

SUBJECT: Record Retention and Disposal

Introduction.....	1	State-Chartered Credit Unions.....	3
Executive Summary	1	Federal Credit Unions	4
Consumer Information	1	Proper disposal of “personal information”	5
Personal Information.....	2	What Personal Information Is Protected?	5
Record retention.....	2	Methods of Disposal.....	6
“Vital records”	2	Civil Liability.....	6
Vital records preservation program & procedures	2	“Dumpster Diving” Prohibited	6
Vital records center and third-party service providers.....	3	Electronic retention & disposal	6
Formatting.....	3	Keep some originals.....	7
Proper disposal of “consumer information”	3	OCC Guidance	7

INTRODUCTION

This release applies to all credit union branches and offices located in Wisconsin, whether state or federally chartered. It describes state and federal law relating to [the retention of credit union records and the proper disposal of records](#) containing consumer report information or other personal data.

EXECUTIVE SUMMARY

The National Credit Union Administration (NCUA) requires all insured credit unions to maintain a vital records preservation program. In addition, various state and federal laws impose their own record retention requirements. Other ii Releases address those specific state and federal requirements; this release summarizes the NCUA’s general requirements to maintain vital records.

Various state and federal laws require the proper disposal of certain credit union documents.

The Fair Credit Reporting Act (FCRA) requires federal agencies to adopt rules for disposal of “consumer information” from consumer reports. The Federal Trade Commission (FTC) has issued rules for state-chartered credit union. Similar rules from the National Credit Union Administration (NCUA) apply to federal credit unions.

Other records, even if they are not from consumer reports, still may contain personal data. State law sets standards for disposing of any other “personal information.”

All of these laws are similar, though the details do differ. If the credit union is uncertain as to which set of laws applies, it should comply with the stricter requirements or contact The League for assistance.

Consumer Information

Under the FTC rules, your credit union must take reasonable measures to protect against unauthorized access to or use of the information that you dispose of. This does not require perfect destruction of consumer information in every situation. To determine whether your measures are “reasonable,” consider the sensitivity of the information, the nature and size of the credit union’s operations, the costs and benefits of different disposal methods, and relevant technological changes.

The FTC rules include the following examples of reasonable disposal measures, which are intended to serve as guidance; you may choose other appropriate measures:

- Burning, pulverizing, or shredding of papers containing consumer information so it cannot be read or reconstructed. Destruction or erasure of electronic media containing consumer information so it cannot be read or reconstructed.
- After due diligence, entering into and monitoring a written contract with a third party engaged in the business of record destruction to dispose of material specifically identified as consumer information in a manner consistent with this rule.

Personal Information

For other “personal” information that is not from consumer reports, Wisconsin credit union locations must comply with Wis. Stats. § 134.97. It requires credit unions to shred, erase, render unreadable, or otherwise destroy any records containing personal information before disposing of them. The purpose is to reduce the risk of unauthorized access to the people’s personal information, such as for fraudulent purposes.

Most credit unions already take safeguards to protect confidential information, but all should review their practices to be sure that no records with personal information leave the custody of the credit union in violation of the law.

RECORD RETENTION

Wisconsin repealed its credit union record retention regulations for state-chartered credit unions in 2021.

All credit unions in Wisconsin (state and federal) must follow the federal record retention rules found in the NCUA Rules & Regulations Part 748 (Security Program, Report of Suspected Crimes, Suspicious Transactions, Catastrophic Acts and Bank Secrecy Act Compliance) and 749 (Vital Records Preservation Program).

Record retention rules that are specific to the Bank Secrecy Act and other federal regulations are discussed in various other ii Releases. See The League’s *Topics A-Z* page on *Record Retention* for resources and links to those specific requirements.

This release summarizes the NCUA’s Vital Records Preservation Program rules, which do not supersede requirements under other laws or regulations. Instead, they are general rules that require credit unions to retain certain “vital records.” The NCUA used to include guidance on record retention in an appendix to the rules, but that appendix was removed in 2026.

