Welcome to Basic Records Management Training

Presented by Oregon State Archives
Today’s Agenda

General Overview
  Public Records Laws
  Records Retention Schedules

Basic Records Management Principles
  Electronic Records
  E-Mail Management

Conclusion and Summary
Public Records Management

New Mexico
Public Records Act
14-3-1 NMSA 1978

State Archivist
Is the administrator of the State Commission of Public Records

Virginia
Public Records Laws
§ 42.1-77 Definitions.

State Archives & Records Management
A division of the Library of Virginia § 42.1-79

Oregon
Public Records Laws
ORS 192 & 357

Secretary of State
Public Records Administrator

State Archivist
Authorizes Destruction
Advises and Assists
14-3-2. Definitions.
As used in the Public Records Act [14-3-1 NMSA 1978]:

G. "public records" means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any agency in pursuance of law or in connection with the transaction of public business and preserved, or appropriate for preservation, by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government or because of the informational and historical value of data contained therein.

ANNOTATION

Term "public records" in this section includes the records of various public officials as that term is used in the inspection of public records provisions, former 14-2-1 to 14-2-3 NMSA 1978, being those "public records" which are necessary or incidental to fulfilling the public officer's duties imposed upon his office by operation of law. 1969 Op. Att'y Gen. No. 69-139. In order to be considered a "public record," an item must have some continuing significance or importance. There must be some purpose or reason for its preservation. Therefore, general correspondence files are not public records per se. Certainly there are many items in such a file which should be treated as public records because their contents bring them within the statutory definition. However, there are many items which should be classified as transitory in value and interest. To treat such items as public records and to require their retention for at least three years (as formerly required under 14-3-11 NMSA 1978) would be burdensome, wasteful and unnecessary. 1959-60 Op. Att'y Gen.No. 60-72.
§ 42.1-77. Definitions.
"Public record" or "record" means recorded information that documents a transaction or activity by or with any public officer, agency or employee of an agency. Regardless of physical form or characteristic, the recorded information is a public record if it is produced, collected, received or retained in pursuance of law or in connection with the transaction of public business. The medium upon which such information is recorded has no bearing on the determination of whether the recording is a public record.

For purposes of this chapter, "public record" shall not include nonrecord materials, meaning reference books and exhibit materials made or acquired and preserved solely for reference use or exhibition purposes, extra copies of documents preserved only for convenience or reference, and stocks of publications.
“Public record means a document, book, paper, file, sound recording, machine readable electronic record, or other material, …regardless of physical form or characteristics, made, received, filed, or recorded in pursuance of law or in connection with the transaction of public business, whether or not confidential or restricted in use…” ORS 192.005 (5) (Retention & Disposition)

“’Public record’ includes any writing containing information relating to the conduct of the public’s business, including but not limited to court records, mortgages, and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics.” – ORS 192.410 (4) (Access)
Life-Cycle of a Record

**Creation**
- Correspondence
- Reports
- Directives
- Maps

**Distribution and Use**
- Inter agency
- Intra agency
- External
- Decision Making
- Documentation
- Response

**Maintenance**
- File
- Retrieve

**Disposition**
- Archive
- Destroy
A records retention schedule, approved by the State Archives, is your legal authorization to destroy public records.

Types of Records Retention Schedules

**General Schedules** are retention schedules that are written so that many individuals may use them, regardless of the agency or department that they work for. *(OAR 166-150, OAR 166-200)*

**Special Schedules** are written for records that are unique to a particular government agency or department and can only be used by that agency or department.
Appraisal Values of Records

Administrative needs of the agency

Fiscal requirements of the agency

Legal requirements of the agency

Long term research value (Historical)
1.15.2.105 ADMINISTRATIVE RULES:

A. Program: administrative records

B. Maintenance system: agency preference

C. Description: rules, regulations, orders, statements of policy, and amendments as defined and filed in compliance with the state rules act. Administrative rules shall be filed with state records center, rules division.

