

TITLE 1 GENERAL GOVERNMENT ADMINISTRATION
CHAPTER 18 EXECUTIVE RECORDS RETENTION AND DISPOSITION SCHEDULES (ERRDS)
PART 465 ERRDS, GAMING CONTROL BOARD

1.18.465.1 ISSUING AGENCY: Commission of Public Records - State Records Center and Archives
[1.18.465.1 NMAC - N, 10/11/2004]

1.18.465.2 SCOPE: gaming control board
[1.18.465.2 NMAC - N, 10/11/2004]

1.18.465.3 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.
[1.18.465.3 NMAC - N, 10/11/2004; A, 12/19/2011]

1.18.465.4 DURATION: permanent
[1.18.465.4 NMAC - N, 10/11/2004]

1.18.465.5 EFFECTIVE DATE: October 11, 2004, unless a later date is cited at the end of a section
[1.18.465.5 NMAC - N, 10/11/2004]

1.18.465.6 OBJECTIVE: To establish a records retention schedule for the orderly management and retirement of records necessary for carrying out of the Public Records Act per Section 14-3-6 NMSA 1978.
[1.18.465.6 NMAC - N, 10/11/2004]

1.18.465.7 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. "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.
- D. "Bingo splits"** means a bingo won by two or more players on the same number.
- E. "Crucial security events data"** means any loss of communication with a machine and unscheduled work which requires access to the main logic areas.
- F. "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).
- G. "Game of chance"** means that specific kind of game commonly known as bingo, raffle or pull-tab.
- H. "Game menu"** means a list of bingo games in an occasion and the required pattern of called numbers to win.
- I. "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.
- J. "Non crucial security events data"** means security event that holds no series consequences (i.e., jammed bill door, stuck door switch.)
- K. "Non-record"** means 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 nor 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 informational files.

L. "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).

M. "Records custodian" means the statutory head of the agency using or maintaining the records or the custodian's designee.

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

O. "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.

P. "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.

Q. "Sleepers" means a bingo won by two or more players on the same number.
[1.18.465.7 NMAC - N, 10/11/2004; A, 01/01/2009; A, 12/19/2011]

1.18.465.8 ABREVIATIONS 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. "GCB" stands for gaming control board.

E. "GRRDS" stands for general records retention and disposition schedules.

F. "JRRDS" stands for judicial records retention and disposition schedules.

G. "LRRDS" stands for legislative records retention and disposition schedules.

H. "LGRRDS" stands local government records retention and disposition schedules.

I. "SEC" stands for securities and exchange commission.

J. "SRCA" stands for state records center and archives.

K. "TRD" stands for taxation and revenue department

L. "USC" stands for United States code.

[1.18.465.8 NMAC - N, 10/11/2004; A, 12/19/2011]

1.18.465.9 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 created by the SRCA 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.
[1.18.465.9 NMAC - N, 10/11/2004; A, 12/19/2011]

1.18.465.10 - 1.18.465.14 [RESERVED]

1.18.465.15 GCB LICENSING SYSTEM:

A. Program: licensing services

B. Maintenance system: numerical by primary key

C. Description: system used by GCB to track and maintain information on: licensed gambling establishments (racetracks, non-profit organizations and slot machine distributors and manufacturers); approved gaming work permits (gaming establishments' personnel) and certified key and affiliated persons involved in the management and administration of gaming establishments including major shareholders as defined in the Gaming Control Act, Sections 60-2E-1 through 60-2E-61 NMSA 1978. System also tracks and maintains information on licenses, permits, and certifications denied, expired or revoked. System data reflects corresponding application information including: applicant's name, address, past 10 years of residency, date of birth, social security number, military information, marital and family information, criminal history, employment history, character references, financial history, statements of assets and liabilities; applicant control number; entity control number; etc.

D. Retention:

(1) Gaming license data:

(a) License issued: five years after license expired or revoked

(b) No license issued: one year after close of calendar year in which license denied or one year after date of last correspondence with applicant whichever is longer

(2) Gaming work permit data:

(a) Work permit issued: three years after work permit expired or revoked

(b) No work permit issued: one year after close of calendar year in which work permit denied or one year after date of last correspondence with applicant whichever is longer

(3) Key and affiliated person certification data:

(a) Approved: three years after expiration, termination, or cancellation (by employer) of certification.

(b) Denied: one year after close of calendar year in which certification denied or one year after date of last correspondence with applicant whichever is longer

E. Confidentiality: Portions of record may be confidential per Section 60-2E-41 NMSA 1978 (i.e., “any communication or document of an applicant or licensee is confidential”).