“Vital records”

Under the NCUA rules, the term “vital records” means the most recent and current versions of the records a credit union needs to restore “vital member services” – the essential financial services that a credit union provides to its members, such as member access to their accounts, share withdrawal and deposit facilities, and loan payments and disbursements. These records are:

- A list of share, deposit, and loan balances for each member's account as of the close of the most recent business day that: shows each balance individually identified by a name or number; lists multiple loans of one account separately; and contains information sufficient to enable the credit union to locate each member, such as address and telephone number.
- A financial report, which lists all of the credit union's asset and liability accounts, current as of the most recent month-end.
- Bank reconciliations, current as of the most recent month-end.
- A list of the credit union's accounts at financial institutions, insurance policies, and investments along with related contact information, current as of the most recent month-end.
- Emergency contact information for employees, officials, regulatory offices, and vendors used to support vital records.

A credit union may classify additional records as vital and maintain older versions of any vital records as it determines necessary.

Vital records preservation program & procedures

A credit union’s board of directors is responsible for establishing a vital records preservation program, which must be in writing and contain procedures for maintaining duplicate vital records at a “vital records center” (as defined in the next subsection).

The procedures must include:

- Designated staff responsible for vital records preservation,
- A schedule for the storage and destruction of vital records, and

- A records preservation log as determined by the credit union that will aid in locating and easily accessing the vital records. The log may be in electronic or any other format as determined by the credit union.

A credit union that maintains some or all of its vital records by an off-site data processor is considered to be in compliance for the storage of those records if the service agreement specifies the data processor safeguards against the simultaneous destruction of production and back-up information.

Unless required by other law or regulation, older versions of vital records may be destroyed once their current versions are stored.

Vital records center and third-party service providers

Under the rules, the term “vital records center” means a storage facility – and that can include another federally insured credit union – at any location far enough from the credit union's offices to avoid the simultaneous loss of both sets of records in the event of a catastrophic act.

The NCUA requires each credit union to maintain, or contract with a third-party service provider to maintain, any equipment or software for its vital records center necessary for the credit union to access its records.

If a credit union contracts with a third-party service provider to maintain its records, the credit union must maintain effective oversight of the third-party service provider to ensure the records meet the requirements of this section.

Formatting

Preserved vital records (and any other records the NCUA may require a credit union to retain) can be kept in any format that can be used to reconstruct them, so long as the format:

- Accurately reflects the information in the record,
- Is accessible to anyone legally entitled to access the records, and
- Is capable of reproduction by transmission, printing, or otherwise.

The credit union must maintain the necessary equipment or software to permit an examiner to access the records during the examination process.

PROPER DISPOSAL OF “CONSUMER INFORMATION”

To prevent unauthorized disclosures and to reduce the risk of fraud and identity theft, the federal Fair and Accurate Credit Transaction Act (commonly called the FACT Act) requires federal agencies to issue rules on the proper disposal of consumer information from consumer reports.

The document disposal rules are similar for state-chartered and federally chartered credit unions, but details and effective dates vary. The document disposal rules for state-chartered credit unions are from the FTC. The rules for federal credit unions are from the NCUA.

Whichever rules apply to your credit union, consumer information disposal procedures are an important element of your program for Safeguarding Member Information.

For information on the NCUA Guidelines for Safeguarding Member Information, see ii Release No. 0155.

State-Chartered Credit Unions

Under the FTC rules, state-chartered credit unions that have consumer information from consumer reports for business purposes must dispose of the information properly. Your credit union must comply with the FTC rules if:

- You maintain or otherwise possess consumer information for a business purpose; and
- The record being disposed of contains consumer information, or any compilation of consumer information. This includes consumer reports, as well as records containing consumer information, or any compilation of consumer information that is derived from consumer reports.

The rule covers affiliates that receive the information from the credit union. (Other FCRA rules allow the sharing of such information after the consumer has an opportunity to “opt out” of the sharing.)

