



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



Public Records Management

New Mexico

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.



Public Records Management

Virginia

§ 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 Records Management

Oregon

“**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)**

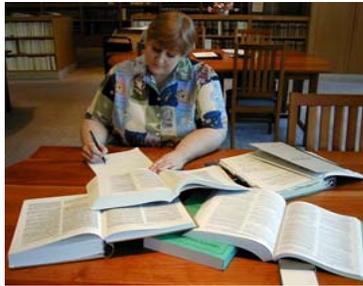
“**Public record**’ includes any writing containing information relating to the conduct of the public’s business, including but not limited to court records, mortgages, and deed records, prepared, owned, used or retained by a public body regardless of physical form or characteristics.” – **ORS 192.410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



Life-Cycle of a Record

Creation

Correspondence,
Reports, Directives,
Maps



Distribution and Use

Inter agency Decision Making
Intra agency Documentation
External Response



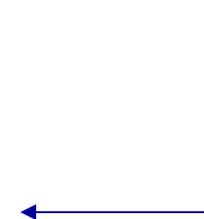
Maintenance

File
Retrieve



Disposition

Archive
Destroy





Records Retention Schedules

A records retention schedule, approved by the State Archives, is your legal authorization to destroy public records

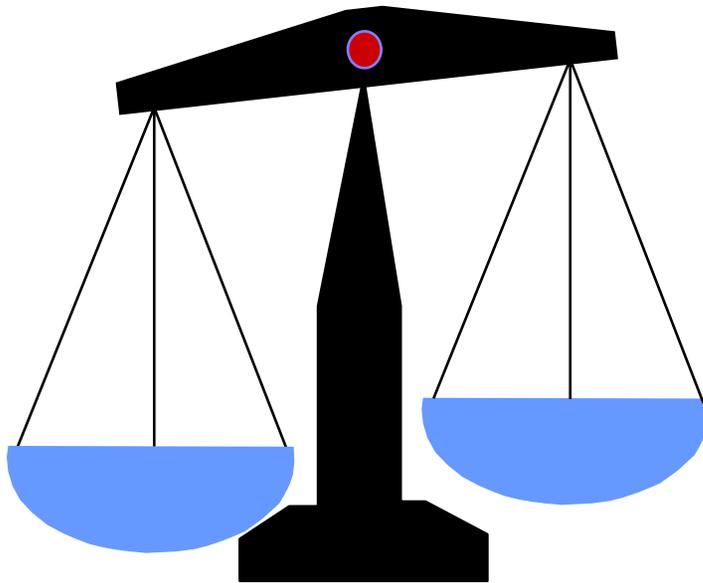
Types of Records Retention Schedules

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)



General Schedule Example

New Mexico

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]



General Schedule Example

Oregon

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



General Schedule Example

Virginia

COMMONWEALTH OF VIRGINIA
THE LIBRARY OF VIRGINIA

RECORDS RETENTION AND DISPOSITION SCHEDULE
GENERAL SCHEDULE NO. 101
ADMINISTRATIVE RECORDS
ALL STATE AGENCIES

EFFECTIVE DATE: May 18, 2000

PAGE 2 OF 21 Pages

RECORD SERIES TITLE AND DESCRIPTION

SERIES NUMBER SCHEDULED RETENTION AND DISPOSITION

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

[Administrative Process Act \(APA\) Regulatory Review Records](#)

100303

Documents compliance with the *Administrative Process Act*,
Code of Virginia, §§ 9-6.1.14:1 – 9-6.14:25.

Retain 5 years after expiration,
termination, rescission or replacement
of regulation, or end of hearings if
no regulation issued; then destroy.



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





Records Disaster

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.

