

Supreme Court of Kentucky

2026-32

ORDER

IN RE: RULES OF ADMINISTRATIVE PROCEDURES FOR THE COURT OF JUSTICE, PART XXII, COURT OF JUSTICE RECORDS

Pursuant to Sections 109, 110(5)(b), and 116 of the Constitution of Kentucky, it is HEREBY ORDERED that the Rules of Administrative Procedures for the Court of Justice (AP), Part XXII, Court of Justice Records are adopted as follows:

SECTION 1. AUTHORITY, APPLICATION, AND SCOPE

(1) This rule of administrative procedure is adopted pursuant to the authority granted to the Supreme Court of Kentucky by the Kentucky Constitution as follows:

(a) Section 109 of the Kentucky Constitution vests the judicial power of the Commonwealth exclusively in a single, unified Court of Justice responsible for all court operation and administration;

(b) Section 110(5)(b) of the Kentucky Constitution establishes the Chief Justice as the executive head of the Court of Justice and vests the Chief Justice with the exclusive authority to appoint necessary personnel and perform all necessary administrative functions relating to the court; and

(c) Section 116 of the Kentucky Constitution vests the power to proscribe rules for practice and procedure governing the Court of Justice exclusively with the Supreme Court of Kentucky.

(2) This rule of administrative procedure shall apply to all Court of Justice records without regard to format, age, custody, or control.

(3) No local rules, practices, procedures, orders, or other policy documents of the AOC or any appellate, circuit, or district court may conflict with or controvert this administrative procedure; further, to the extent that any such local rules, practices, procedures, orders, or other policy documents are inconsistent or otherwise conflict with these rules of administrative procedure, this administrative procedure shall prevail.

SECTION 2. DEFINITIONS

For the purposes of this rule of administrative procedure, unless the context or subject matter otherwise requires:

(1) “Access” means the ability to view and/or receive physical copies or digital images of records.

(2) “Accession” means to formally designate and add one or more records to the collection of records for off-site storage when records are no longer administratively necessary for local use. A record having been so designated is referred to as an “accessioned record.”

(3) “AOC” means the Administrative Office of the Courts.

(4) “Archived record” means a record that has continuing legal, administrative, cultural, or informational value; has been formally designated and added to the collection of permanent records maintained at an off-site storage; and has been assigned archived status based upon its age.

(5) “Commercial purpose” means the direct or indirect use of any part of a record, in any form, for sale, resale, solicitation, rent or lease of a service, or any use by which the user expects a profit either through commission, salary, or fee. It does not include the publication or related use by a media outlet engaged in journalism in dissemination of information on issues of public interest or the use by a party or counsel for a party in connection with any litigation.

(6) “Confidential record” means a record that the public may not access pursuant to authority of the Kentucky Revised Statutes (KRS), the United States Code (USC), the Kentucky Administrative Regulations (KAR), the Code of Federal Regulations (CFR), court order, court rule, administrative procedure, or similar legal authority.

(7) “Destruction” means the deletion or removal of any trace or formal evidence of a record so that it shall no longer be present in any system or at a physical location where such record would otherwise be maintained.

(8) “Discovery tools” means applications or systems designed to enable a person to identify or locate accessioned or archived records.

(9) “KCOJ” means the Kentucky Court of Justice.

(10) “Permanent record” means records that have sufficient historical, informational, or evidentiary value to warrant preservation beyond the time they are needed for administrative, legal, or fiscal purposes.

(11) “Record” or “Records” means all documents, papers, discs, recordings, or other documentation, created, received, or maintained by any court or agency of the Court of Justice, or by any other court, agency, or officer responsible to such court or agency that was created under the present or a former Constitution, as determined by the Supreme Court of Kentucky and reflected in the record retention schedule, court rules, or other instructions of the Supreme Court.

(12) “Records custodian” means the employee or official who has the official duty to receive and maintain a record on behalf of a court, agency, committee, or commission of the KCOJ prior to the record’s destruction or accession, including but not limited to, each circuit court clerk, each appellate court clerk, the AOC Director, the Chief of Staff to the Chief Justice, Judicial Ethics Commission executive secretary, Judicial Conduct Commission executive secretary, and the Office of Bar Admissions Director.

(15) “Records officer” means the AOC employee designated as the KCOJ records officer by order of the Chief Justice.

SECTION 3. RECORDS

(1) All records shall be the property of the KCOJ and are subject to the exclusive custody, control, and jurisdiction of the Supreme Court of Kentucky without regard to physical location.

(2) All records custodians, public officers, public agencies, or other persons having custody, control, or possession of records by statute or otherwise shall be subject to the direction of the Supreme Court of Kentucky with regard to such records.

(3) The Chief Justice, or any other KCOJ official or employee designated by the Chief Justice, shall take such action necessary to compel compliance with any rule, regulation, standard, procedure, or order issued by the Supreme Court of Kentucky related to records.

(4) The AOC may, upon appropriate agreement, utilize the technical assistance and services of the Kentucky Department for Libraries and Archives (KDLA) or, any other vendor with expertise in library and archive services.

SECTION 4. RETENTION OF RECORDS

(1) The retention of records shall be governed by a record retention schedule, court rule, or other instruction of the Supreme Court of Kentucky and may not be deviated from except by order of the Supreme Court of Kentucky or as otherwise permitted under this rule of administrative procedure.

(2) A record retention schedule shall:

- (a) Designate any permanent records;
- (b) Direct the accession of records when they are no longer administratively needed by the records custodian;
- (c) Establish a minimum period of retention if not designated as a permanent record; and
- (d) Direct the destruction of records not designated as permanent records when the record no longer serves an administrative, legal, or fiscal need and there is insufficient historical, informational, or evidentiary value to warrant the expense of continued preservation.

