case-by-case review of files is

impractical, the Office of the Attorney General advises retaining the records an additional 3 months beyond the minimum retention period.

- ◆ **90031 Employment Eligibility Verification Forms** -- Immigration and Naturalization Service Form I-9 completed by employers for every employee hired after November 6, 1986, verifying that the employee is a U.S. citizen or is otherwise legally authorized to work in the United States, including paper, electronic, digital or microfilm version or copy of the form and related records.

Minimum Retention and Disposition: Destroy 3 years from the date of the hiring action or 1 year after the individual's employment is terminated, whichever is later. Original records which have been microfilmed or digitized may be destroyed immediately, with the copies retained for the required retention period.

Justification: Federal regulations (8 CFR 274a.2) require the retention of these records for 3 years from the date of the hiring action to which they relate or 1 year after the termination of the associated employee, whichever is later.

- ◆ **90371 Employee Suggestion Program Records** -- Agency records of employee suggestions submitted as part of the Department of Civil Service's State Employee Suggestion Program. Includes records of agency evaluations of suggestions to determine if they should be implemented.

Minimum Retention and Disposition: Destroy records concerning approved suggestions 6 years after suggestion is approved and implemented and all awards have been made by the Civil Service Commission. Destroy records concerning disapproved suggestions 9 years after disapproval, including any subsequent appeal.

Justification: Retention periods meet the need to document agency actions for administrative purposes and in the event of possible future litigation.

Records Not Covered: Records of the Department of Civil Service concerning its administration of the State Employee Suggestion Program.

Note: Before disposing of these records, agencies must ensure that no legal actions have been initiated which might require access to them. If a case-by-case review of files is impractical, the Office of the Attorney General advises retaining the records an additional 3 months beyond the minimum retention period.

- ◆ **90382 Employee Assistance Program Records** -- Agency records of programs to assist

employees with personal problems or concerns through information, assessments, referrals and other services, including case files of services provided to employees, reports and statistical compilations, and related records.

Minimum Retention and Disposition: Destroy case files 3 years after completion of service. Destroy other records 3 years after end of calendar year.

Justification: Retention periods meet the need to document agency actions for administrative purposes.

Records Not Covered: Records of the Governor's Office of Employee Relations concerning its oversight of this program.

◆ **90383 Employee Ethics Records** -- Agency records documenting employee compliance with the state ethics code (Section 74, Public Officers Law) and ethics requirements (Sections 73 and 73-a, Public Officers Law), including memoranda to employees of ethics requirements, employee requests to receive honoraria or travel reimbursement, agency reports to the State Ethics Commission or other bodies of honoraria received, employee requests to engage in outside activities, requests to exempt employees or positions from financial disclosure requirements, notices of adjudicatory actions of the State Ethics Commission or other bodies, and related correspondence, reports and other records.

Minimum Retention and Disposition: Destroy 7 years after end of calendar year or 7 years after records concerning or authorizing ongoing actions have no further validity, whichever is longer.

Justification: Retention period meets potential need for records created under requirements of 19 NYCRR Parts 930, 932, 935, and 941 for use in prosecuting criminal violations of state ethics requirements. Section 73 of Public Officers Law allows for violations of ethics requirements to be treated as Class A misdemeanors, which can be prosecuted up to 7 years after the violation or up to 5 years after employee termination, whichever is sooner [Section 30.10(3-b), Criminal Procedure Law]. Section 74 of Public Officers Law allows for termination of employment of an individual who violates the code of ethics provided in that section.

Note: Agencies may wish to retain records specific to individual employees for additional periods beyond the indicated minimum, such as for the duration of the individual's employment, if such records may be needed to document employee compliance with ethics requirements throughout the duration of their employment. Before disposing of these records, agencies must ensure that no legal actions have been initiated which might require

access to them. If a case-by-case review of files is impractical, the Office of the Attorney General advises retaining the records an additional 3 months beyond the minimum retention period.

◆ **90384 Commercial Motor Vehicle Driver Alcohol and Controlled Substances Testing: Process Documentation Records** -- Records related to the administration of programs to test employees holding commercial motor vehicle driver's licenses for compliance with alcohol and controlled substances requirements, including policies and procedures, quality control records (including calibration documentation for testing equipment), collection logbooks, reports, statistics, and related records.

Minimum Retention and Disposition: Destroy policies and procedures 5 years after superseded or obsolete. Destroy all other records after 5 years.

Justification: The federal Omnibus Transportation Employee Testing Act (49 CFR 382.401 and 40.333) requires some of these records be kept for 5 years. Other related records should be kept for 5 years for consistency.

