

**TITLE 1            GENERAL GOVERNMENT ADMINISTRATION**  
**CHAPTER 18      EXECUTIVE RECORDS RETENTION AND DISPOSITION SCHEDULES (ERRDS)**  
**PART 379         ERRDS, PUBLIC EMPLOYEE LABOR RELATIONS BOARD**

**1.18.379.1        ISSUING AGENCY:** State Commission of Public Records - State Records Center and Archives.  
[1.18.379.1 NMAC - N, 04/30/2012]

**1.18.379.2        SCOPE:** public employee labor relations board  
[1.18.379.2 NMAC - N, 04/30/2012]

**1.18.379.3        STATUTORY AUTHORITY:** Section 14-3-4 NMSA 1978, it shall be the duty of the commission to adopt and publish rules to carry out the purposes of the Public Records Act. Section 14-3-6 NMSA 1978, the administrator shall establish a records management program for the application of efficient and economical management methods for the creation, utilization, maintenance, retention, preservation and disposal of public records.  
[1.18.379.3 NMAC - N, 04/30/2012]

**1.18.379.4        DURATION:** Permanent  
[1.18.379.4 NMAC - N, 04/30/2012]

**1.18.379.5        EFFECTIVE DATE:** April 30, 2012, unless a later date is cited at the end of the section.  
[1.18.379.5 NMAC - N, 04/30/2012]

**1.18.379.6        OBJECTIVE:** To establish a records retention schedule for the orderly management, retention, disposition and preservation of records necessary for carrying out the Public Records Act pursuant to Section 14-3-6 NMSA 1978.  
[1.18.379.6 NMAC - N, 04/30/2012]

**1.18.379.7        DEFINITIONS:**

- A.        "Administrator"** means the state records administrator (Section 14-3-2 NMSA 1978).
- B.        "Agency"** means any state agency, department, bureau, board, commission, institution or other organization of the state government, the territorial government and the Spanish and Mexican governments in New Mexico (Section 14-3-2 NMSA 1978).
- C.        "Appropriate bargaining unit"** means a group of public employees designated by the board or local board for the purpose of collective bargaining.
- D.        "Archives"** means the permanent records of the state of New Mexico, which may include government and private collections of the Spanish, Mexican, territorial and statehood periods, assessed to have significant historical value to warrant their preservation by the state of New Mexico. The term also refers to the organizational unit of the SRCA storing these records.
- E.        "Audit"** means a periodic examination of an organization to determine whether appropriate procedures and practices are followed.
- F.        "Board"** means the public employee labor relations board.
- G.        "Certification"** means the designation by the board or local board of a labor organization as the exclusive representative for all public employees in an appropriate bargaining unit.
- H.        "Commission"** means the state commission of public records (Section 14-3-2 NMSA 1978).
- I.        "Decertification"** means the removal of the designation by the board or local board of a labor organization as the exclusive representative for all public employees in an appropriate bargaining unit.
- J.        "Disposition"** means final action that puts into effect the results of an appraisal decision for a series of records (i.e., transfer to archives or destruction).
- K.        "Impasse"** means failure of a public employer and an exclusive representative, after good-faith bargaining, to reach agreement in the course of negotiating a collective bargaining agreement.
- L.        "Local board"** means a local labor relations board established by a public employer, other than the state, through ordinance, resolution or charter amendment.
- M.        "Microphotography"** means the transfer of images onto film and electronic imaging or other information storage techniques that meet the performance guidelines for legal acceptance of public records produced by information system technologies pursuant to regulations adopted by the commission.

**N. "Non-record"** means library or museum material of the state library, state institutions and state museums, extra copies of documents kept solely for convenience of reference, stocks of publications, records not usually included within the scope of the official records of an agency or government entity and library material intended only for reference or exhibition. The following specific types of materials are non-records: materials neither made nor received in pursuance of statutory requirements no in connection with the functional responsibility of the officer or agency; extra copies of correspondence; preliminary drafts; blank forms; transmittal letters or forms that do not add information; sample letters; and reading file or information files.

**O. "Pending litigation"** means a proceeding in a court of law whose activity is in progress but not yet completed.

**P. "Prohibited practice"** means a practice prohibited against a public employee by a public employer or its representative, an appropriate bargaining unit or its representative, or a public employee. (Public Employee Bargaining Act, Sections 10-7E-19 and 10-7E-20).

