

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 2: Appellate Courts
Chapter 2: Court of Appeals
Section 2-201: Records Retention and Destruction Schedule

A. Definitions. In this section the following definitions apply:

“Case Data” means the electronic information about a case, but not images of documents, maintained by the clerk of the court of appeals or the court, generally found in a case management system, and often posted to the web or the court’s website.

“Case File” means all documents and other material filed with the clerk of the court of appeals in an action or proceeding either in paper or electronic format, and includes items such as CDs, DVDs and transcripts. Case file includes case data.

“Clerk” means the clerk of court for the relevant Division of the Arizona Court of Appeals and any employee or representative of that clerk of court authorized to take action as set forth in this schedule.

“Docket” means the case number, case type, party name, case decision, date of destruction and the original listing of documents/orders filed in the case.

“State Library, Archives, and Public Records (LAPR)” means the division of the Arizona Secretary of State that is the archives for Arizona state government, which is mandated by law to collect, preserve and make available to the public and all branches of government, permanent public records, historical manuscripts, photographs and other materials that contribute to the understanding of Arizona history.

“Final Disposition” means issuance of the mandate or order terminating the case.

B. Authority. Arizona Supreme Court Rule 29(B)(1) authorizes the clerk to provide for the destruction of documents, records, instruments, books, papers, depositions, exhibits and transcripts in any action or proceeding in the court of appeals or otherwise filed or deposited in the clerk’s custody. Arizona Supreme Court Rule 29(B)(2) provides that, for case file records that must be maintained permanently, the clerk shall transfer the original record to LAPR pursuant to records retention and disposition schedules adopted by the Arizona Supreme Court, retaining original digital records scheduled for permanent preservation until LAPR is able to accept them. Arizona Supreme Court Rule 29(B)(3) provides that other court documents listed on approved records retention and disposition schedules may be maintained and destroyed in accordance with such approved retention and disposition schedules. *See also* Ariz. Rev. Stat. § 12-120.09 (2015) (duties of clerk, records and certified copies); Ariz. R. Sup. Ct. 29(E) (destruction notice).

C. General Provisions.

1. Permanent records. As set forth below, at the end of the retention period with the court, the clerk shall transfer to LAPR all records, regardless of format, that have a retention period designated as permanent, unless otherwise instructed by LAPR. The clerk shall work with LAPR's established requirement for transfer.
2. Electronic case files and case data. At the end of the retention schedule set forth below, the clerk shall destroy electronic case files and case data not designated as having a retention period of permanent. Electronic case files designated as having a retention period of permanent must be transferred to LAPR at a time when LAPR has the capacity to accept electronic records.
3. Paper case files and administrative records. At the end of the retention period set forth below, the clerk may destroy case files that are primarily in paper format and may destroy other records, regardless of format, not designated as having a retention period of permanent. Paper case files and other records designated as having a retention period of permanent shall be transferred to LAPR.
4. Microfilm. Until national standards for the long-term preservation of electronic records are in place, records transferred to LAPR pursuant to the provisions of this schedule shall be in paper.
5. No duty to migrate to new technology. The clerk is not responsible for migrating to new technology any material filed in an action or proceeding that is recorded in a format, such as CD and DVD that must be read by a computer.
6. Conflicting authority. To the extent that the retention periods specified in this schedule vary from any statutory provision, the longer period of retention, whether in statute or the schedule applies.
7. Sealed files. A case file or portions of a case file sealed by order of the court must remain sealed in perpetuity, unless otherwise ordered by the court.
8. Destruction of non-permanent records. When a paper case file or other paper record is eligible for destruction, the clerk shall take proper precautions to protect the privacy of the individuals identified in the case file or other record and destroy the complete case file or other record by shredding, burning, or pulverizing the physical case file or other record. Electronic images of case file documents, data or other records shall be deleted from all electronic repositories in which they reside, including servers and hard drives. The court may keep a list, containing minimal information, such as case number, case type, party name, case decision and the date of destruction, capturing any case files or other records destroyed, so that the court will know that a case file or other record has been destroyed and has not been merely misplaced or never existed.

9. Effective date. The provisions of this code section are applicable to cases filed on and after the effective date of the code section. Cases filed prior to the effective date are governed by the provisions of Administrative Order 1999-79.

D. Retention and Disposition Schedule. Unless otherwise stated within the schedule, ten years after a case is terminated or a mandate is issued, case files shall be transferred to LAPR. Sealed items shall be transferred to LAPR in numerical case number but designated as SEALED on the box index. The clerk shall retain and dispose of court of appeals records according to the following schedule:

1. Habeas Corpus: The case file shall be permanent.
2. Special Action:
 - a. Declined case files, excluding the docket, shall be destroyed five years from the date of the final case disposition.
 - b. Accepted case files shall be permanent.
3. Petition for Special Action – Industrial Commission:
 - a. Declined case files, excluding the docket, shall be destroyed five years from the date of the final case disposition.
 - b. Accepted case files shall be permanent.
4. Petition for Post-Conviction Relief:
 - a. Declined case files, excluding the docket, shall be destroyed five years from the date of final disposition.
 - b. Accepted case files shall be permanent.
5. Direct Appeals:
 - a. Dismissed cases files, excluding the docket, shall be destroyed five years from the date of the final disposition.
 - b. All other direct appeals, including any Original Complaints, shall be permanent.
 - c. Record on Appeal: Original documents filed in another court/agency shall be returned at the time of termination or mandate (paper only). Document copies shall be destroyed. Rule 24(c), Arizona Rules of Civil Appellate Procedure, and Rule 31.23(a)(5), Arizona Rules of Criminal Procedure.

