



# MARIPOSA COUNTY

Human Resources/Risk Management • (209) 742-1375



## **RESOLUTION - ACTION REQUESTED 2016-92**

MEETING: March 1, 2016

TO: The Board of Supervisors

FROM: Steve Johnson, Human Resources Director - Risk Manager

RE: Approve Records Retention Schedule for Human Resources/Risk Management

---

### **RECOMMENDATION AND JUSTIFICATION:**

Adopt a Resolution Approving a Comprehensive Records Retention Schedule for the Human Resources/Risk Management Department effective immediately.

At the request of the County Administrative Officer, the Human Resources/Risk Management Department has a desire to cull old files that are stored in the Government Center vault and in the Human Resources/Risk Management Department due to storage concerns. Human Resources/Risk Management Department staff engaged the services of labor law attorney Patricia Eyres who was retained through the CSAC Excess Insurance Authority (EIA), the County's insurance and loss prevention agency; there was no cost to retain Ms. Eyres as her services are included in the administrative fee paid to the EIA. Ms. Eyres' reviewed Resolution No. 05-180, which approved a timeframe of when the destruction of archived recruitment files and closed Workers' Compensation files could be done and she made recommendations for a comprehensive Records Retention Schedule that ensured compliance with legal requirements. Ms. Eyres broadly incorporated a wide variety of Human Resources/Risk Management records, some of which included records that pertain to the County Auditor's office, and staff then coordinated a review of the proposed Schedule with the County Auditor. Human Resources/Risk Management Department staff also met separately to review the proposed Schedule with the Auditor and the Clerk of the Board.

Staff understands from the Clerk of the Board that each County department is responsible for developing and/or updating its own destruction of records schedule or Records Retention Schedule. With the adoption of this Records Retention Schedule, staff will systematically purge files according to the stated parameters of this Schedule.

### **BACKGROUND AND HISTORY OF BOARD ACTIONS:**

On May 10, 2005, Resolution No. 05-180 was adopted by the Board of Supervisors which approved the destruction of archived recruitment files and closed Workers' Compensation files.

### **ALTERNATIVES AND CONSEQUENCES OF NEGATIVE ACTION:**

Laws relating to the retention of documents pertaining to Human Resources/Risk Management have changed since the May 2005 action. A negative action could result in: 1) potential noncompliance with applicable laws; and 2) a delay in staff purging old files resulting in on-going file storage concerns.

**FINANCIAL IMPACT:**

**None.**

**ATTACHMENTS:**

**Patti Eyres' memo (PDF)**

**Records Retention Resolution (DOC)**

**HR-Risk Management Records Retention Schedule - Resolution Attachment "A" (PDF)**

**CAO RECOMMENDATION**

Requested Action Recommended

  
Mary Hodsos, CAO 2/23/2016

**RESULT: ADOPTED BY CONSENT VOTE [UNANIMOUS]**

**MOVER:** Marshall Long, District III Supervisor

**SECONDER:** Kevin Cann, District IV Supervisor

**AYES:** Smallcombe, Jones, Long, Cann, Carrier

**MARIPOSA COUNTY RESOLUTION NUMBER 16-92**

**RESOLUTION ESTABLISHING THE RECORDS RETENTION SCHEDULE FOR THE MARIPOSA COUNTY HUMAN RESOURCES/RISK MANAGEMENT DEPARTMENT**

**WHEREAS**, Federal and State laws and regulations allow for the destruction of certain records that are related to Human Resources and Risk Management; and

**WHEREAS**, GC §26201 provides that the Board may destroy duplicate records; and

**WHEREAS**, GC §26202 provides that the Board of Supervisors may authorize the destruction or disposition of any records, paper, or document that is more than two years old, which was prepared or received in any manner other than pursuant to a State statute or County charter; and

**WHEREAS**, GC §26202 also provides that the Board of Supervisors may, by a 4/5<sup>th</sup> vote, authorize the destruction of any record, paper, or document that is more than two years old which was prepared or received pursuant to a State statute, and which is not expressly required by law to be filed and preserved, if the Board determines that the record, paper, or document is no longer necessary or required by County purposes; and


**WHEREAS**, GC §26202 provides that such records, papers, or documents subject to that section need not be photographed, reproduced, or microfilmed prior to destruction, and that no copy thereof need be retained; and

**WHEREAS**, the Human Resources Director/Risk Manager has determined that certain records in his possession have no apparent historical significance, and have no further administrative or litigation value and, therefore, is seeking continuing authorization to destroy, pursuant to Federal and State laws and regulations, those records listed in the schedule attached hereto as Exhibit "A" after the retention periods specified therein.