**Q. "Public employee"** means a regular non-probationary employee of a public employer; provided that, in the public schools, "public employee" shall also include a regular probationary employee.

**R. "Public employer"** means the state or a political subdivision thereof, including a municipality that has adopted a home rule charter, and does not include a government of an Indian nation, tribe or pueblo, provided that state educational institutions as provided in Article 12, Section 11 of the constitution of New Mexico shall be considered public employers other than state for collective bargaining purposes only.

**S. "Public record"** means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any 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 data contained therein (Section 14-4-2 NMSA 1978).

**T. "Records custodian"** means the statutory head of the agency using or maintaining the records or the custodian's designee.

**U. "Record destruction"** means the process of totally obliterating information on records by any method to make the information unreadable or unusable under any circumstances.

**V. "Records management"** means the systematic control of all records from creation or receipt through processing, distribution, maintenance and retrieval, to their ultimate disposition.

**W. "Records retention and disposition schedule"** means rules adopted by the commission pursuant to Section 14-3-4 NMSA 1978 describing records of an agency, establishing a timetable for their life cycle and providing authorization for their disposition.

**X. "Retention"** means the period of time during which records must be maintained by an organization because they are needed for operational, legal, fiscal, historical or other purposes.  
[1.18.379.7 NMAC - N, 04/30/2012]

#### **1.18.379.8 ABBREVIATIONS AND ACRONYMS:**

**A. "CFR"** stands for code of federal regulations.

**B. "EDRRDS"** stands for education records retention and disposition schedules.

**C. "ERRDS"** stands for executive records retention and disposition schedules.

**D. "GRRDS"** stands for general records retention and disposition schedules.

**E. "JRRDS"** stands for judicial records retention and disposition schedules.

**F. "LRRDS"** stands for legislative records retention and disposition schedules.

**G. "LGRRDS"** stands for local government records retention and disposition schedules.

**H. "PELRB"** stands for public employee labor relations board

**I. "SRCA"** stands for state records center and archives.

**J. "USC"** stands for United States code.

[1.18.379.8 NMAC - N, 04/30/2012]

#### **1.18.379.9 INSTRUCTIONS:**

**A.** Records retention and disposition schedules identify the types of records maintained by state agencies and specify a period of time which records must be retained. A retention period may be stated in terms of months or years and is sometimes expressed as contingent upon the occurrence of an event. There are several types of records retention and disposition schedules promulgated by the commission for state agencies. General schedules

list records common to all agencies and executive schedules list records specific to an agency. Each record series will be represented in the format listed below.

- (1) **Program** - describes the function of the records
- (2) **Maintenance system** - describes how an agency files (organizes) records
- (3) **Description** - describes the purpose and content of a record
- (4) **Retention** - defines the length of time records must be kept before they are eligible for destruction or archival preservation.

**B.** For records of a general administrative nature, refer to the GRRDS, General Administrative, 1.15.2 NMAC.

**C.** For records of a financial nature, refer to the GRRDS, General Financial, 1.15.4 NMAC.

**D.** For records of a personnel nature, refer to the GRRDS, General Personnel, 1.15.6 NMAC.

**E.** For records of a medical nature, refer to the GRRDS, General Medical, 1.15.8 NMAC.

**F.** Retention periods shall be extended until six months after all current or pending litigation; current claims, audit exceptions or court orders involving a record have been resolved or concluded.

**G.** The descriptions of files are intended to be evocative, not complete. For example, there will always be some documents that are included in a file that are not listed in the description, and similarly, not every file will contain an example of each document listed in the description.

**H.** Confidentiality is denoted for files likely to contain confidential materials or information; however files without a confidentiality note may contain confidential or privileged information. Failure to include a confidentiality note in the description of a record series does not waive confidentiality. Refer questions concerning the confidentiality of a file to legal counsel for the agency.

**I.** Access to confidential documents, information or files shall be only by authorization of the agency records custodian (Section 14-2-8 NMSA 1978), or by the office of the attorney general or by court order, unless otherwise provided by law. Release of confidential documents to law enforcement and other government agencies, shall only be upon specific statutory authorization or court order.