6. Original signed minutes, opinions, memorandum decisions, and substantive orders (including administrative orders, Pro Tem orders, and judicial assignment orders). Retain in clerk's office permanently, subject to re-evaluation every 25 years.
7. Oral argument calendars and audio records: Destroy after ten years after date of occurrence.
8. Financial records such as purchase requests; receipts for payment; financial reconciliations; and grant files (unless a different period is required by grantor): Destroy five years after fiscal year prepared.
9. Administrative/business files maintained by the clerk including, but not limited to, contracts, procurement, claims processing records, vendor, automation, special projects and general management matters: Destroy five years after expiration of contract or agreement.
10. Final monthly, fiscal year and calendar year statistical reports and revenue survey reports: Destroy ten years after date of report.
11. General and miscellaneous correspondence, including miscellaneous prisoner correspondence that is not filed into a specific docketed case; file copies of outgoing general and miscellaneous correspondence not filed into a specific docketed case: Destroy five years after date of receipt/issuance.
12. Other documents filed or deposited in the custody of the clerk's office or otherwise received by the clerk's office that are not related to appellate litigation nor to other categories listed in this retention schedule and which are not required by rule or law to be preserved: Destroy one year after date of receipt.
13. Continuing education files (COJET): As required by ACJA § 1-302.

E. Historically Significant and Landmark Cases. The clerk shall comply with the following procedures for designating and transferring cases deemed historically significant or landmark:

1. Designation of a case as historically significant.
 - a. Purpose. Certain cases filed in Arizona courts may be identified as historically significant because of the unique legal issue or controversy involved, the prominence of one or more of the parties to the action, or because of other high-profile or newsworthy reasons. When there is a reason to believe that a case falls into this category, the following procedures shall be followed.
 - b. Procedure for designating a case as historically significant. A motion to request that a case be designated historically significant shall be filed either by a member of the public or on the court's own motion. The motion shall identify one or more reasons

the case should be designated historically significant. The chief judge shall decide the motion. If the motion is denied, the chief judge shall identify the reason for the denial. The clerk shall file the order granting or denying the motion for historically significant designation with the case.

- c. Processing and transferring. If the motion is granted, the clerk shall, within 90 days of final disposition, transfer the case file and a print-out of the docket from the case management system to LAPR for permanent retention. LAPR will accept diagrams, maps, photographs, and any other paper-based materials. LAPR will not accept three dimensional objects, clothing, or security-sensitive exhibits such as weapons, drugs, money, and bio-hazardous materials. Identification of the case as historically significant shall be prominently noted on the print-out of the docket from the case management system transferred with the case to LAPR.

2. Designation of a case as landmark.

- a. The following factors shall be considered in deciding whether a case is a landmark case:

- (1) The frequency with which the case has been cited;
- (2) Whether the case has been designated as historically significant;
- (3) Whether the case caused a change in policies or laws;
- (4) Whether the case affected a large portion of the community or was controversial;
- (5) Whether the case is generally viewed by the community as important;
- (6) Whether the case involved a famous or notorious individual or was the subject of a well-known book or film; and
- (7) Any other relevant factor.
- (8) Any case that has been the subject of a published opinion of the United States Supreme Court and has statewide or national impact shall be designated as a landmark case.

- b. Procedure for designating a case as landmark:

- (1) The Arizona Historical Records Advisory Board shall designate a case as landmark under section (E)(2)(a)(1)-(8), above in consultation with a committee convened by the Board for this purpose. The committee shall consist of Board members, retired appellate court judges or justices, law professors, historians, or other like persons who have objective, informed views about the long-term significance and effect of eligible published appellate opinions. The committee shall meet periodically to review all published appellate opinions no less than five years and no more than nine years after issued to determine whether any of these cases should be designated as landmark.
- (2) No more than ten years after an appellate opinions is issued, and with the Board's approval, the director of the Division of Arizona History and Archives shall provide written notice of landmark designation to the clerk of the superior court in the county of origin, the clerk of the appropriate division of the court of appeals,

and the clerk of the supreme court who shall apply the process for transferring the case to LAPR.

- c. Processing and transferring. When a case has been designated as landmark, the clerk shall file notice of this designation in the case. The clerk shall immediately transfer the case and a print-out of the docket from the case management system to LAPR for permanent retention. LAPR will accept diagrams, maps, photographs, and any other paper-based materials. LAPR will not accept three dimensional objects, clothing, or security-sensitive exhibits such as weapons, drugs, money, and bio-hazardous materials. Identification of the case as landmark shall be prominently noted on the print-out of the docket from the case management system transferred with the case to LAPR.

Adopted by Administrative Order 2015-120, effective December 16, 2015.