

ED Records Schedule

SCHEDULE LOCATOR NO.: 253

APPROVED DATE: 10/19/2010

TITLE: Rulemaking Case Files

PRINCIPAL OFFICE: Department-wide

NARA DISPOSITION AUTHORITY: N1-441-09-4

DESCRIPTION:

Case files containing the history of regulations, rulemaking, background and supporting materials, and records created in preparation for publication of the rule in the Federal Register. The official rulemaking case file includes: decision memorandums signed by senior officials; official correspondence, including letters to and from the Office of Management and Budget and the Office of the Federal Register; Federal Register documents (e.g., advance notices of proposed rulemaking, proposed rules, and final rules); analysis; public comments; internal comments; background materials used in developing the regulation; and documents incorporated by reference. The official rulemaking case file may also contain records that document negotiated rulemaking activities, including records that document the proceedings of stakeholder meetings and public hearings. Case files for rules that require the approval of the Secretary or Deputy Secretary must also contain a copy of the signed Regulatory Action Memorandum.

DISPOSITION INSTRUCTIONS:

- a. Final Rule and Related Decision Memorandums Signed by Senior Officials, Including Regulatory Action Memorandums Signed by the Secretary or Deputy Secretary

PERMANENT

Cut off annually upon publication of final rule. Transfer to National Archives 5 years after cut off.

- b. Internal Background/Supporting Materials

Records include but are not limited to papers accumulated in drafting, reviewing, commenting on, and otherwise providing legal assistance on all proposed and final regulations and other documents requiring Departmental clearance for publication in the Federal Register.

1. Background/supporting materials that result in a final rule

TEMPORARY

Cut off annually upon publication of final rule. Destroy/delete 5 years after publication.

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2. Background/supporting materials that do not result in a final rule

TEMPORARY

Cut off annually. Destroy/delete 3 years after cut off.

- c. Notices of Proposed Rulemaking, Public Comments, and Negotiated Rulemaking Records

Records include the public notice of proposed rulemaking issued by ED, comments received by the agency from the public about the proposed rule, and records documenting the negotiation of the terms of a proposed administrative rule between the Department and affected interest groups.

TEMPORARY

Cut off annually upon publication of final rule. Destroy/delete 5 years after publication.

- d. Documents Published in the Federal Register [GRS 16, Item 13]

1. Files documenting the processing of notices announcing committee meetings, including meetings open to the public under the Government in Sunshine Act (5 U.S.C. § 552b(e)(3)); hearings and investigations; filing of petitions and applications; issuance or revocation of a license; grant application deadlines, the availability of certain environmental impact statements; delegations of authority; and other matters that are not codified in the Code of Federal Regulations

TEMPORARY

Destroy when 1 year old.

2. Files documenting the processing of semi-annual regulatory agenda

TEMPORARY

Destroy when 2 years old.

- e. Master Data File for Department of Education Federal Docket Management System (EDFDMS)

This system is an electronic government-wide docket management system that provides Federal agencies the ability to post a broad set of documents routinely included in rulemaking dockets (e.g., Federal Register notices, proposals and regulations; supporting analyses; and public comments) on the Internet. FDMS includes features for agency staff to manage rulemaking dockets; these features include full text search capabilities, e-mail notification, bulk data import and export, as well as reporting and tracking functions. All of the Department's NPRMs, interim final regulations, and final regulations are managed through FDMS.

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TEMPORARY

Cut off annually upon publication of final rule. Destroy/delete 5 years after publication.

- f. Duplicate Copies Maintained for Reference Purposes and That Do Not Serve as the Record Copy

TEMPORARY

Destroy/delete when no longer needed for reference.

IMPLEMENTATION GUIDANCE:

The recordkeeping copies of all rulemaking records are maintained in the office issuing the rule. Records created by a committee established with a U.S. Department of Education mission-related or rulemaking objective, or by Public Law or Executive Order are covered by ED 115 – Operational, Interagency, International, or Internal Committees, Task Forces or Working Groups.

Follow the disposition instructions in ED 086 for system software; input/source records; output and reports; and system documentation.

ARRANGEMENT/ANNUAL ACCUMULATION:

PREVIOUS NARA DISPOSITION AUTHORITY:

ED 253(a) Final Rule and Related Decision Memorandums Signed by Senior Officials, Including Regulatory Action Memorandums Signed by the Secretary or Deputy Secretary supersedes:

N1-441-93-04, Item 1.a (ED/RDS Part 8, Item 1.a)

ED 253(b) Internal Background/Supporting Materials supersedes:

N1-441-93-04, Item 1.b (ED/RDS Part 8, Item 1.b)

SPECIFIC LEGAL REQUIREMENTS:

5 U.S.C. § 553

SPECIFIC RESTRICTIONS:

Privacy Act 18-09-05 Department of Education Federal Docket Management System (EDFDMS)

LINE OF BUSINESS: Departmental/Administration