D. Retention:
   (1) agency copy: until superseded or rescinded
   (2) state records center (copy filed in rules and publications division): permanent

[5-19-97; Rn, 1 NMAC 3.2.90.10.10.A105.A & B, 12-30-98; 1.15.2.105 NMAC - Rn, 1 NMAC 3.2.90.10.A105.1 & 2, 10/01/2000; A, 1/6/2002]
166-300-0015
(1) Administrative Rule Preparation Records
Records document the formulation, development, notice, and filing of an agency's administrative rules. Administrative rules may be developed through the activities and actions of an agency-appointed advisory committee. Records may include but are not limited to committee minutes and agendas, committee roster, draft rules and work notes, correspondence, copies of administrative orders filed with the Secretary of State (Notice of Proposed Rulemaking, Notice of Proposed Rulemaking Hearing, Statement of Need and Fiscal Impact, Statement of Need and Justification, Certificate and Order for Filing Permanent [or Temporary] Administrative Rules), and public comments and testimony. Administrative rule preparation records must be retained according to this schedule regardless of whether the rule has been renumbered, or repealed and re-adopted under a new rule number. The Secretary of State maintains the statewide record copy of the Oregon Administrative Rules, Oregon Bulletin, and filed administrative orders.

Retention: (a) Retain hearing audio or videotapes: until transcribed or summarized, destroy;
          (b) Retain all other Administrative Rule records: 10 years after repeal of entire rule, destroy
NOTE CONCERNING AGENCY HEAD AND OTHER IMPORTANT ADMINISTRATIVE RECORDS: Records and information (in paper and electronic formats) created, received and maintained by agency heads generally have historic (archival) value because “they Contain unique information regardless of age, which provides ……….

<table>
<thead>
<tr>
<th>RECORD SERIES TITLE AND DESCRIPTION</th>
<th>SERIES NUMBER</th>
<th>SCHEDULED RETENTION AND DISPOSITION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Administrative Process Act (APA) Regulatory Review</td>
<td>100303</td>
<td>Retain 5 years after expiration, termination, recision or replacement of regulation, or end of hearings if no regulation issued; then destroy.</td>
</tr>
<tr>
<td>Records</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Documents compliance</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Files Management Issues

- Centralized vs. De-centralized
- Files Arrangement
- Frequency of access
- Number of people who have access to retrieve or file
- Files control provides effective access
Definition

A records disaster is a **sudden** and **unexpected** event which results in a **loss** of records and information **essential** to an organization’s continued operation.
Essential Records

Essential to the continued functioning or reconstruction of an agency during and after an emergency **and** records which are essential to protect the rights and interests of the agency and the individuals directly affected by its actions.
Microfilm

- Can be used for permanent retention
- Standards ANSI/AIIM
- Retention 100 years or more
  - store silver security copy off-site
  - should be polysulfide treated to prevent redox (tarnishing)
Electronic Imaging

- Define Objectives - Records Officer involved in planning and development
- Characteristics of the records - Purge Criteria/retention
- Access & retrieval requirements (volume, people)
- Costs of equipment, space, personnel vs. service bureau
- Costs of operation, maintenance, and supplies
Media Life Expectancies

- **Hardware & Software** - 10 years
- **Optical & Digital Disks,**
  - **CD-ROM**
    - Dye-Based - 15 years*
    - Dual Alloy - 100 years*
    - Thermal Bubble - 30 years*
    - Phase Change - 15 years*
    - Magneto-Optical - 10-40 years*
    - Ablative Recording of Tellurium - 30-40 years*

  - **Comparison**
    - Paper - 500 years
    - Silver/Polyester Base - 500 years

* Vendor claim of playback stability
Electronic Records
Definition and Types

**Definition**
Any information recorded in a form that only a computer can process

**Types**
- Text
- Image
- Data
- Voice
- Graphic
Electronic Records Issues

✓ Access
✓ Retention
✓ Back-ups – Retention vs. Security
✓ Responsibilities stated in an agency-wide policy that has been signed by each agency employee
✓ Training
✓ Auditing for compliance
Oregon - ORS 192.620

“The Oregon form of government requires an informed public aware of the deliberations and decisions of governing bodies and the information upon which such decisions were made. It is the intent of ORS 192.610 to 192.690 that decisions of governing bodies be arrived at openly.”
E-mail

Designed to transmit routine messages quickly & effectively
Efficient communication tool
Informal nature creates a business challenge
It is a public record
It is subject to disclosure

Goal
Preserve e-mail for as long as it is needed to accurately document agency functions and to help create an historical record
Awareness

How do we get an agency’s attention?

Experience

SAIF
City of Beaverton vs. NIKE

Education

Video & Manual
E-mail messages are my personal communications.

What do you mean I need to keep them?

I have no expectation of privacy?

Storage is cheap so I just save them all – it’s easier that way.

