Proper Documentation: Learning to Create Correctly, Store Effectively, and Retrieve Efficiently

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Youths Ordered To Clean Up Rubbish Mess

An official from the City of Columbus, Ohio, ordered two youths to clean up a pile of rubbish that had accumulated along the banks of a stream in the city. The youths were given a deadline of 12 noon on Wednesday, May 25, to remove all the trash from the area. They did so in the afternoon, clearing a heavy load of garbage. Police Chief William J. O'Brien said that the youths would be issued a citation.

[Image of a clean-up scene]
Why do we “write” stuff down?

What do we use to “write” stuff down?
RECORD MANAGEMENT

What are documents?
- Anything “written” down in any form, using any medium
  - Paper
  - Social Media
  - Reviews
  - Spreadsheets
  - Cocktail Napkins
  - Texts
  - Emails
  - E-docs
  - App Notes

If it’s “written” down, do you have to keep it?
Purpose of Records Management

- Ensure records are available
  - Public records requests
  - Use by entity
  - Discovery
  - Historical perspective
- Protect records from improper destruction
- Ensure we aren’t keeping more than we should

Benefits of Record Management

- Space Savings
- Time savings
- Money savings
- Increase public trust
- Create and document institutional memory
- Tell our story

Records management tells us what records we should keep.

What tells us what records we MUST keep?
What is a public record?

- A **PUBLIC RECORD** is a record *kept by* a public office
  - "Kept by" means that the record is actually in existence and in the possession of the public office or person responsible for public records
  - Examples of records not "kept by" a public office:
    1. a record not yet in existence
    2. a record that has been disposed of lawfully

R.C. § 149.43(A)

The Definition of a Record – The Three Prong Test

- A **RECORD** is:
  1. information stored on fixed media (paper, tapes, electronic text, photos, films, videos, etc); and
  2. is created, received or sent under the jurisdiction of the public office (the public office used the record in some way); and
  3. documents the organizations, functions, policies, decisions, procedures, operations, or other activities of the public office

R.C. § 149.011(G)

Examples of records: ordinances and resolutions, purchase orders, plans reviewed by the Building Department, drafts of letters, telephone messages, e-mail communications regarding City business, memoranda, audio recordings, police reports, violation notices, contracts, and correspondence with residents

Records

- **Databases**: If an existing program can perform a search and produce a compilation or summary as described by the requester, that output is deemed to “exist” as a record for the purposes of the Public Records Act
- **Electronic Records**: ensure authenticity, security, and reliability – determine if records by content, not media type
- **Non-public records**: All records – public or not – are subject to records management and retention laws
Transitory Records

- **Transitory Records** are those that are temporary in nature and created for the purpose of transferring their content to an official file, database, report, etc.
- **Personal Notes** and **drafts** are transitory records if they meet the three-part definition of a “record”
  - Notes are not records if they are:
    - (1) kept as personal papers;
    - (2) kept for the employee/official’s own convenience; and
    - (3) not accessible to other members
  - The content of the draft determines how long it should be kept
Record Retention Obligations

- Make only such records as are necessary to document the organization, functions, and essential transactions of the agency, and to protect the legal and financial rights of the entity and persons directly affected.
- Do not destroy, mutilate, or otherwise dispose of records except as provided by law or under the rules of a Records Commission.
- Organize and maintain public records in a manner that they can be made available for inspection or copying.
- Keep an available copy of current records retention schedule at a location readily available to the public.

MAKING THE DOCUMENTS

Who Wants Documentation?

- Citizens
- Media
- Employees
- Unions
- Other Government Bureaucracies
- Attorneys
- Juries
- Medical Professionals
- THE STATE OF OHIO
What do they ALL have in common?

- (1) They thrive on paper;
- (2) they believe that if something was important, you wrote it down
  - If you didn’t write it down, it must not have been important

Know what happens to your paper – be purposeful

- Think about what happens to each document you create before you create it
- Know where it is going
- Know who is going to see it
- Know how long it will be kept
- Know where it will be kept and how
- Know how it will be destroyed and when
- Know whether it is a public record

Proper Documentation Has a Purpose

- You must first determine the purpose of the document to determine what and how to document
  - If it’s a government function, do you simply need to record the events that occurred?
  - Is it to assign follow-up tasks?
  - Is it to document discipline in an effort to change behavior?
  - Is it to tell somebody to do something?
  - Is it to Cover Your Assets?
Creating a Paper Trail

- In "government" functions, you often need documents to, essentially, create a paper trail
  - Who you talked to
  - When you talked to them
  - What was said
  - What was agreed to
  - What are the follow-up steps required
  - Were those follow-up steps completed

Creating a Paper Trail

- In other areas which deal with employees, the opposite is true, and documentation should have a purpose other than to create a paper trail
  - Convey to the employee, this is important!
  - Tell them what to do! (Or not to do)
  - Develop a plan
  - Document an infraction
  - Give credit where it is due