◆ **90385 Commercial Motor Vehicle Driver Alcohol and Controlled Substances Testing: Driver Test Results and Related Records** -- Verified positive controlled substances test results and alcohol test results indicating an alcohol concentration of 0.02 or greater, records of refusals to take required alcohol or controlled substances tests, Substance Abuse Professionals' reports, follow-up tests and test schedules, driver evaluations and referrals, records of negative and cancelled controlled substances test results and alcohol test results indicating an alcohol concentration less than 0.02, and related records.

Minimum Retention and Disposition: Destroy after 5 years, except destroy records of negative and cancelled tests after 1 year.

Justification: The federal Omnibus Transportation Employee Testing Act (49 CFR 382.401 and 40.333) requires these records be kept for 1 year or 5 years as indicated.

Note: Agencies may wish to maintain records concerning employees for an additional period or include them in the employee's personal history file, especially when they affect an employee's job status.

◆ **90386 Commercial Motor Vehicle Driver Alcohol and Controlled Substances Testing: Education and Training Records** -- Records documenting the education and training of

technicians who administer alcohol and controlled substances tests and of drivers who are required to take such tests.

Minimum Retention and Disposition: Destroy 2 years after the employees who perform the functions which require the training cease to perform those functions.

Justification: The federal Omnibus Transportation Employee Testing Act (49 CFR 382.401) requires these records be kept for the indicated period.

Note: Agencies may also wish to retain a record of training provided to specific employees as a part of Employee Training History records (see item #90022 in the Training section of this schedule).

CIVIL SERVICE ADMINISTRATION

◆ **90007 Classification Files** -- Records of position classifications and allocations for all Civil Service classified titles in an agency. Classification files generally include requests to the Department of Civil Service for new positions, changes to existing positions and reallocations, duty statements, title and salary plans, correspondence, and background material regarding the classification of Civil Service and appointed positions.

Minimum Retention and Disposition: Destroy 10 years after the position/title is reclassified, reallocated, or eliminated, whichever comes first.

Justification: Agency copies of records pertaining to classifications and reallocations become dated and are not needed for administrative purposes 10 years after the next action on a title is completed. The Department of Civil Service maintains the official copy of records of all classification/allocation actions.

Records Not Covered: Position classification and allocation records maintained by the Department of Civil Service in performing its control function.

◆ **90008 Centralized Eligible List Certification Files** -- Copies of Department of Civil Service certified eligible lists, canvass letters, responses to canvass, and other records related to availability canvasses for appointment from lists. These records are usually for job titles common to more than one agency and for which the Department of Civil Service has administered the examination process and maintains the full eligible list.

Minimum Retention and Disposition: Destroy 4 years after the personnel action to

which the records relate.

Justification: Actions under New York State's Human Rights Law (Executive Law Article 15) alleging unlawful employment practice must commence within 3 years, while actions under federal civil rights law (42 USC 1981) must commence within 4 years (28 USC 1658).

Records Not Covered: *Eligible lists and related records maintained by the Department of Civil Service in performing its control function.*

Note: *Before disposing of these records, agencies must ensure that no legal actions have been initiated which might require access to them. If a case-by-case review of files is impractical, the Office of the Attorney General advises retaining the records an additional 3 months beyond the minimum retention period.*

◆ **90009 Decentralized Eligible List Certification Files** -- Agency certified eligible lists, canvass letters, responses to canvass letters, geographic preference information and other records pertaining to availability canvasses for appointment from lists. These records are usually for job titles unique to an agency which are filled by agency-administered promotional or open competitive examinations under the Department of Civil Service's decentralized examination program.

Minimum Retention and Disposition: **Destroy 4 years after expiration of decentralized eligible list (lists may be active up to 4 years).**

Justification: A 4-year retention period should be used for decentralized certification records because the agency must prove compliance with Civil Service Law and because actions under New York State's Human Rights Law (Executive Law Article 15) alleging unlawful employment practice must commence within 3 years, while actions under federal civil rights law (42 USC 1981) must commence within 4 years (28 USC 1658).

Records Not Covered: *Department of Civil Service records maintained in performing its control function.*

Note: *Before disposing of these records, agencies must ensure that no legal actions have been initiated which might require access to them. If a case-by-case review of files is impractical, the Office of the Attorney General advises retaining the records an additional 3 months beyond the minimum retention period.*

◆ **90010 Examination Development Files** -- All records relating to the development and preparation of a Civil Service examination, including proposed training and evaluation rating

schedules, examination scope records, proposed examination questions, and justification documentation for examination.

Minimum Retention and Disposition: Destroy 1 year after a subsequent examination is developed for the title or 1 year after elimination of this title from the agency, whichever comes first.

Justification: Previous examination development records may be needed to develop new examinations.

Records Not Covered: Examination development records maintained by the Department of Civil Service in performing its control function.

