



I.C.A.R. 40. Appellate Court Records

Idaho Court Administrative Rule 40. Appellate Court Records.

(a) **Original Records Kept by Clerk of Supreme Court and Court of Appeals.** The Clerk of the Supreme Court and Court of Appeals must keep case files that include the records of civil and criminal appeals and other proceedings.

(1) **Form and content.** The Clerk of the Supreme Court and Court of Appeals, in consultation with the Chief Justice, will determine the form, style, indexes, and records and systems used to keep the case files of civil and criminal appeals and other proceedings.

(2) **Contents of case files in civil appeals and other proceedings.** The clerk of the Supreme Court and Court of Appeals will keep the following in civil case files and those of other appellate proceedings:

- (A) documents filed in civil appeals or other non-criminal proceedings;
- (B) transcripts, including magistrate transcripts submitted as exhibits;
- (C) district court clerk's records;
- (D) administrative agency records; and
- (E) register of actions.

(3) **Contents of case files in criminal appeals.** The clerk of the Supreme Court and Court of Appeals will keep the following in criminal case files:

- (A) documents filed in criminal appeals;
- (B) transcripts, including magistrate transcripts submitted as exhibits;
- (C) district court clerk's records; and
- (D) register of actions.



(b) **Disposition of non-criminal appellate records.**

(1) **Non-permanent records.** The entire case file in civil appeals and other proceedings must be kept for 10 years from the date of remittitur, or the date of closure if no remittitur is issued.

(2) **Permanent records.** The entire case file in the following cases must be kept permanently:

(A) water law cases;

(B) election related cases;

(C) redistricting cases; and

(D) any other case that the Clerk of the Supreme Court and Court of Appeals determines has historical or legal significance.

(c) **Disposition of appellate records from criminal appeals.**

(1) **Non-permanent records.** The entire case file in criminal appeals must be kept for 10 years from the date of remittitur.

(2) **Permanent records.** The entire case file in the following criminal appeals must be kept permanently:

(A) death penalty cases; and

(B) any other case that the Clerk of the Supreme Court and Court of Appeals determines has historical or legal significance.

(d) **Additional permanent records.** The Clerk of the Supreme Court and Court of Appeals or other Court designee may identify additional permanent records.

(e) **Records destruction.**

(1) **Non-permanent records.**



(A) The Clerk of the Supreme Court and Court of Appeals may destroy paper copies of non-permanent records only if it first creates and retains an electronic copy of those records.

(B) The Court may elect not to destroy physical copies of non-permanent records.

(2) ***Permanent records.***

(A) The Court may keep physical copies of permanent records in perpetuity.

(B) If the Court decides to destroy physical copies of permanent records the records may only be destroyed after:

(i) the record is scanned and an electronic version kept permanently; and

(ii) the Idaho State Historical Society receives 120 days advance notice, subject to any court order entered in the case and the provisions of I.C.A.R. 32.

(f) **Appellate records provided to research facilities.** The Clerk of the Supreme Court and Court of Appeals will provide the Idaho State Law Library and the Law Library of the University of Idaho College of Law copies of appellate briefs after a case is closed.

(Adopted June 15, 1987, effective November 1, 1987; Repealed; new rule adopted August 26, 2025, effective August 26, 2025.)

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