COMPLYING WITH THE ARKANSAS RECORD RETENTION SCHEDULE

Presented By:
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OUR GOALS

• Identify types of records covered
• Highlight common retention periods
• Increase awareness for FOIA purposes

ALWAYS refer to latest version of the Retention Schedule!
RECORDS RETENTION LAW

A.C.A. § 25-18-601 et seq.

- Enacted in 2005, to preserve records commonly found in most state agencies:
  - For disclosure under FOIA
  - For historical purposes
  - For efficient operation of state government
WHO MUST COMPLY?

- State Agencies = all state departments, boards, and commissions

- Does not apply to:
  - Elected constitutional officers and staff
  - General Assembly and its committees and staff
  - Supreme Court, Court of Appeals, or AOC
  - Public institutions of higher education with respect to academic, research, health care, existing information and technology applications and underlying support
  - Local, city, or county government
RECORDS RETENTION SCHEDULE

• Rules promulgated by DFA pursuant to Record Retention Law

• Sets forth minimum requirements for retaining and managing records
GENERAL RULES

• Applies to “official version” of record

• Does not require creation of records

• Does not require disclosure of otherwise exempt records

• Applicable law governs any inconsistencies with Retention Schedule

• Retention requirement determined by content, not by format or media
TYPES OF RECORDS COVERED

• Administrative Records
• Meeting Records
• Automated System Records
• Personnel/Human Resource Records
• Fiscal Records
• Legal Records
• Grant Records
GENERAL ADMINISTRATIVE RECORDS

• Agency Directives, Internal Policies, and Procedures
  (Until superseded plus 3 years)
  • Manuals and general guidelines setting out agency policies and
  procedures that DO NOT affect private rights or procedures
  available to the public

• Complaint Records
  (3 years after final disposition)
  • Formal complaint documents received by agency from public
  regarding general operations of agency or its employees and
  records pertaining to resolution of such complaints
GENERAL ADMINISTRATIVE RECORDS

• Correspondence – Substantive (4 years)
  • Correspondence announcing reports, decisions, recommendations implemented in agency business
  • Correspondence essential to supporting final agency decision related to formulation, implementation, or modification of agency’s administrative operations, rules, procedures, or policies
  • Executive-level correspondence regarding state agency policy and procedure
  • Executive-level correspondence announcing a new internal policy to agency staff
  • Only use this category if not covered by another category
GENERAL ADMINISTRATIVE RECORDS

- Correspondence - Non-Substantive (After Purpose Served)
  - Correspondence not attempting to influence state policy
  - Email message sent to group via listserv
    - Retention based on content, not medium
  - Agency event notices
  - Routine requests for publications records
  - Cover letters and fax transmittal cover sheets – containing nothing of substance

- Also Covers
  - News or Press Releases, State Publications, Presentations, Papers and Reports, Training Materials, and Strategic Plans
  - Refer to Schedule for Retention Periods
MEETING RECORDS

- Meeting records are retained by agency, board, or commission in charge of the meeting
  - Official Agenda and Minutes (Permanent)
  - Notes of Governing Body (4 years)
    - From which minutes are prepared
  - Supporting Documentation (1 year)
    - Documents that are substantive in nature and referenced in minutes
AUTOMATED SYSTEM RECORDS

• Records generated or produced in support of agency’s information system operations

• Includes:
  • Data or database dictionary documentation
  • Network design files
  • Network and system usage files
  • Support services files – hardware
  • Systems and applications development records
  • System and database backup files
  • System security access files
  • Source code
  • Computer operation documentation

• Refer to Schedule for Retention Periods
PERSONNEL RECORDS

• Records of each agency’s employees, name, title, position, organizational assignment, salary, changes in employment status, attendance, leave, and performance evaluations

• If record is subject to litigation or other official action, retention period is suspended – retain until action has been finalized.

• Retention does not govern compliance with federal employment laws (i.e., Equal Pay Act, FLSA, FMLA, etc.)
PERSONNEL RECORDS

• Employee Personnel Records
  (5 years from date of separation or until closure of unresolved personnel issues, whichever is greater)
  • Records documenting individual’s employment, professional certification, promotions, evaluations, disciplinary actions, and security check records

• Employee Wage and Hour Records
  (Retain until authorized by Legislative Audit)
  • Records pertaining to time and leave information
PERSONNEL RECORDS (cont)

• Grievance Records and Reports (3 years after closure)
  • Records documenting proceedings of employee grievance, initial complaint, actions, investigation, summary, and disposition

• Recruitment, Hiring, Interview, and Selection Records (3 Years from date position filled or until disposition of charge or action, whichever is greater)
  • Documentation of recruitment, selection, hire, and promotion of employees
  • Includes position descriptions, job announcements and ads, selection criteria, evaluations, rankings, applications of successful and unsuccessful applicants
PERSONNEL RECORDS (cont)