I’ll just keep all my e-mails for 3 years and then delete them.

I don’t keep any messages—I just read them and delete them.

E-mail is so convenient, let’s use it for everything!

I bought my PDA, so the information is mine!

What e-mail policy?

All e-mail messages are ephemeral so they can be deleted.
Experience

State Accident Insurance Fund (SAIF)

January 2000 - Oregonians for Sound Economic Policy, Inc. (OSEP) made a Public Records Request

2001 – OSEP made an additional request and this time included e-mail messages as part of the request

Kathy Keene, President of SAIF circumvented most of the request, and declared that all of her e-mail was ephemeral and ordered it to be deleted
Experience

Enter Judge Paul Lipscomb

“By its own terms the State Archives policy precluded the continued destruction of any responsive document of any kind after the original OSEP records request of January 2000…”

“…Ms. Keene, however, continued to rely on her own personal definition of ‘ephemeral’ to justify her failure to keep or produce virtually any documents related to SAIF’s outside consultants right up until her eventual departure in December 2003.”
Experience

The Result….

✓ SAIF fined $1 million for contempt of court
✓ Additional daily fines until SAIF found in compliance
✓ Additional costs for third party intervention (i.e. Archives, attorneys, etc.)
✓ Total Cost = $2.5 million
The Approach

- Change behavior and viewpoint
- Create an environment of accountability
- Give agencies the tools necessary to accomplish this
E-records Policy

Core Elements of a Good Policy

Appropriate Use Statement
Access to Employee Hard Drives, E-mail Accounts & Privacy Notice
Retention of E-mail Messages
Policy Awareness
Training
Compliance
E-mail Management

Establish the filed e-mail message as the official copy of the record whether that is the printed message or is the filed electronic message saved in an electronic file management structure.

Establish that e-mail system backups are not an acceptable means of managing e-mail messages.

Recommend use of an Electronic Records Management System (ERMS) certified to be compliant with DoD 5015.2-STD.
E-mail Management

An E-mail System is a mode of transmission, not a type of record

An E-mail Message may be a public record

Develop policies and procedures relating to appropriate use and management of e-mail

Implement a systematic filing system

Train employees on implementing the procedures

Continuously monitor compliance
Storage Issues
Limit Access
Storage Issues
Inventory
Storage Issues
Label Boxes
## Storage Issues

### Label Boxes

### Sample Label

<table>
<thead>
<tr>
<th>Agency Name</th>
<th>Control #</th>
</tr>
</thead>
<tbody>
<tr>
<td>Columbia County Commissioners</td>
<td><strong>2004-0023</strong></td>
</tr>
</tbody>
</table>

**Box Contents:**

**Executive Session Minutes, 1994**

**Notes:**

Comish Smith’s Stuff

<table>
<thead>
<tr>
<th>Box #</th>
<th>Schedule # &amp; Retention</th>
<th>Destruction Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 OF 3</td>
<td>OAR 166-150-0045 (2b) 10 years</td>
<td><strong>01/01/2005</strong></td>
</tr>
</tbody>
</table>
Public records should be stored in:

- Fire resistant structures
- Areas where temperature & humidity are maintained
- Areas that are well lit
- Areas with good ventilation & protection from insects & mold
- Areas away from steam, water, & sewer pipes
- Areas free from windows, doors, walls, or roofs
- Areas with clear aisle space
- Areas with shelving above initial flood stage
Records Destruction

✓ What records to destroy
✓ When to destroy records
✓ Destruction Methods
  Non-confidential (recycle)
  Confidential (shred, pulp, incinerate, chemical disintegration)
✓ Documentation
## Sample Destruction Log

**Agency:** Columbia County  
**Unit/Department:** Commissioners

<table>
<thead>
<tr>
<th>Series (What Destroyed)</th>
<th>Date (When)</th>
<th>Who (Who Destroyed)</th>
<th>Authority (Schedule/Series #)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Executive Session Minutes, 1994</td>
<td>01/01/2005</td>
<td>Jane Doe</td>
<td>OAR 166-150-0045 (2b) 10 years</td>
</tr>
</tbody>
</table>
Historical Records

Use
Storage

Acceptable Formats

Microfilm

Paper

Options
Agency
State Archives
For More Information…

Contact: State Archives or
Records Management Department

Archives Division
Records Management Unit

Phone: (503) 378-5196
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Webpage: http://arcweb.sos.state.or.us