F. Hardcopy input documents: All documents used as input for the *GCB licensing system* are filed in the corresponding program files. Those documents include but are not limited to the following: *business gaming application, nonprofit gaming operator application, gaming work permit application, gaming work permit application renewal, nonprofit key and affiliated person application, nonprofit key and affiliated person renewal application*, etc.

G. Hardcopy output documents: All documents generated by the *GCB licensing system* are produced (printed) because of public request or administrative reporting responsibilities. Because the *GCB licensing system* is a data based system, required and ad hoc reports may be generated upon request or on demand. When produced, these reports are either forwarded to the requesting entity or filed in the program files. Some of the reports include the following: *incident report, monthly work permit report, monthly key & affiliated report*, etc. [1.18.465.15 NMAC - N, 10/11/2004]

1.18.465.16 - 1.18.465.20 [RESERVED]

1.18.465.21 GAMING LICENSE FILES:

A. Program: licensing services

B. Maintenance system: numerical by entity number

C. Description: records concerning the application by businesses and approval by the gaming board to operate a gambling establishment as defined in the Gaming Control Act, Sections 60-2E-1 through 60-2E-61 NMSA 1978. Gaming establishments (businesses) include racetracks, non-profit organizations, and slot machine distributors and manufacturers. Portions of this file are hardcopy input documents to the *GCB licensing system*. File may include original *business gaming application* [GCB A-4.0] (including renewal applications), *nonprofit gaming operator application* [GCB A-3.1] (including renewal applications) and copies of the following: gaming related licenses; business organizational charts; trade name registration; articles of incorporation; articles of organization; bylaws, partnership agreement; trust agreement; affirmation and consent form; applicant’s request to release information form; tax information authorization for disclosure - IRS-TRD forms; litigation involvement information; security plan; business plan; compulsive gambling assistance plan; correspondence; memoranda; etc.

D. Retention:

(1) **License issued:** five years after license expired or revoked [Initial license expires at the end of the calendar year in which issued. Renewed license authorizes operation for one calendar year.]

(2) **No license issued:** one year after close of calendar year in which license denied or one year after date of last correspondence with applicant whichever is longer

E. Confidentiality: Portions of record may be confidential per Section 60-2E-41 NMSA 1978 (i.e., “any communication or document of an applicant or licensee is confidential”). [1.18.465.21 NMAC - N, 10/11/2004]

1.18.465.22 GAMING WORK PERMIT FILE:

A. Program: licensing services

B. Maintenance system: alphabetical by applicant name

C. Description: records concerning the application for a gaming work permit, which includes the background investigation that allows employment at designated gaming establishment. Portions of this file are hardcopy input documents to the *GCB licensing system*. File may include original New Mexico *gaming work permit application* [GCB A2.3]; *gaming work permit application renewal* [GCB RA 5.10]; photograph of applicant; fingerprint card; photocopy of official identification card (driver’s license or state-issued identification card); investigation authorization and authorization to release information; applicant’s request to release information; tax information authorization for disclosure for IRS; tax information authorization for disclosure for TRD; letter from GCB executive director signed by applicant to acknowledge receipt; copy of work permit badge issued; correspondence; memoranda; etc.

D. Retention:

(1) **Work permit issued:** three years after work permit expired, revoked or withdrawn [Initial work permit expires three years after date issued. Renewed work permit authorizes employment for one calendar year.]

(2) **No work permit issued:** one year after close of calendar year in which work permit denied or one year after date of last correspondence with applicant whichever is longer

E. Confidentiality: Portions of record may be confidential per Section 60-2E-41 NMSA 1978 (i.e., “any communication or document of an applicant or licensee is confidential”).
[1.18.465.22 NMAC - N, 10/11/2004]

1.18.465.23 KEY AND AFFILIATED PERSON CERTIFICATION FILE:

A. Program: licensing services
B. Maintenance system: alphabetical by applicant name
C. Description: records concerning the application for key and affiliated person certification of persons involved in the management and administration of GCB licensed gaming establishments including major shareholders and its approval (certification) by the GCB as defined in the Gaming Control Act, Sections 60-2E-1 through 60-2E-61 NMSA 1978. Portions of this file are hardcopy input documents to the *GCB licensing system*. File may include *New Mexico nonprofit key and affiliated person application* [GCB A-1.4]; *New Mexico nonprofit key and affiliated person renewal application* [GCB RK-1.0]; photograph of applicant; affirmation and consent form; investigation authorization and authorization to release information; fingerprint card; tax information authorization for disclosure for IRS; tax information authorization for disclosure for TRD; copies of federal and state income tax returns for the past three years; proof of identity and date of birth (by providing one of the following documents - certified birth certificate from the vital statistics office where applicant was born, valid United States passport, valid passport issued by country of citizenship (if not US citizen), certificate of naturalization with photo (along with alien registration number); correspondence; memoranda; etc.