**J.** Records may be photographed, microfilmed, digitized or converted to computer output microfilm provided a microphotography plan has been approved by the state records administrator (Section 14-3-17 NMSA 1978). Such photographs, microfilms, photographic film or microphotographs shall be deemed to be an original record for all purposes, including introduction as evidence in all courts or administrative agencies (Section 14-1-6 NMSA 1978).

**K.** Public records placed on magnetic tapes, disks or other data processing media shall be retained for the length of time specified in records retention and disposition schedules and are subject to the same confidentiality and access restrictions as paper records. See also 1.13.70 NMAC, Performance Guidelines for the Legal Acceptance of Public Records Produced by Information Technology Systems.

**L.** Email is a transmission medium for content that may or may not be a public record. Email messages that contain information sent or received by an agency in connection with the transaction of official state business or in pursuance of law are public records and are subject to retention requirements established in records retention and disposition schedules. Email messages are required to be categorized, filed and retained on the basis of content (1.13.4 NMAC, Records Management Requirements for Electronic Messaging). The content of email messages may vary considerably; therefore, each email shall be evaluated to determine if it meets the definition of a public record as defined in the Public Records Act. Non-records or transitory emails that do not provide evidence of official agency policies or business transactions may be deleted.

[1.18.379.9 NMAC - N, 04/30/2012]

#### **1.18.379.10 - 1.18.379.19 [RESERVED]**

#### **1.18.379.20 APPROPRIATE BARGAINING UNIT CERTIFICATION FILES:**

**A. Program:** public employee labor relations

**B. Maintenance system:** chronological by calendar year, then numeric by identification number

**C. Description:** records documenting the certification of an appropriate bargaining unit. Portions of this record are input to the *PELRB database*, 1.18.379.27 NMAC. Files may include *petition for initial certification, petition for amendment of certification, petition for recognition as an incumbent labor organization, petition for clarification, petition for severance, election notice of filing of representation petition, petition to intervene, consent election agreement, voluntary recognition agreement, ground rules for card check, subpoena to the PELRB office, subpoena to another location, copy of board decision, audio recordings of certification meetings, correspondence, etc.*

**D. Retention:** three years from date of certification or denial  
[1.18.379.20 NMAC - N, 04/30/2012]

**1.18.379.21 DECERTIFICATION OF APPROPRIATE BARGAINING UNIT FILES:**

**A. Program:** public employee labor relations  
**B. Maintenance system:** chronological by calendar year, then numeric by identification number  
**C. Description:** records documenting the decertification of an appropriate bargaining unit. Portions of this record are input to the *PELRB database*. Files may include *petition for clarification, petition for severance, petition for decertification election, subpoena to the PELRB office, subpoena to another location*, copy of board decision, audio recordings of decertification meetings, correspondence, etc.

**D. Retention:** three years from date of decertification  
[1.18.379.21 NMAC - N, 04/30/2012]

**1.18.379.22 PROHIBITED PRACTICE COMPLAINT FILES:**

**A. Program:** public employee labor relations  
**B. Maintenance system:** chronological by calendar year, then numerical by identification number  
**C. Description:** records documenting the filing and resolution of a prohibited practice complaint. Portions of this record are input to the *PELRB database*, 1.18.379.27 NMAC. Files may include *prohibited practices complaint, answer to prohibited practices complaint, subpoena to the PELRB office, subpoena to another location*, hearing examiner reports, copy of board decision, audio recordings of prohibited practice meetings, correspondence, etc.

**D. Retention:** three years from date of board decision  
[1.18.379.22 NMAC – Rp, 1 NMAC 3.2.93.104, 04/30/2012]

**1.18.379.23 LOCAL BOARD RECOGNITION FILES:**

**A. Program:** public employee labor relations  
**B. Maintenance system:** chronological by calendar year, then numerical by identification number  
**C. Description:** records documenting the creating of a local labor board. Portions of this record are input to the *PELRB database*, 1.18.379.27 NMAC. Files may include *model resolution, model ordinance, subpoena to the PELRB office, subpoena to another location*, list of recognized local labor boards, copy of board decision, audio recordings of local board recognition meetings, correspondence, etc.

