

161—3.6(216) Preservation of records.

3.6(1) *Duty to preserve.* When a complaint has been served on a respondent, the respondent shall preserve all records relevant to the investigation until the complaint is finally adjudicated, including but not limited to:

a. Any books, papers, documents, applications, forms, or records of any form that are relevant to the scope of the investigation.

b. Records relating to the complainant, other employees, applicants or members holding or seeking positions similar to that held or sought by the complainant.

c. Records relating to other applicants for the same position or membership as the complainant.

3.6(2) *Failure to preserve.* At a contested hearing, the administrative law judge may determine a party or agent of the party destroyed evidence relevant to the investigation. The administrative law judge may infer that the destroyed evidence was adverse to the party who destroyed the evidence or whose agent destroyed the evidence. The administrative law judge shall determine whether the destruction was done at a time when the party or agent knew or should have known that the evidence destroyed was relevant to the investigation and whether the explanation for the destruction is unsatisfactory.

[ARC 8198C, IAB 8/21/24, effective 9/25/24]