What does all this mean?

- “*Consumer information*” means any record of an individual in any form, paper or electronic, that is a consumer report or derived from a consumer report, including compilations of such records.
- “*Consumer report*” means credit, reputation, personal, or mode of living information used to establish eligibility for credit, employment, and for certain other purposes. The rule does not cover information that is from consumer reports but does not identify any specific consumers, such as aggregate information or blind data.
- “*Disposal*” means the discarding or abandonment of consumer information, as well as the sale, donation, or transfer of any medium, including computers, upon which consumer information is stored. By itself, the sale, donation, or transfer of consumer information would not be considered “disposal” for purposes of this rule.

Your credit union must take reasonable measures to protect against unauthorized access to or use of the information that you dispose of. This does not require perfect destruction of consumer information in every situation. To determine whether your measures are “reasonable,” consider the sensitivity of the information, the nature and size of the credit union’s operations, the costs and benefits of different disposal methods, and relevant technological changes.

Implementing “reasonable measures” will very likely require policies and procedures that address disposal, as well as employee training. You may add consumer information disposal procedures to your existing program for Safeguarding Member Information.

For information on the NCUA Guidelines for Safeguarding Member Information, see ii Release No. 0155.

The flexibility of the FTC rule is intended to minimize burdens for smaller entities, such as credit unions. You should not need to disrupt your existing document disposal practices if they already provide appropriate protections for consumers.

The FTC rules include the following examples of reasonable disposal measures, which are intended to serve as guidance; you may choose other appropriate measures:

- Burning, pulverizing, or shredding of papers containing consumer information so it cannot be read or reconstructed. Destruction or erasure of electronic media containing consumer information so it cannot be read or reconstructed.
- After due diligence, entering into and monitoring a written contract with a third party engaged in the business of record destruction to dispose of material specifically identified as consumer information in a manner consistent with this rule. Due diligence could include the following:
 - Reviewing an independent audit of the company’s operations and/or its compliance with this rule.
 - Obtaining information from several references or other reliable sources.
 - Requiring certification by a recognized trade association or similar third party.
 - Reviewing the company’s information security policies or procedures.
 - Taking other measures to determine the competency or integrity of the company.

Federal Credit Unions

The document disposal rules for federal credit unions come from the NCUA. They are similar to the FTC document disposal rules for state-chartered credit unions. The NCUA’s rules are included in the NCUA’s “Guidelines for Safeguarding Member Information.” This is to ensure that FCUs integrate their controls for disposing of consumer information into their overall information security programs.

Other parts of the NCUA’s Guidelines apply to all federally insured credit unions, but the NCUA’s document disposal rules apply only to FCUs.

For information on the NCUA Guidelines for Safeguarding Member Information, see ii Release No. 0155.

In a nutshell, the NCUA rules say that FCUs must develop, implement, and maintain appropriate measures to properly dispose of consumer information derived from consumer reports. What does this mean?

- “*Consumer information*” means any record of an individual or compilation of records, in any form, paper or electronic, that is a consumer report or derived from a consumer report maintained by the FCU for a business purpose.

- “*Consumer report*” generally means credit, reputation, personal, or mode of living information used to establish eligibility for credit, employment, and for certain other purposes.
- *Document disposal* need not be done by any particular method. But whatever method you choose should ensure that the records are unreadable, such as shredding. As for computer-based records, credit unions should note that information often remains after data is erased, so additional methods may be needed to dispose of the information completely.
- *Information “derived from consumer reports”* also includes data from the manipulation of consumer report information, as well as consumer report information that has been combined with other types of information. The rules do not cover information that comes from consumer reports but that does not identify any specific consumers, such as aggregate information or blind data.

Under the NCUA Guidelines, an FCU’s information security program should ensure the prompt disposal of *both member information and consumer* information. “Consumer information” may or may not include “member information.” The term “consumer information” refers to information the credit union obtains on anyone, member or non-member, that is derived from a consumer report. The term “member information” refers to non-public personal information, from any source, about a member.