◆ **90011 Examination Administration Files** -- All records relating to the administration of decentralized (agency-administered) examinations, including examination announcements, correspondence with candidates, examination applications, copies of examinations, lists of candidates, examination rating sheets, examiners' comments, records documenting rating criteria, examination results, and related documentation.

Minimum Retention and Disposition: Destroy 4 years after expiration of eligible list.

Justification: Actions under New York State's Human Rights Law (Executive Law Article 15) alleging unlawful employment practice must commence within 3 years, while actions under federal civil rights law (42 USC 1981) must commence within 4 years (28 USC 1658).

Records Not Covered: Examination administration records maintained by the Department of Civil Service in performing its control function.

Note: Before disposing of these records, agencies must ensure that no legal actions have been initiated which might require access to them. If a case-by-case review of files is impractical, the Office of the Attorney General advises retaining the records an additional 3 months beyond the minimum retention period.

BENEFITS AND HEALTH INSURANCE ADMINISTRATION

◆ **90012 Health Insurance Files** -- Records of employees' health insurance transactions, including but not limited to forms and related records concerning enrollment, deferred health coverage, statements of disability, and related matters.

Minimum Retention and Disposition: Destroy 6 years after employee separation from agency or after employee is no longer eligible for insurance.

Justification: Records may be needed to verify benefits or as evidence in litigation initiated under Section 213 of the Civil Practice Law and Rules.

Records Not Covered: Health insurance records maintained by the Department of Civil Service in performing its control function.

Note: Before disposing of these records, agencies must ensure that no legal actions have been initiated which might require access to them. If a case-by-case review of files is impractical, the Office of the Attorney General advises retaining the records an additional 3 months beyond the minimum retention period.

90014 Retirement Benefits Files -- Records of an employee's retirement benefits from the NYS Retirement System, including copy of original application, statement of arrears, loan or arrears deduction notices, stop loan/arrears deduction notices and all supporting documentation.

Minimum Retention and Disposition: Destroy 1 year following completion of retirement processing or upon separation from agency before retirement eligibility.

Justification: The State Retirement System is the office of record for all records pertaining to retirement benefits and loan/arrears. Retention of agency copy for 1 year following retirement or separation is sufficient to correct errors and respond to inquiries.

Records Not Covered: Retirement benefits records retained by the New York State Retirement System. Retirement system declination forms are not maintained by the New York State Retirement System and therefore should be retained as part of the employee's Personal History File (item #90001).

Note: Agencies may wish to retain and dispose of this information together with the Personal History File (item #90001).

◆ **90015 Workers' Compensation Files --** Agency records concerning workplace injuries and illnesses and subsequent workers' compensation claims filed by employees. Records include a record of all injuries or occupational illnesses prepared pursuant to Section 110 of Workers' Compensation Law, copies of documents filed with or received from the Workers' Compensation Board or State Insurance Fund concerning the injury/illness and any subsequent compensation claim, and related correspondence and other records.

Minimum Retention and Disposition:

a.) Records of allowed claims: Destroy case files, including basic record of injuries and illnesses, 18 years after the injury or illness or 8 years after final payment on the award, whichever occurs later.

b.) Records of claims disallowed or otherwise disposed of without an award: Destroy case files, excluding basic record of injuries and illnesses, 7 years after the injury or illness. Destroy basic record of injuries or illnesses 18 years after the injury or illness.

c.) Records of injuries or illnesses not resulting in claims: Destroy record of injuries and illnesses 18 years after the injury or illness.

Justification: Section 110 of Workers' Compensation Law requires that a record of all injuries and occupational illnesses be retained for a minimum of 18 years. Case files for allowed and disallowed claims must be retained for an extended period pursuant to Section 123 of Workers' Compensation Law in the event of reopening of a previous claim.

Records Not Covered: *Workers' compensation records maintained by the Workers' Compensation Board, State Insurance Fund, or workers' compensation litigation files in the Attorney General's Office.*

Note: *Before disposing of these records, agencies must ensure that no legal actions have been initiated which might require access to them. If a case-by-case review of files is impractical, the Office of the Attorney General advises retaining the records an additional 3 months beyond the minimum retention period. For related records, also see item #90295, Employee Occupational Injury and Illness Incident Logs, Reports and Summaries in the Health, Safety, and Security section of this schedule. Also note that the Workers' Compensation Board and State Insurance Fund do not maintain records of benefit enhancements provided to state employees. Agencies should therefore maintain records of employer-provided benefits for absences related to each workers' compensation case (e.g., leave with pay without charge to credits, award and supplement payments), and other leave transactions related to a case (e.g., recrediting or restoring leave credits). These records should be maintained as part of the case file for the indicated retention period. The state needs the information in these records to ensure that an employee receives only the benefits to which he or she is entitled if a case is reopened.*