• Other Personnel Records Include:
  – Equal Employment Opportunity Plan
  – Training and Education Records
  – Discrimination Complaint Files: Charges Filed
  – Discrimination Complaint Files: Charges Not Filed
  – Eligibility Verification Form and Records (I-9)
  – Employee Benefit Records
  – Employment History Records
  – Position Classification and Description Files
  – Unemployment Insurance Records and Reports
  – Workers Comp Accident Reports
  – Workers Comp Illness Reports

• Refer to Schedule for Retention Periods
FISCAL REPORTS

ALL MUST BE KEPT UNTIL AUTHORIZED BY LEGISLATIVE AUDIT

- Accounts Payable
- Competitive Bids
- Accounts Receivable
- Debit/Credit
- Account Reconciliation
- General Ledger Registers
- Legislative Adopted Budgets
- Invoices
- Appropriation, Budget, and Fund Requests
- Journal Entry Registers
- Petty Cash Fund
- Bank Statements
- Purchasing
- Cash Receipt Registers
- Inventory and Capital Assets
- Check Registers
- Transfers
- Checks: Redeemed/Not Redeemed
- Travel Expenses
- Legislative Audit Reports
LEGAL RECORDS

• Best Practice: Maintain separate files on legal matters, informal letter opinions, and formal opinions pertaining to the agency.

• Also maintain the following:
  – **Contracts/Agreements**
    – 5 years after termination
  – **FOIA Documentation**
    – 3 Years
  – **Permits/Licenses**
    – Period of license/permit + 3 years
  – **Applications for permits/licenses**
    – 3 Years

• Also covers:
  • Complaint Files, Complaint Files – Regulated Entity, Legal Opinions, and Litigation Files
  • Refer to Schedule for Retention Periods
GRANT RECORDS

• Records generated in the administration of grants issued by the state or received by state agencies
  – Grants issued, Application, Administrative and Program Files (The greater of Leg. Audit or grant)
  – Grants denied (1 Year)
  – Grants received (The greater of Leg. Audit or grant)
EXCEPTIONS TO RETENTION SCHEDULE

• Situations that suspend the implementation of the schedule:
  – Organizational Preference
    • Certain situations within an agency may create the need for retention periods that exceed the schedule
      – Stringent internal audit requirements
      – Use of records to conduct research
      – Use of records for ongoing investigations
  – Outstanding Legal Proceedings
    • Keep records for the duration of the action, even if record retention period has expired.
EXCEPTIONS TO RETENTION SCHEDULE (cont)

– Outstanding FOIA Requests
  • If records that are the subject of a FOIA request exist at the time of the request, you must not destroy the records until after responding.
  • If the request is denied, do not destroy records until after any potential appeal is resolved.

– Pending Audit or Other Review
  • Retain pertinent records if there is pending state or federal audit
  • Review by another organization, such as accreditation review, may require record retention beyond schedule period
EXCEPTIONS TO RETENTION SCHEDULE (cont)

- Records Converted to Electronic Format
  - Properly converted paper records to electronic format, verified as to the accuracy of contents, may be designated as the agency’s official version

- Records Not Listed in Retention Schedule
  - Refer to agency’s internal procedure for handling such records
  - No legal requirement to maintain such records unless a specific state or federal statute applies
  - Discuss applicability of federal or state statute with legal counsel
RECORDS NOT COVERED

• Records unique to agency
• Records not designated official version regardless of medium in which they exist
• Records subject to longer federal retention requirements
  • Programs subject to federal audit or oversight
• Records of courts
PRESERVATION OF HISTORICAL DOCUMENTS

• Gov. Hutchinson’s Memorandum of February 17, 2016

• To mitigate loss of state’s official history:
  • All directors, departments, and agencies directed to assist the Arkansas History Commission in its efforts to preserve historical documents not in use

• Records Preservation Workshops:
  • Offered by Arkansas History Commission and State Archives
  • http://www.ark-ives.com/
Records Retention Schedule

Act 918 of 2005 requires that all state agencies, boards, and commissions comply with the Arkansas General Records Retention Schedule upon the earlier of either July 1, 2007, or receipt of the necessary line-item appropriation. The following links will provide educational resources and training materials to assist agencies in complying with the Arkansas General Records Retention Schedule.

Contact Jeanette Krohn at Jeanette.Krohn@dfa.arkansas.gov or at 501-682-5127.

Arkansas State Archives Links

Title
Governor’s Memorandum on Historical Records
Transferring Records
State Records Preservation Presentation

Records Retention Documents

Title
Act 918 of 2005
Electronic Record Guidelines
Frequently Asked Questions Received Regarding the Arkansas General Records Retention Schedule
State Library Handout
The Arkansas General Records Retention Schedule
The Procedural Handbook
HELPFUL LINKS

Records Retention Schedule
http://www.dfa.arkansas.gov/offices/intergovernmentalServices/Documents/rec_retention_schedule.pdf

Act 918
http://www.dfa.arkansas.gov/offices/intergovernmentalServices/Documents/act918.pdf

Records Procedures
http://www.dfa.arkansas.gov/offices/intergovernmentalServices/Documents/records_procedures.pdf

State Records Preservation 2016