**D. Retention:** three years from date of board decision  
[1.18.379.23 NMAC - N, 04/30/2012]

**1.18.379.24 REVOCATION OF APPROVAL OF LOCAL BOARD FILES:**

**A. Program:** public employee labor relations  
**B. Maintenance system:** chronological by calendar year, then numerical by identification number  
**C. Description:** records documenting the revocation of approval of a local board. Portions of this record are input to the *PELRB database*, 1.18.379.27 NMAC. Files may include a petition to revoke the approval of a local board, copy of board decision, audio recordings of revocation of approval of local board meetings, correspondence, etc.

**D. Retention:** three years from date of board decision  
[1.18.379.24 NMAC - N, 04/30/2012]

**1.18.379.25 IMPASSE PROCEEDINGS FILES:**

**A. Program:** public employee labor relations  
**B. Maintenance system:** chronological by calendar year, then numerical by identification number  
**C. Description:** records documenting the filing of notices of impasse for collective bargaining issues not resolved between the appropriate bargaining unit and the public employer. Portions of this record are input to the *PELRB database*, 1.18.379.27 NMAC. Files may include *notice of impasse, subpoena to the PELRB office, subpoena to another location*, copy of federal mediator or arbitrator decision, copy of board decision, copy of court decision, audio recordings of impasse proceedings meetings, correspondence, etc.

**D. Retention:** 10 years from date of final resolution  
[1.18.379.25 NMAC – Rp, 1 NMAC 3.2.93.379.105, 04/30/2012]

**1.18.379.26 PELRB ORDER AND DECISION FILES:**

- A. **Program:** public employee labor relations
- B. **Maintenance system:** chronological by calendar year, then numerical by order or decision number
- C. **Description:** PELRB original board orders and decisions. Portions of this record are input to the *PELRB database*, 1.18.379.27 NMAC. File includes board orders and decisions
- D. **Retention:** permanent, transfer to archives five years from close of the calendar year of board order or decision  
[1.18.379.26 NMAC - N, 04/30/2012]

#### **1.18.379.27 PELRB DATABASE:**

- A. **Program:** public employee labor relations
- B. **Maintenance system:** numerical by primary key
- C. **Description:** database tracks, monitors, and maintains data regarding board orders, decisions, bargaining unit certifications, bargaining unit decertifications, prohibited practice complaints, local board recognition and revocation, and impasse proceedings. Data may include bargaining unit certification information, decertification information, prohibited practice information, local board recognition information, revocation of approval of local board information, and impasse proceedings, order and decision numbers, date of order and decision, etc.
- D. **Data retention:**
  - (1) **PELRB order and decision file data:** permanent
  - (2) **Appropriate bargaining unit certification data:** three years from date of certification
  - (3) **Decertification of appropriate bargaining unit data:** three years from date of decertification
  - (4) **Prohibited practice complaint data:** three years from date of board decision
  - (5) **Local board recognition data:** three years from date of board decision
  - (6) **Revocation of approval of local board data:** three years from date of board decision
  - (7) **Impasse proceedings data:** 10 years from date of final resolution
- E. **Input:** All records used as input for the PELRB database are filed in the 1.18.379.20 NMAC *appropriate bargaining unit certification files*, 1.18.379.21 NMAC *decertification of appropriate bargaining unit files*, 1.18.379.22 NMAC *prohibited practice complaint files*, 1.18.379.23 NMAC *local board recognition files*, 1.18.379.24 NMAC *revocation of approval of local board files*, 1.18.379.25 NMAC *impasse proceedings files* and 1.18.379.26 NMAC *PELRB order and decision files*.
- F. **Output:** Because the *PELRB database* is a data-based system, ad hoc reports may be generated on request or on demand. When produced, these ad hoc reports are provided to the requesting entity.  
[1.18.379.27 NMAC - N, 04/30/2012]

#### **HISTORY OF 1.18.379 NMAC:**

**Pre-NMAC History:** The material in this part was derived from that previously filed with the State Records Center under:

SRC Rule 94-01, Records Retention and Disposition Schedule for Public Employee Labor Relations Board, filed 4/11/94.

SRC Rule 94-08, Records Retention and Disposition Schedule for Public Employee Labor Relations Board, filed 7/29/94.

#### **History of Repealed Material:**

1 NMAC 3.2.93.379, Executive Retention and Disposition Schedules, Public Employee Labor Relations Board, filed 4/18/97 - Repealed effective 9/30/2002.