(4) The AOC shall adopt any and all necessary standards, policies, or procedures to give effect to this rule of administrative procedure, the record retention schedules, court rules, or other instruction of the Supreme Court related to record retention.

(5) The AOC shall provide training and resources to records custodians and their staff regarding standards, policies, and procedures required for compliance with the record retention schedules, court rules, or other instruction of the Supreme Court related to record retention.

SECTION 5. DIGITIZATION AND DISSEMINATION OF RECORDS

(1) Any individual, agency, organization, business, or other entity with possession of a record shall not generate or cause to be generated a digital image of the record except for the purpose of publication on a KCOJ webpage or as may be authorized by court rule, law, or written agreement with the AOC.

(2) Any individual, agency, organization, business, or other entity with possession of a record shall not disseminate or distribute the record or facsimile of the record, in any format, for the purpose of creating a searchable database or research bank without prior authorization of the Supreme Court and written agreement with the AOC.

(3) Any individual, agency, organization, business, or other entity with possession of a record shall not sell or otherwise monetize access to the record in their possession at any time or be permitted to access or use the record for a commercial purpose, except as otherwise permitted by law.

SECTION 6. ACCESS TO ACCESSIONED RECORDS

An individual, agency, organization, business, or other entity entrusted with custody, control, or possession of accessioned records, except records custodians, shall:

- (1) Only permit the public to view records in person, even if the records were accessioned in an electronic format;
- (2) Provide physical copies or digital images of records upon request by the public;
- (3) Refer to the AOC Office of Communications any requests made by or on behalf of a member of the media seeking access to records;
- (4) Sign a written agreement with the AOC memorializing terms of access, confidentiality, security, storage, and use of records;
- (5) Limit access to confidential records to only KCOJ employees and officials;
- (6) Ensure discovery tools available to the public do not reveal the existence of any sealed or confidential records; and
- (7) Review and remove confidential and/or sealed records prior to providing access to records to a non-KCOJ employee or official.

SECTION 7. DAMAGED OR DESTROYED RECORDS

(1) In situations where records have been damaged, the records officer shall assess the records for the purpose of making a recommendation to the AOC Director as to whether the records should be salvaged.

(2) The records officer assessment and recommendation shall be based on the following factors:

- (a) Nature and extent of damage sustained;
- (b) Priority level of effected records, as assigned to the records by the records officer and approved by the AOC;
- (c) Estimated cost of removal, recovery, and restoration;
- (d) Feasibility and effectiveness of on-site recovery measures versus off-site;
- (e) Consultation with the Chief Judge(s) and Circuit Court Clerk of the court to which the damaged records belong; and

(f) Any other factor deemed relevant by the records officer and the AOC Director.

(3) In situations where records have been damaged or destroyed, after considering the availability of budgetary resources and if applicable, the records officer's assessment and recommendation, the AOC Director, in consultation with the Chief Justice as necessary, may authorize the records officer to:

(a) Authorize the removal and temporary relocation of records in accordance with the assigned priority levels to mitigate the risk of loss;

(b) Authorize a contracted vendor to remove, recover, treat, and/or remediate damaged records;

(c) Allocate available resources to undertake any action necessary to assist with the removal, temporary relocation, destruction, or preservation of records; and

(d) Deviate from the Retention Schedule, court rule, or other instruction of the Supreme Court regarding records.

(4) In situations where records are at imminent risk of being damaged or destroyed and an assessment and recommendation under subsections (1) and (2) are not feasible, the AOC Director may authorize any action to be taken that is reasonably necessary to mitigate the anticipated damage or destruction of records.

SECTION 8. ROLES AND RESPONSIBILITIES

(1) AOC

The AOC shall establish standards, policies, and procedures to regulate the scheduling, tracking, and documentation of requirements in a retention schedule, court rule, or other instruction of the Supreme Court for the accession and destruction of records, which shall be applicable to all KCOJ personnel and officials exercising custody, control, or possession of records.

(2) Records Custodians

(a) All records custodians shall cooperate with and provide any and all necessary resources to facilitate compliance with a record retention schedule, court rule, or other instruction by the Supreme Court and the standards, policies, and procedures established by the AOC.

(b) All records custodians shall cooperate with requests by the records officer relating to this rule of administrative procedure and any standard, policy, and procedure of the AOC.

(c) The Chief Justice shall be advised, by the records officer, should any records custodian fail to cooperate with any requests made by the records officer relating to this rule of administrative procedure and policies and procedures of the AOC.

(3) Records Officer

(a) The records officer shall represent the KCOJ in its business with the Kentucky Division of Archives and Records Management.

(b) The records officer shall assist the Kentucky Division of Archives and Records Management in inventorying, analyzing, and scheduling destruction of records.

(c) In addition to those responsibilities expressly stated in this rule of administrative procedure or elsewhere, the records officer shall:

(i) Make decisions related to storage and destruction for all records pursuant to and consistent with the records retention schedules, court rules, and other instructions of by the Supreme Court of Kentucky;

(ii) Be the custodian of and maintain all records of transmittals for the transfer of records for off-site storage;

(iii) Be the custodian of and maintain all destruction certificates for the permanent destruction of records and make an annual report of these destruction certificates to the AOC and to the State Archivist;

(iv) Supervise and oversee the AOC personnel assigned to perform the accession and destruction of records;

(v) Propose record retention schedules, court rules, and other instructions related to records, or revisions thereto for approval by the Supreme Court of Kentucky;

(vi) Ensure appropriate and timely training is provided for all personnel and officials responsible for the accession or destruction of records;

(vii) Perform a regularly scheduled audit of records custodians to assess local storage space and compliance with record retention schedules, court rules, and other instructions of the Supreme Court.

Entered this 17th day of September 2026.

All sitting; all concur.


CHIEF JUSTICE