

# COMMITTEE FOR PUBLIC COUNSEL

## INTERNAL CONTROL PLAN

### **Section 9 Paper Records Management**

#### **9. I. Introduction**

This policy establishes standards for the management, retention and destruction of CPCS paper records. Paper records include the original of an agency document that has been scanned from paper or remains paper for the retention period. The goals of this policy are:

- To define uniform procedures to manage all paper and scanned format records for the agency, and
- To ensure compliance with the Massachusetts Rules of Professional Conduct related to legal records.

CPCS manages its legal case file records under the mandates of the Massachusetts Supreme Judicial Court Rule 3:07, “Rules of Professional Conduct.”

CPCS manages administrative file records in accordance with the State Comptroller regulation 815 CMR 10.00: Records Management of Bills, Vouchers and Contracts, and with guidance from the Secretary of State’s Massachusetts Statewide Records Retention Schedule.

CPCS is not subject to the Public Records Law. See Kettenbach v. Board of Bar Overseers, 448 Mass 1019 ( 2007). In this case the SJC determined that judicial branch agencies are not subject to the Public Records Law. The Public Records Division of the Secretary of State’s office has held in numerous decisions that CPCS is a judicial agency.

#### **9. II. Records Administrator and Keeper of the Records**

The Chief Financial Officer (CFO) has been appointed the Records Administrator and oversees all paper records for CPCS. The Records Administrator is responsible for establishing standard schedules governing the retention and disposition of CPCS paper records as follows:

- Finalize the records retention schedule for all administrative records, including finance, human resources, security, audit and other administrative records.
- Collaborate with the Director of Administration and Operations to create and finalize the records retention schedule for the legal records.

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The General Counsel is the ‘Keeper of the Records’ for the Committee for Public Counsel. The Keeper of the Records is responsible for responding to all legal discovery requests and when appropriate, intergovernmental and public inquiries.

### **9. III. Segregation of Duties**

The Records Administrator reports annually to the Senior Management Team on the status of records management. After this report is accepted, the Records Manager or designee notifies the Senior Management Team, Attorneys-in-Charge and Administrative Assistants at CPCS offices that records may be shredded in accordance with this policy.

Records that are stored off-site must be coordinated with the Records Administrator or designee for purposes of documenting record location and cost.

### **9. IV. Signature Authorization**

The Records Administrator or designee authorizes record destruction on an annual basis. Files must be shredded in accordance with the CPCS PAPER RECORDS RETENTION SCHEDULE located at the end of this section. The schedule includes all records that must be kept by the agency and is reviewed and updated annually. If a record is not on the schedule or there is any question whether a document type should be retained, contact the Records Administrator for guidance.

### **9. V. Policy**

It is the responsibility of the agency to retain the official records of the agency. An official record, whether paper or scanned, has a retention schedule. The following are the records management guidelines:

- Official Agency Records—official records are listed on the CPCS PAPER RECORDS RETENTION SCHEDULE at the end of this Section and must be kept either in paper or digitally(scanned) for the length of the retention period.
- Copies of official records can be kept until administrative use ceases. This means that the employee holding the copy can shred it when the copy is no longer needed.
- Annual review and disposition of records—The Records Administrator or designee will issue a notification annually to shred official records with retention periods that expired at the end of the previous fiscal year. Scanned records will need to be deleted from their storage media.
- Documents that do not have a retention schedule can be shredded when the holder no longer needs the document.

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- Personally Identifiable Information (PII)—all CPCS records could have PII and therefore, all agency created paper is shredded. Publications and documents created outside the agency can be disposed of in unsecured recycling containers.
- Storage of records—Paper records can be stored on-site or digitally on the network.

Official Agency Records in paper format may be scanned and substituted for the original document, unless this is prohibited by law, regulation or CPCS policy. For example, murder cases can never be destroyed. They can be scanned for easier access but the paper case file can never be destroyed.

### Scanning Requirements

Official Agency Records with a retention period greater than six years must be stored in scanned format on the CPCS network. Local offices have the official record of legal case files. Central office has the official record of administrative files and some legal case files.

Legal Case Files “It is CPCS policy to maintain all closed case files indefinitely in electronic form. In addition, CPCS maintains paper files for a minimum of one year after a case is closed. Whenever possible, CPCS maintains paper murder files indefinitely.

Before any paper case file is destroyed, CPCS will determine that:

1. The case file has been scanned;
2. The scanned file is:
  - a. Readable (i.e, the scanning was properly completed and is in a format that can be read with current technology and, as best as can be determined, will be capable of conversion to future developed technology as necessary); and
  - b. Reasonably Retrievable (i.e. the case file is named and stored in a fashion that can be easily retrieved); and
3. The case has been closed for a minimum of one year.”

Based on this policy, the following procedures should be followed. Legal files are scanned to the CPCS network and have a permanent retention schedule.

- After a legal case closes, local offices retain the paper file on site for one full fiscal year (July 1-June 30).
- Local offices scan closed legal case files anytime while the paper files are on site using the following standard naming convention (retrieval index):
  - Fiscal year case closed
  - Last name, first name of file
  - Case #
  - Box # for murder cases only
- With the exception of murder cases, local offices shred paper case files during the annual notification from the Records Administrator or designee. For example, case files that close in FY2020 can be shredded in July of FY2022 as long as they have been scanned.

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- Murder case files may be kept in the local office if there is sufficient room. If not, contact the Facilities Director for assistance.

Administrative Files have multiple retention schedules from one year to permanent.

- Finance Department paper records are scanned to the CPCS network and shredded in accordance with department policy. The exception is contracts. The closed paper contract must be retained on site for one full fiscal year (July 1-June 30).  
Finance files are scanned using the following retrieval index:
  - Vendor Name: Last Name, First Name
  - Vendor Code
  - Budget Fiscal Year
  - Brief Description
  - Appropriation (if applicable, based on document type)
  - Start Date, End Date
- Closed Employee Files are scanned to the CPCS network and have a 50 year retention schedule. HR should retain the closed paper Employee File on site for two years after the employee separates from CPCS. All paper files must be scanned prior to destruction using the following retrieval index:
  - Employee Name: Last name, First Name
- All other administrative records should be maintained in accordance with the CPCS PAPER RECORDS RETENTION SCHEDULE at the end of this Section.

The applicable retention period for a record does not change when a properly scanned image of the record is created. A record's standard retention period begins according to the retention schedule, not the date on which the scanned image was created. Before shredding a document, it must be confirmed accessible on the CPCS network.

### **9. VI. Frequently Asked Questions**

1. Should all CPCS paper be shredded at the end of its retention period? Yes, with the exception of murder case files.
2. Should copies of documents be kept? Only until administrative use ceases. This means that the employee holding the copy can shred it when the copy is no longer needed.
3. What CPCS records should be scanned? Official Agency Records with a retention period greater than six years must be stored in scanned format on the network and the paper shredded with the exception of murder case files. The paper murder case files are stored forever.
4. How long should legal case files be kept? Legal case files are retained permanently.
5. How long should paper copies of legal case files be kept in the local office? CPCS offices must retain current year plus previous fiscal year cases in paper on-site. The files can be scanned at any time during these two years. For example, if a case closes in FY20, the office must keep the paper for the balance FY20 and FY21, then it can be scanned (if not previously scanned) and shredded in FY22. Questions regarding this process can be directed to the Facilities Team at the CPCS central office.
6. Can murder cases be shredded? NO, the paper murder case records must be kept permanently. They may be scanned for easier access and stored on or off-site.

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7. What does *retained until administrative use ceases* mean? The paper is a copy or does not have an official retention period. It can be shredded when the employee no longer has a need for it.