

**RULE 26. Court Records Management and Retention.**

**(A) Applicability.** (1) This rule and Sup. R. 26.01 to 26.05 are intended to provide minimum standards for the maintenance, preservation, and destruction of records within the courts and to authorize alternative electronic methods and techniques. Implementation of this rule and Sup. R. 26.01 to 26.05 is a judicial, governmental function.

(2) This rule and Sup. R. 26.01 to 26.05 shall be interpreted to allow for technological advances that improve the efficiency of the courts and simplify the maintenance, preservation, and destruction of court records.

**(B) Definitions.** As used in this rule and Sup. R. 26.01 to 26.05:

(1) “Administrative record” means a record not related to cases of a court that documents the administrative, fiscal, personnel, or management functions of the court.

(2) “Case file” means the compendium of original documents filed in an action or proceeding in a court, including the pleadings, motions, orders, and judgments of the court on a case by case basis.

(3) “Index” means a reference record used to locate journal, docket, and case file records.

(4) “Journal” means a verbatim record of every order or judgment of a court.

(5) “OHS” means the Ohio Historical Society, State Archives Division.

(6) “Record” means any document, device, or item, regardless of physical form or characteristic, created or received by or coming under the jurisdiction of a court that serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the court.

**(C) Combined records.** Notwithstanding any other provision of the law, a court may combine indexes, dockets, journals, and case files provided that the combination contains the components of indexes, dockets, journals, and case files as defined in this rule and Sup. R. 26.01 to 26.05. A court may replace any paper bound books with an electronic medium or microfilm in accordance with this rule.

**(D) Allowable record media.** (1) A court may create, maintain, record, copy, or preserve a record on traditional paper media, electronic media, including text or digital images, or microfilm, including computer output to microfilm.

(2) A court may create, maintain, record, copy, or preserve a record using any nationally accepted records and information management process, including photography, microfilm, and electronic data processing, as an alternative to paper. The process may be used in

regard to the original or a copy of a record if the process produces an accurate record or copy and the process complies with American National Standards Institute ("ANSI") standards and guidelines or, in the event that ANSI standards cease to exist, other nationally accepted records and information management process standards.

(a) If a court creates, maintains, records, copies, or preserves a record using a records and information management process in accordance with division (D)(2) of this rule and the record is required to be retained in accordance with the schedules set forth in Sup. R. 26.01 to 26.05, the court shall cause a back-up copy of the record to be made at periodic and reasonable times to insure the security and continued availability of the information. If Sup. R. 26.01 to 26.05 require the record to be retained permanently, the back-up copies shall be stored in a different building than the record it secures.

(b) Records shall be maintained in conveniently accessible and secure facilities, and provisions shall be made for inspecting and copying any public records in accordance with applicable statutes and rules. Machines and equipment necessary to allow inspection and copying of public records, including public records that are created, maintained, recorded, copied, or preserved by an alternative records and information management process in accordance with division (D)(2) of this rule, shall be provided.

(c) In accordance with applicable law and purchasing requirements, a court may acquire equipment, computer software, and related supplies and services for records and information management processes authorized by division (D)(2) of this rule.

(d) Paper media may be destroyed after it is converted to other approved media in accordance with division (D) of this rule.

**(E) Destruction of records.** (1) Subject to the notification and transfer requirements of divisions (E)(2) and (3) of this rule, a record and any back-up copy of a record produced in accordance with division (D)(2) of this rule may be destroyed after the record and its back-up copy have been retained for the applicable retention period set forth in Sup. R. 26.01 to 26.05.

(2) If Sup. R. 26.01 to 26.05 set forth a retention period greater than ten years for a record, or if a record was created prior to 1960, the court shall notify the OHS in writing of the court's intention to destroy the record at least sixty days prior to the destruction of the record.

(3) After submitting a written notice in accordance with division (E)(2) of this rule, the court shall, upon request of the OHS, cause the record described in the notice to be transferred to the OHS, or to an institution or agency that meets the criteria of the OHS, in the media and format designated by the OHS.

**(F) Exhibits, depositions, and transcripts.** At the conclusion of litigation, including times for direct appeal, a court or custodian of exhibits, depositions, or transcripts may destroy exhibits, depositions, and transcripts if all of the following conditions are satisfied:

(1) The court notifies the party that tendered the exhibits, depositions, or transcripts in writing that the party may retrieve the exhibits, depositions, or transcripts within sixty days from the date of the written notification;

(2) The written notification required in division (F)(1) of this rule informs the party that tendered the exhibits, depositions, or transcripts that the exhibits, depositions, or transcripts will be destroyed if not retrieved within sixty days of the notification;

(3) The written notification required in division (F)(1) of this rule informs the party that tendered the exhibits, depositions, or transcripts of the location for retrieval of the exhibits, depositions, or transcripts;

(4) The party that tendered the exhibits, depositions, or transcripts does not retrieve the exhibits, depositions, or transcripts within sixty days from the date of the written notification required in division (F)(1) of this rule.

**(G) Local rules.** By local rule, a court may establish retention schedules for any records not listed in Sup. R. 26.01 to 26.05 and may extend, but not limit, the retention schedule for any record listed in Sup. R. 26.01 to 26.05. Any record that is not listed in Sup. R. 26.01 to 26.05 but is listed in a general retention schedule established pursuant to section 149.331 of the Revised Code may be retained for the period of time set by the general retention schedule and then destroyed.

**(H) Extension of retention period for individual case files.** A court may order the retention period for an individual case file extended beyond the period specified in Sup. R. 26.02 to 26.05 for the case file.

#### **Commentary (July 1, 2001 Amendments)**

The July 1, 2001 amendments to Sup. R. 26 removed the words “produce” and “production” from division (A) and the words “receive” and “receives” from division (D) for the purpose of restricting the scope of the rule to records management and retention. The word “advances” replaced the word “enhancements” in division (A)(2).

#### **Commentary (October 1, 1997)**

The Supreme Court’s Task Force on Records Management recommended the substantive provisions of this rule and Sup. R. 26.01 to 26.05 after studying the records management procedures of Ohio courts for approximately eighteen months. This rule and Sup. R. 26.01 to 26.05 require courts to keep certain records and mandate minimum records retention schedules for administrative and case records of the courts. The rules also authorize the courts to maintain records in forms other than paper provided that when an alternative process is employed, it

conforms to the standards established by the American National Standards Institute (“ANSI”). Courts are not required to use the alternative processes permitted by this rule.

To obtain information concerning ANSI standards, courts may contact the Ohio Historical Society, State Archives Division, 1982 Velma Avenue, Columbus, Ohio 43211-2497, (614) 297-2581.