D. Retention:

(1) **Approved:** three years after expiration, termination, cancellation (by employer) or withdrawn (by individual) of certification. [Initial certification expires three years after date issued. Renewed certification authorizes operation for one calendar year.]

(2) **Denied:** one year after close of calendar year in which certification denied or one year after date of last correspondence with applicant whichever is longer

E. Confidentiality: Portions of record may be confidential per Section 60-2E-41 NMSA 1978 (i.e., “any communication or document of an applicant or licensee is confidential”).
[1.18.465.23 NMAC - N, 10/11/2004]

1.18.465.24 - 1.18.465.30 [RESERVED]

1.18.465.31 COMPLIANCE MASTER FILES:

A. Program: audit and compliance
B. Maintenance system: alphanumeric by establishment name and number
C. Description: records concerning the examination and verification by the gaming control board of an establishment’s financial and accounting records and supporting documentation. File may contain copy of correspondence letter sent to establishment, financial statements, copy of GCB audit report, copy of citations, copies of decisions and orders by GCB, correspondence, memoranda, etc.

D. Retention:

(1) **Monthly financial statements:** one year after close of fiscal year in which created

(2) **All other documentation (including year-end financial statements):** 10 years after the close of fiscal year in which created, then transfer to archives for final review and disposition

E. Confidentiality: Portions of record may be confidential per Section 60-2E-41 NMSA 1978 (i.e., “any communication or document of an applicant or licensee is confidential”).
[1.18.465.31 NMAC - N, 10/11/2004]

1.18.465.32 - 1.18.465.35 [RESERVED]

1.18.465.36 PREMISE INSPECTION REPORTS:

A. Program: law enforcement
B. Maintenance system: numerical by form number
C. Description: records concerning the inspection of gaming facilities. Report may show licensee name, address; license number; license type; checklist of violations; agent’s name, signature and date; licensee representative’s name, signature and date; comments; etc.

D. Retention: two years after date of inspection

[1.18.465.36 NMAC - N, 10/11/2004]

1.18.465.37 INVESTIGATIVE CASE FILES:

- A. Program:** law enforcement
 - B. Maintenance system:** numerical by investigative case number
 - C. Description:** records concerning documents gathered during a criminal investigation for the purpose of preparing for criminal prosecution. File may contain complaints, referrals, evidence, photographs, copies of search warrants, copies of arrest warrants, court orders, correspondence, memoranda, etc.
 - D. Retention:** five years after case closed
 - E. Confidentiality:** Portions may be confidential pursuant to: Subsection A of Section 14-2-1 NMSA 1978. (attorney-client privileged information; physical or mental examinations of persons confined to any institution; letters of reference concerning employment; matters of opinion in personnel files; tactical response plans); Section 31-21-6 NMSA 1978 (probation and parole information); Section 24-1-20 NMSA 1978 (medical treatment records); Section 29-10-4 NMSA 1978 (arrest record information concerning those not charged with a crime); Section 32A-3B-32 NMSA 1978 (juvenile records); Section 41-8-4 NMSA 1978 (arson reports); Section 43-2-11 NMSA 1978 (substance abuse treatment).
- [1.18.465.37 NMAC - N, 10/11/2004]

1.18.465.38 - 1.18.465.50 [RESERVED]

1.18.465.51 TRIBAL FILES:

- A. Program:** state gaming representative
 - B. Maintenance system:** chronological by fiscal year, then alphabetical by tribal name
 - C. Description:** records concerning actions taken by the state under the Indian gaming compacts. Files may contain copies of compacts, memorandums of understanding, copies of revenue sharing payment agreements, resolutions, investigative reports, financial statements, copies of certificates of insurance, tribal compliance reviews, tribal regulations and ordinances, correspondence, memoranda, etc.
 - D. Retention:** ten years after end of fiscal year in which created, then transfer to archives for final review and disposition.
- [1.18.465.51 NMAC - N, 10/11/2004]

1.18.465.52 - 1.18.465.60 [RESERVED]