**NOW, THEREFORE BE IT RESOLVED**, that the Board of Supervisors of Mariposa County, a political subdivision of the State of California, hereby finds there is a need for an orderly and controlled plan for the management, retention, and systematic destruction of those records and documents that are not required to be maintained by either State or local regulations, and which are no longer needed or required for County purposes. The Human Resources Director/Risk Manager is hereby granted continuing authorization to destroy those records and documents pursuant to the schedule attached hereto as Attachment "A."

**PASSED AND ADOPTED** by the Board of Supervisors of the County of Mariposa, a political subdivision of the State of California, this 23rd day of February, 2016 by the following vote:

AYES: SMALLCOMBE, JONES, LONG, CANN, CARRIER  
NOES: NONE  
ABSENT: NONE  
ABSTAINED: NONE

  
\_\_\_\_\_  
**JOHN CARRIER**, Chair  
Mariposa County Board of Supervisors

**ATTEST:**

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
**RENÉ LAROCHE**  
Clerk of the Board

  
\_\_\_\_\_  
**STEVEN W. DAHLEM**  
County Counsel

EXHIBIT "A"

**Human Resources - Risk Management  
Records Retention and Management Schedule**

*\*\*In the absence of a statutory retention period, the default period under Government Code section 26202 is two years (for purposes of definition, two years is 24 months.) if the Department wishes to retain records for a period longer than the statutory default or a more specific provision, the rationale for the determination will be listed in the schedule.*

RECORD SERIES NAME	DESCRIPTION	RETENTION PERIOD	AUTHORITY/RATIONALE	DISPOSAL	LOCATION OF ORIGINAL
Background investigations and credit checks	Recruiting and hiring records pertaining to all applicants for employment, including correspondence to applicants, consumer reports from investigation agencies	6 years for consumer reports 6 years for authorizations and releases for background checks	Fair Credit Reporting Act, 15 U.S.C. §1681 California Civil Code §§1785.1 – 1785.6	Shred or delete	HR - Risk Management
Documents / Records - Departmental, Accounting	Departmental copies of Purchase Orders, Invoices, accountings, etc.	Final Payment + 3 years	Gov. Code § 26202, 26205.1	Any method	Department
Documents / Records - Miscellaneous	Miscellaneous correspondence, documents, not required to be kept statutorily	Closed/Completed + 2 years	Gov. Code § 26202, 26205.2	Any method	Department
Drug Test Records	Department of Transportation (DOT) covered safety-sensitive transportation positions; aviation, trucking, railroads,	2 years from test	§382.401 for specific DOT retention requirements)	Shred or delete	HR - Risk Management
Duplicates of any departmental record	Duplicates of any documents	Upon verification that original is available	Gov. Code § 26202, 26205.1	Shred or delete	HR - Risk Management
Employment Records for California employees	Employment applications for every applicant; Personnel or employment records and files, including employee ID; Tests completed by applicants or employees (seeking promotions, transfers, etc.) Personnel or other employment records made or kept by an employer dealing with any employment practice and affecting any employment benefit of any applicant or employee	2 years after records created or received or 2 years from the date of the last personnel action, whichever is later	California Fair Employment & Housing Act, CA. Govt Code § 12940 Secretary of State Local Records management Guidelines developed per CA. Gov't Code §§12236, 26202, 26205.1	Shred or delete	HR - Risk Management

RECORD SERIES NAME	DESCRIPTION	RETENTION PERIOD	AUTHORITY/RATIONALE	DISPOSAL	LOCATION OF ORIGINAL
Employment Records - Benefits	All records pertaining to group health and welfare benefits, other employer sponsored benefit programs. ERISA reporting and disclosure requirements apply to all pension and welfare plans, including: Summary plan description (updated with changes and modifications), annual reports, notice or reportable events (such as plan amendments that may decrease benefits, a substantial decrease in the number of plan participants, etc.), plan termination.	6 year	Employee Retirement Income Security Act (ERISA). Secretary of State Local Records management Guidelines developed per CA. Gov't Code §§12236, 26202, 26205.1	Shred or other permanent destruction of electronic records	HR - Risk Management
Employment Records - Selection & Hiring	Job applications, resumes, job ads, screening tools/tests, interview notes and other records related to hire/no hire decisions. Records related to promotions, demotions, transfers, performance appraisals, terminations, reasonable accommodations and/or requests, training records, incentive plans, merit systems, and seniority systems. Copy of EEO-1 survey and intake forms if applicable.	2 years after creation of the document or the hire/no hire decision whichever is later.	Age Discrimination in Employment Act, 29 U.S.C. §621-634 - Americans with Disabilities Act, 42 U.S.C. §12101- Title VII of the Federal Civil Rights Act of 1964, 42 U.S.C. §20009e) et. seq. Section 503 of the Rehabilitation Act of 1973, 29 U.S.C. §794 Secretary of State Local Records management Guidelines developed per CA. Gov't Code §§12236, 26202, 26205.1	Shred or other permanent destruction of electronic records	HR - Risk Management