The NCUA rules do not affect provisions of other laws requiring FCUs to maintain or destroy such records.

FCUs are expected to review how their service providers dispose of consumer information and, if necessary, should require service providers to develop appropriate measures for the proper disposal of the information. If warranted, FCUs are also expected to monitor the service providers to confirm that they have satisfied their contractual obligations.

FCUs have until July 1, 2006 to amend contracts with service providers to incorporate the necessary document disposal requirements.

PROPER DISPOSAL OF “PERSONAL INFORMATION”

The federal rules discussed previously apply to the disposal of “consumer information.” Other records, even if they are not from consumer reports, still may contain personal data. State law sets standards for disposing of any other “personal information.”

Wis. Stats. § 134.97 states that a credit union may not dispose of any record containing personal information unless the credit union, or a third party under contract with the credit union, does any of the following:

- Shreds the record before the disposal of the record (such as a paper document);
- Erases the personal information contained in the record before the disposal of the record (such as a tape, disk, hard drive or other medium);
- Modifies the record to make the personal information unreadable before the disposal of the record; or
- Takes actions that it reasonably believes will ensure that no unauthorized person will have access to the personal information contained in the record for the period between the record’s disposal and the record’s destruction.

The law considers a “record” to be any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics. The law does not apply to any such records that are sold by the credit union or transferred for value.

Section 134.97 applies to any bank, savings bank, savings and loan association or credit union that is authorized to do business under state or federal laws relating to financial institutions, any issuer of a credit card or any investment company. It also applies to a medical business or tax preparation business.

What Personal Information Is Protected?

The personal information most relevant to credit unions under § 134.97 includes:

- Personally identifiable data that contain an individual’s account or customer number, account balance, balance owing, credit balance or credit limit, relating to an individual’s account or transaction with a financial institution.
- Personally identifiable data provided by an individual to a financial institution upon opening an account or applying for a loan or credit.

The law also applies to the following types of information that a credit union might hold, perhaps in connection with insurance transactions, loan applications, or electronic filing of tax returns:

- Personally identifiable data about an individual's medical condition, if the data are not generally considered to be public knowledge.
- Personally identifiable data about an individual's federal, state or local tax returns.

"Personally identifiable" means capable of being associated with a particular individual through one or more identifiers or other information or circumstances. Thus, a record is not necessarily safe to dispose of just because it does not include a name or social security number. A "dumpster diver" may be able to use an address, license plate number, or other information in a discarded record to look up a member's name.

Methods of Disposal

Every credit union should have a shredder for destruction of paper documents in compliance with the law. It is not effective to merely "delete" files on magnetic media, because such information can easily be restored. It may be more effective to cut, destroy, or degauss tapes, disks, and hard drives before disposing of them. Some off-the-shelf utility software programs have special applications for effectively erasing data.

It is important to comply with the law in regard to current routine daily records that are discarded on a daily basis, as well as obsolete records being discarded at the end of their retention period.

Civil Liability

A financial institution is liable to a person whose personal information is disposed of improperly for the amount of damages proven to result from the violation of the law. The financial institution may also be subject to a forfeiture of not more than \$1,000. Acts arising out of the same incident or occurrence are considered to be a single violation.

"Dumpster Diving" Prohibited

Section 134.97 provides that any person who, for any purpose, uses personal information contained in a record containing personal information that was disposed of by a financial institution, medical business or tax preparation business is liable to the individual who is the subject of the information and to the financial institution, medical business or tax preparation business that disposed of the record for the amount of damages resulting from the person's use of the information.

Any person who possesses and who intends to use the personal information contained in such a record for any purpose may be fined not more than \$1,000 or imprisoned for not more than 90 days or both.

These penalties do not apply to a person who possesses a record with the authorization or consent of the individual whose personal information is contained in the record.