1.18.465.61 ADVANCED ENTERTAINMENT GAMING INFORMATION SYSTEM:

- A. Program:** information systems
 - B. Maintenance system:** numerical by primary key
 - C. Description:** system used by GCB to monitor all electronic game playing and gaming revenue on all machines in licensed gambling establishments. System provides the ability to disable from play all electronic gaming machines and produce electronic reports on game play and machine revenue. Data may include hours of operation, game type and machine security events, game play and revenue, etc.
 - D. Retention:**
 - (1) **Revenue data:** 10 years after end of fiscal year in which created
 - (2) **Crucial security events data:** 10 years after final disposition of event outcome
 - (3) **Non crucial security events:** 45 days after event
 - (4) **All other data:** two months after date of entry
 - E. Input:** data is automatically relayed from game playing machines to the advanced entertainment gaming information system.
 - F. Output:** because the *advanced entertainment gaming information* is a data-based system, ad hoc and regularly scheduled reports may be generated upon requests or demand. When produced, these reports are forwarded to the requesting entity.
- [1.18.465.61 NMAC - N, 01/01/2009]

1.18.465.62 APPLICATION TO TRANSPORT GAMING MEDIA FILES:

- A. Program:** information systems
- B. Maintenance system:** chronological by date
- C. Description:** records concerning the verification and approval of applications to transport gaming software media between vendors and gaming operators. File may include *application to transport gaming media*

(i.e., licensee number, address, contact person, date shipped, date received, etc.), gaming media spreadsheet (i.e., manufacture, model number, quantity, etc.), etc.

D. Retention: one year after date transaction verified
[1.18.465.62 NMAC - N, 01/01/2009]

1.18.465.63 - 1.18.465.69 [RESERVED]

1.18.465.70 BINGO, RAFFLE AND PULL TAB LICENSURE FILES:

A. Program: game of chance licensing
B. Maintenance system: chronological by year, then alphabetical by organization name
C. Description: records documenting the issuance of a license to organizations for the purposes of conducting games of chance. Files may include *New Mexico bingo, raffle and pull tab application*, copy of letter from IRS establishing an employment identification number, copy of articles of organization and amendments, copy of organization's bylaws, copy of house rules, detailed description of the game menu and payout, copy of charitable solicitation registration, certificate of corporate good standing, copy of floor plan of the building of authorized gaming activity, copy of bank signature, copy of equipment rental agreement, copy of security service agreement, administrative complaints, background check results, etc.

D. Retention: three years from date of license expiration or revocation
E. Confidentiality: Portions of file may be confidential pursuant, but not limited to Section 60-2E-41 NMSA 1978 (i.e., "any communication or document of an applicant or licensee is confidential").
[1.18.465.70 NMAC - N, 12/19/2011]

1.18.465.71 MANUFACTURER AND DISTRIBUTOR LICENSURE FILES:

A. Program: game of chance licensing
B. Maintenance system: chronological by year, then alphabetical by organization name
C. Description: records documenting the issuance of a license to organizations for the purposes of manufacturing and distributing games of chance. Files may include *bingo distribution and manufacturer application*, description of type of bingo supplies to be manufactured or distributed for use in the state, complete client list, background check results, correspondence, etc.

D. Retention: five years from date of licensure expiration or revocation
E. Confidentiality: Portions of file may be confidential pursuant, but not limited to Section 60-2E-41 NMSA 1978 (i.e., "any communication or document of an applicant or licensee is confidential").
[1.18.465.71 NMAC - N, 12/19/2011]

1.18.465.72 BINGO STAFF PERMIT FILES:

A. Program: game of chance licensing
B. Maintenance system: chronological by year, then alphabetical by permit holder surname
C. Description: records documenting the issuance of a permit to individuals approved by the board as a bingo manager, alternate bingo manager or bingo caller of a licensed organization. Files may include *bingo staff permit application, request to release information*, background check results, *self-disclosure form*, correspondence, etc.

D. Retention: three years from date of permit expiration or revocation
E. Confidentiality: Portions of file may be confidential pursuant, but not limited to Section 60-2E-41 NMSA 1978 (i.e., "any communication or document of an applicant or licensee is confidential").
[1.18.465.72 NMAC - N, 12/19/2011]

1.18.465.73 BINGO, RAFFLE AND PULL TAB QUARTERLY REPORT FILES:

A. Program: game of chance licensing
B. Maintenance system: chronological by date, then alphabetical by licensee name
C. Description: quarterly reports from game of chance organizations of all revenues, expenditures and prizes paid out from bingos, raffles and pull tabs. Files may include statement covering the preceding calendar quarter showing the amount of the gross receipts derived during that period from games of chance, the total amount of prizes paid, the name and address of each person to whom has been paid six hundred dollars or more and the purpose of the expenditure, the gross receipts derived from each game of chance and the uses to which the net proceeds have been or are to be applied, copies of checks, copies of bank statements, copy of New Mexico taxation and revenue report and payment, correspondence, etc.

D. Retention: three years from close of the calendar year in which report created
[1.18.465.73 NMAC - N, 12/19/2011]

HISTORY OF 1.18.465 NMAC: [RESERVED]

RESERVED