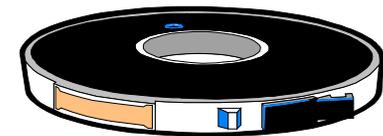
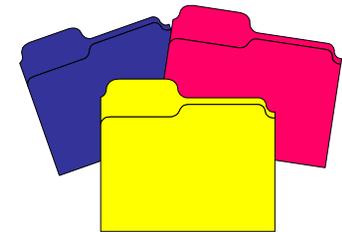




Records Disaster

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

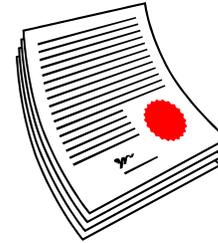


- ✓ Can be used for permanent retention
- ✓ Standards **ANSI/AIIM**
- ✓ Retention 100 years or more
 - store silver security copy off-site
 - should be polysulfide treated to prevent redox (tarnishing)



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

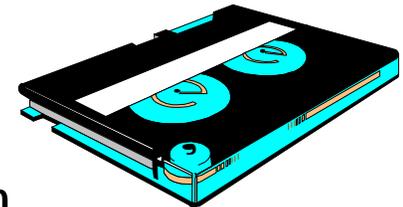


Electronic Records Definition and Types



Definition

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

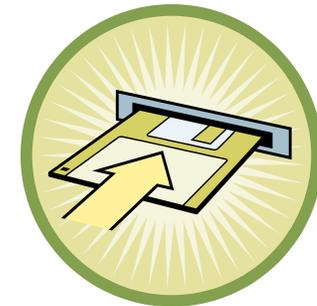


Types

Text
Data

Image
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



Public Meetings Law

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

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



The Statements

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

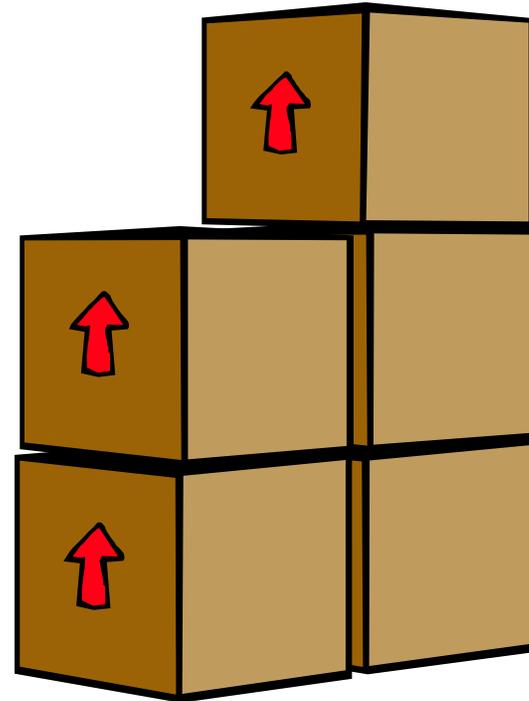


Storage Issues Limit Access



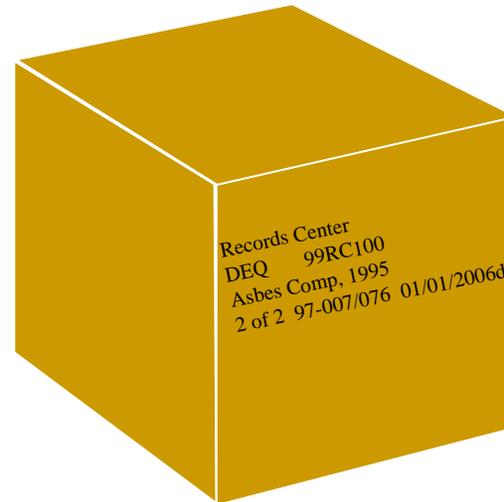


Storage Issues Inventory





Storage Issues Label Boxes





Storage Issues Label Boxes

Sample Label

Agency Name	Control #	
Columbia County Commissioners	2004-0023	
Box Contents: Executive Session Minutes, 1994 Notes: Comish Smith's Stuff		
Box # 1 OF 3	Schedule # & Retention OAR 166-150-0045 (2b) 10 years	Destruction Date 01/01/2005



Storage Issues Conditions

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





Records Destruction

Sample Destruction Log

Destruction Log			
Agency: Columbia County Unit/Department: Commisioners			
Series (What Destroyed)	Date (When)	Who (Who Destroyed)	Authority (Schedule/Series #)
Executive Session Minutes, 1994	01/01/2005	Jane Doe	OAR 166-150-0045 (2b) 10 years



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

E-mail: mary.e.herkert@state.or.us

Webpage: <http://arcweb.sos.state.or.us>