RECORD SERIES NAME	DESCRIPTION	RETENTION PERIOD	AUTHORITY/RATIONALE	DISPOSAL	LOCATION OF ORIGINAL
Equal Employment Records Affirmative Action Records	Affirmative Action Plan/Data; records of hiring, dates of employment for veterans	2 years	Title VII of the Federal Civil Rights Act of 1964, 42 U.S.C. §2000e Vietnam Veterans Readjustment Act of 1974, 38 U.S.C. §4212 OFCCP Executive orders al Records management Guidelines developed per CA. Gov't Code §§12236, 26202, 26205.1	Shred or delete	HR - Risk Management
Form I-9	Form I-9 and backup identification documentation used in hiring process to verify eligibility to work	3 years after date of hire or one year after date of termination, whichever is later	Immigration Reform and Control Act (1 or more employee)	Shred or other permanent destruction	HR - Risk Management
Health Care Continuation COBRA	COBRA notices to employees and their dependents of their option to continue group health plan coverage following certain qualifying events, such as the employee's termination, layoff or reduction in working hours, entitlement to Medicare, or the death or divorce of the employee (that would cause dependents to lose coverage under the employer's plan).	Recommended 6 years from the date of the record to remain consistent with ERISA requirements.	Consolidated Omnibus Budget Reconciliation Act (20 or more employees) Secretary of State Local Records management Guidelines developed per CA. Gov't Code §§12236, 26202, 26205.1	Shred or delete	HR - Risk Management

RECORD SERIES NAME	DESCRIPTION	RETENTION PERIOD	AUTHORITY/RATIONALE	DISPOSAL	LOCATION OF ORIGINAL
Leaves of Absence Records	All FMLA records, including leave requests, Health Care Provider Certifications, correspondence Basic employee data, including name, address, title, pay, terms of compensation, daily and weekly hours worked per pay period, additions to/deductions from wages and total compensation. Dates of leave taken by eligible employees, designation letters. For intermittent leave taken, the hours of leave. Copies of employee notices and documents describing employee benefits or policies and practices regarding paid and unpaid leave. Records of premium payments of employee benefits. Records of any dispute regarding the designation of leave.	3 years	Federal Family & Medical Leave Act (FMLA) Secretary of State Local Records management Guidelines developed per CA. Gov't Code §§12236, 26202, 26205.1	Shred or other permanent destruction of electronic records	HR - Risk Management
Leave of Absence	Attendance records. Basic payroll and identifying employee data, including terms of compensation, daily and weekly hours worked for non exempt employees Dates leave is taken. Leave must be designated in records as FMLA leave (may not include leave under state law or employer sick leave program) If FMLA leave is taken in increments of less than one full day, the hours of leave Copies of employee notices, designations of leave Documents (including paper or digital) describing employee benefits or policies <u>and practices</u> regarding paid and unpaid leaves.	3 years	California Family Rights Act	Shred or delete	HR - Risk Management

RECORD SERIES NAME	DESCRIPTION	RETENTION PERIOD	AUTHORITY/RATIONALE	DISPOSAL	LOCATION OF ORIGINAL
Payroll and compensation records	Basic employee data: name, address, Social Security number, gender, date of birth, occupation and job classification. Compensation records: Amounts and dates of actual payment: Time and day of week when employee's workweek begins. Total hours worked each day and workweek; Basis and rate which employee's wages are paid; Straight time and overtime hours/pay. All additions to or deductions from the employee's wages; Total wages paid each pay period.; Date of payment and the pay period covered by the payment. Records explaining any sex-based pay differences. Benefits and pension payments	3 years (There are no retention requirements under Lilly Ledbetter, however it is recommended that employers retain records for length of employment, plus an additional 5 years	Age Discrimination in Employment Act, 29 U.S.C. §621-634 Fair Labor Standards Act, 29 U.S.C. §202, et. seq. Federal Equal Pay Act of 1963, 29 U.S.C. §206, et. seq. Lilly Ledbetter Fair Pay Act, Publ L. 111-2, Section 181., amended Title VII of the Civil Rights Act of 1964 Family Medical Leave Act (FMLA), 29 U.S.C. Chapter 28, §§2601-2654 Secretary of State Local Records management Guidelines developed per CA. Gov't Code §§12236, 26202, 26205.1	Shred or other permanent destruction of electronic records	HR - Risk Management
Payroll Records	Names and addresses of all employees and ages of minors (2 years); Payroll records showing the hours worked, daily and wages paid to all employees (2 years); Job classifications (2 years); Deduction made from wages, recorded in ink or other indelible form and properly dated with the month, day and year of the deduction (3 years) Time cards (7 years)	4 years	California Labor Code Fair Labor Standards Act Secretary of State Local Records management Guidelines developed per CA. Gov't Code §§12236, 26202, 26205.1	Shred or delete	HR - Risk Management
Personnel Records - Departmental Copies	Departmental copies of memos, payroll action forms, etc.	Separation + 2 years	Gov. Code § 26202, 26205.1	Shred or delete	Department
Policies - Departmental	HR/Risk Management Departmental procedures	Revised or Superseded + 2 years	Gov. Code § 26202, 26205.2	Any method	Department