ELECTRONIC RETENTION & DISPOSAL

Section 186.71 of the Wisconsin Statutes allows credit unions to retain records electronically or by other means:

Any credit union may cause any or all records kept by such credit union to be recorded, copied or reproduced by any photostatic, photographic or miniature photographic process or by optical imaging if the process employed correctly, accurately and permanently copies, reproduces or forms a medium for copying, reproducing or recording the original record on a film or other durable material.

Thereafter, the credit union may dispose of the original record.

The League encourages credit unions to review or spot check their imaging periodically to verify image quality before originals are destroyed.

Credit unions no longer need written consent from the Wisconsin Office of Credit Unions (OCU) before they dispose of original documents.

Credit unions should adopt a sound record disposal policy to address the steps they will take to ensure that records are disposed of properly (though OCU approval of the policy is no longer required).

KEEP SOME ORIGINALS

The OCU advises that the credit union may want to keep certain “high priority” items like loan agreements in the original format for a time in case the credit union needs to rely on them.

Imaged documents can create issues of admissibility as evidence in court in Wisconsin. A debtor might claim that the image was altered and does not reflect the actual terms he/she agreed to. In Wisconsin (as in most states) we have a “rule of evidence” that address this. Under Wis. Stats. §910.03:

A duplicate is admissible to the same extent as an original unless (1) a genuine question is raised as to the authenticity of the original or (2) in the circumstances it would be unfair to admit the duplicate in lieu of the original. No duplicate is inadmissible solely because it is in electronic format.

You need to be able to ensure that the produced electronic document will be accepted in court as actually being what it purports to be. If the authenticity of the imaged copy is cast in doubt by other parties, the "best evidence rule" states a preference for the original documents. So, an imaged copy may generally be admissible, but if the original is available, it will prevail if there is a question of whether the copy has been altered. To avoid problems, it may be smart to keep original copies of certain key documents. As a general matter, original documents should be retained until the statute of limitations for filing of a lawsuit expires, unless the credit union's legal counsel has reviewed the credit unions imaging and recordkeeping. The credit union needs to be sure that it has records that will be admissible under state and federal rules of evidence

OCC Guidance

A good resource for guidance on electronic record keeping is *Advisory Letter 2004-9, from the Office of the Comptroller of the Currency* (OCC). The OCC regulates national banks, not credit unions, but the letter is a good reference on the best practices for electronic document retention. The letter advises:

Records that the bank may need to produce or to introduce into evidence in litigation should receive special attention. Without adequate and admissible records, the bank will be unable to enforce its rights and to protect itself against claims in litigation. Thus, if records that support loan or investment transactions are inadmissible, the bank may face credit, transaction, and market risk. Under the “Interagency Guidelines and Standards for Safety and Soundness,” Appendix A of 12 CFR Part 30, it is an unsafe and unsound practice if the bank fails to maintain loan documentation that, among other things, ensures that the bank's claims against its borrowers are legally enforceable.

Bank management should consult with legal counsel to ensure that electronic record retention systems containing records that the bank may need in litigation are sufficient to ensure admissibility in relevant courts. ...

Electronic documents with electronic signatures may pose special retention challenges to ensure their admissibility. National banks should also understand that digital copies of physical documents signed with original manual signatures may face challenges as to authenticity and admissibility if the actual original signature is no longer available.

The OCC letter also offers guidance on implementation considerations, like security, back-up and recovery, and record destruction and disposal, as well as special considerations about keeping electronic versions of records that may be needed:

- For internal and external audits and controls,
- For bank supervision, and
- To comply with laws and regulations.

* * * * *

League publications are designed to provide accurate information with regard to the subject matter covered, with the understanding that The League does not render legal services. If you have general questions regarding this release, please call The League at (608) 640-4050 if local or (800) 242-0833. For specific legal advice, please consult your credit union's attorney.

Legal Affairs Department
PEG/jb
© 2026 Wisconsin Credit Union League