

6001-J RECORDS MANAGEMENT LITIGATION HOLD

EFFECTIVE DATE: February 28, 2024

REFERENCES: A.R.S. § 38-421, A.R.S. § 39-121-.01, A.R.S. § 41-151.12, A.R.S. § 41-151.13, A.R.S. § 41-151.14, A.R.S. § 41-151.15, A.R.S. § 41-151.16, A.R.S. § 41-151, A.R.S. § 41-151.18, Arizona State Library, Archives and Public Records Schedule Numbers: DES-CS-1125 - 35132, 35131, 53310, and 53311

PURPOSE

This policy applies to all Division of Developmental Disabilities (the Division) staff. The purpose of this policy is to outline staff responsibility when there is a litigation hold Notice to Preserve.

DEFINITIONS

1. "Custodian of Records" or "Custodian" means any Division employee who manages records at the office level and is the base for implementing records management policies and procedures by applying a records-retention schedule.
2. "Disposition Schedule" or "Retention Schedule" means a list of record series titles that indicates the minimum length of time to

maintain each series and what should happen once the retention period has been met.

3. "Employee Tracking List" means a comprehensive list of Division employees who are or were associated with the coordination of care for a Member related to a litigation hold notice to preserve.
4. "Litigation Hold" means an internal process that an organization undergoes to preserve all data that might relate to a legal action involving the organization.
5. "Member" means the same as "client" as defined in A.R.S. § 36-551.
6. "Notice to Preserve" means a letter or other notice informing an employee of actual or reasonably anticipated litigation, otherwise known as a pre-claim, and directing the employee or group of employees to identify, collect, and preserve relevant information.
7. "Records" means all hardcopy and electronic books, paper, emails, maps, photographs, drafts, markups, or other documentary materials, regardless of physical form or characteristics, including prints or copies of such items produced or reproduced on film or electronic media pursuant to A.R.S. §

41-151.16; made or received by any governmental agency in pursuance of law or in connection with the transaction of public business and preserved or appropriate for preservation by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the government, or because of the informational and historical value of the data contained therein, and includes records that are made confidential by statute. Library or museum material made or acquired solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference and stocks of publications or documents intended for sale or distribution to interested persons are not included within the definition of records. All records media are included in this definition from the traditional paper forms to electronic types in use (i.e., email, social media), and/or forms of records not yet invented.

8. "Records Management Center" or "RMC" means the facility where DCS records are stored, retrieved, and eventually destroyed according to record retention schedules.

9. "Records Management Unit" or "RMU" means the Division's records department that maintains and oversees the management of Member records.

POLICY

- A.** The Division shall retain any record upon Notice to Preserve relevant to litigation as follows:
 1. The Division shall retain relevant records:
 - a. For six years after the prospect of litigation ends or according to the record disposition schedule for DES-CS-1125, whichever is later; and
 - b. If there is no court action until the expiration of all time periods within which legal action may be taken.
 2. Division employees having access to any records outlined in a Litigation Hold shall preserve all records in their original forms.
 3. The Division shall prevent the destruction, alteration, or deletion of relevant information and records.
 4. The Division shall preserve the following types of items for a Litigation hold:
 - a. Emails;

- b. Contact lists;
- c. Text/chat messages;
- d. Spreadsheets;
- e. Presentations;
- f. Databases, or other data stored;
- g. Video, transcripts and audio recordings;
- h. Medical documentation; and
- i. Documentation of services, and anything else that can be electronically stored and is related to the litigation subject.

B. The RMU shall:

- 1. Gather all records related to the actual or anticipated litigation, including paper and electronically stored records, and
- 2. Review documents to identify Division staff names for the given time period outlined in the litigation hold;

C. The RMU shall preserve, catalog, and retain the related files within the Records Management Center:

- 1. The Custodian shall not remove, transfer, or destroy preserved records while the Litigation Hold is in place.

2. After the notice to preserve has been lifted, RMU staff shall adhere to the appropriate retention period ends.