RECORD SERIES NAME	DESCRIPTION	RETENTION PERIOD	AUTHORITY/RATIONALE	DISPOSAL	LOCATION OF ORIGINAL
Safety Data	Log of occupational injuries and illnesses. Records of injuries and illnesses. Summary of injuries and illnesses. Records of exposure to toxic substances for each employee.	5 years following the year records pertain to Medical (FFD) exams, material safety data sheets and exposure to toxic substances records retained for the duration of employee's job tenure plus <b>30 years</b>	Federal Occupational Health & Safety Act California Occupational & Safety Act Secretary of State Local Records management Guidelines developed per CA. Gov't Code §§12236, 26202, 26205.1	Shred or other permanent destruction of electronic records	HR - Risk Management
Sick Leave Records New CA. Paid Sick Leave Law (applicable to employees not covered by MOUs or PTO policies)	Records documenting the hours worked and paid sick days accrued and used by an employee.	3 years	California Labor Code	Shred or delete	HR - Risk Management
Unemployment records	Dates covered by pay period, name, SSN, date of hire and place of work, amount paid to each worker each pay period, disbursement records that show payments to anyone who performed services, other records necessary for the employer to determine total pay each week	4 years	CA. Unemployment Insurance Code Secretary of State Local Records management Guidelines developed per CA. Gov't Code §§12236, 26202, 26205.1	Shred or delete	HR - Risk Management

RECORD SERIES NAME	DESCRIPTION	RETENTION PERIOD	AUTHORITY/RATIONALE	DISPOSAL	LOCATION OF ORIGINAL
Workers' Comp claims records	Dated copy of DWC Form 1 Copy of DLSR Form 5020 (Employer's First Report) A copy of every DLSR Form 5021 Doctor's First Report Original or copy of every medical report pertaining to the claim Annual claim logs A record of compensation payments Documentation sufficient to determine average weekly earnings Estimate of future liability Copy of every notice, correspondence either initiated or received by the claims administrator, or DWClisting all work related injury claims, open and closed (5 years from the end of the year covered) Copy of applications for adjudication of claim filed with WCAB Copies of notices sent to the employee All orders or awards of the WCAB	Open claims 5 years from DOI or last benefit payment, whichever is later Closed claims: original paper files 2 years after claim is closed or inactive. Annual claim logs, listing all work injury claims, open and closed (5 years from end of the year covered). Claim log must be provided within 14 days of receiving a written request from the administrative director.	Labor Code and CA. Code of Regulations	Shred or delete	HR - Risk Management

# EYRES

**ELG** LAW GROUP, LLP

Memorandum to: Steve Johnson, HR Director/Risk Manager – Mariposa County  
From: Patricia S. Eyres, Attorney at Law  
Date: May 26., 2015  
Re: Records Retention – Preliminary information on retention and disposal

This memo contains preliminary information on retention and disposal of records pertaining to County facilities and worksites. We have focused only on key risk management and HR/personnel records with retention requirements.

I have not addressed email, hard copy or digital correspondence, working files and records, and other records that are customarily kept in the ordinary course of business. This is a big part of records retention policies, and should be addressed. It is also relevant to compliance with the California Public Records Act (CPRA).

I have not separately addressed recordkeeping for employee and applicant medical files (other than the requirements for maintaining leave records and workers' comp open and closed claims). This is more relevant to recordkeeping and privacy policies, and we can address that separately. I recently did a webinar for CSAC EIA on those issues, and there are requirements under the Federal ADA and Genetic Information Non Discrimination Act (GINA), as well as FMLA, CFRA, California FEHA and other relevant laws and CA. Code of Regulations.

Finally, I have not focused on the specifics of a broader "Document Retention and Disposal" policy than the County's current policy. Such a policy would include definitions of key terms, retention periods by class of documents, compliance with CPRA requirements and procedures for litigation holds (which are to remove from the regular disposal cycle any/all documents potential relevant to actual, threatened or anticipated litigation).

After you have reviewed the attached information, please let me know if you have questions. Also, let me know what further assistance I can provide you with sample policy language, etc.

See attached documents.