Papering the File

- The correct purpose is NEVER to paper the file
Be Objective

- Regardless of the purpose:
  - Be objective – don’t editorialize or speculate
  - Don’t use buzz words “discrimination, harassment, disability claim, citizen safety concern”
  - Don’t concede any points
  - “Wrong” does not equal “unlawful”
  - Don’t offer opinions as to a citizen’s or employee’s past or future conduct
  - Don’t be dramatic – if someone’s life wasn’t at risk, don’t say it was

Be Objective

- Be specific – even if it hurts or causes embarrassment
  - Don’t say poor attitude – say how the attitude manifested itself
  - Don’t just say “he allegedly harassed her” – say how he allegedly harassed her
  - Don’t just say “he touched her” – say how, where, and when
  - Sometimes you can’t be nice – honesty is more important
  - BUT - focus on the behavior, not the person

Tips for Proper Documentation

- Be consistent – do the same thing every time
- Consider making “how to” cards for common situations
- Make it legible
- Date it
- Sign it
- If possible and applicable, let the other party review and sign
Tips for Proper Documentation

- Don’t speculate on possible legal claims
- Make sure your “facts” are facts
- Don’t use shorthand or code
- Be mindful of your personal notes
- Be complete - you may know what you know but others will not

Tips for Proper Documentation

- Keep your documents filed and organized
- Follow the document retention policy
- Be careful about what you throw away
- If you don’t want to see it on the nightly news – don’t write it down

Security and Confidentiality

- Keep it safe and “confidential”
  - Don’t let your hard work disappear
  - Don’t feed the rumor mill
  - Don’t ever be in the position to attempt to explain how and why it happened
  - If it can’t go in the regular personnel file, it’s REALLY confidential
  - Recognize that while it might be a public record, it still maybe shouldn’t be discussed openly
And While We're on the Subject…

- Mind your e-mails!
  - E-mails are not informal notes – they are documents that are stored just like contracts
  - E-mails have no tone
  - E-mail is an extremely easy form of communication, which makes it a very dangerous means of communication

- Mind your e-mails!
  - Remember – every one of your e-mails (even the deleted ones) may be read by a third party
  - Think before you type and re-read your entire message (including addresses) before you send.
  - Do not e-mail when angry - Ever
  - Do not discuss sensitive personnel matters in an e-mail, even with a “confidential” recipient like HR or another manager
  - When in doubt, don’t put it in an e-mail – pick up the phone or walk down the hall
CRAFTING YOUR RECORD MANAGEMENT SYSTEM

Where to Begin with Records
Retention

- Perform a records inventory
  - What records are there?
  - Where are they stored?
  - How are they stored?
  - How are they used?
- Create Record Series
  - "a group of similar records that are arranged according to a filing system that are related as a result of being created, received, or used in the same activity"
  - Committee minutes, purchase orders, personnel files

Develop a Paper Plan

- Tell each member of your team what documents to create, how to create them, how to store them, and how long to keep them
- Your plan should also consider who is responsible for making sure the right paper comes in the door
Schedule Contents

- A retention schedule consists of the following:
  1. Record title and description;
  2. Length of time the record must be retained; and
  3. The media type of the records series (paper, microfiche, digital, film or videotape)

- Retention schedules are designed for people who have no knowledge of the records

- An efficient retention policy is one that refrains from using legal jargon and acronyms

Records Retention

<table>
<thead>
<tr>
<th>Record Title</th>
<th>Suggested Retention Period</th>
<th>Media Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Property Claim Files</td>
<td>10 years</td>
<td>Permanent</td>
</tr>
<tr>
<td>Property Claim Related Items</td>
<td>10 years</td>
<td>Permanent</td>
</tr>
<tr>
<td>Payroll</td>
<td>10 years</td>
<td>Permanent</td>
</tr>
<tr>
<td>Payroll Related Items</td>
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<td>Permanent</td>
</tr>
<tr>
<td>Personnel Records</td>
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<td>Permanent</td>
</tr>
<tr>
<td>Personnel Related Records</td>
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<td>Permanent</td>
</tr>
<tr>
<td>Financial Records</td>
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<td>Permanent</td>
</tr>
<tr>
<td>Financial Related Records</td>
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<td>Permanent</td>
</tr>
<tr>
<td>Tax Records</td>
<td>10 years</td>
<td>Permanent</td>
</tr>
<tr>
<td>Tax Related Records</td>
<td>10 years</td>
<td>Permanent</td>
</tr>
<tr>
<td>Employee Benefit Plans</td>
<td>10 years</td>
<td>Permanent</td>
</tr>
<tr>
<td>Employee Benefit Related Plans</td>
<td>10 years</td>
<td>Permanent</td>
</tr>
<tr>
<td>Insurance Claim Files</td>
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<td>Permanent</td>
</tr>
<tr>
<td>Insurance Claim Related Items</td>
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<td>Insurance Policy</td>
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</tr>
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<td>Permanent</td>
</tr>
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</tr>
<tr>
<td>Real Estate Transaction Related Items</td>
<td>10 years</td>
<td>Permanent</td>
</tr>
<tr>
<td>Legal Matters</td>
<td>10 years</td>
<td>Permanent</td>
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<td>Legal Matters Related Items</td>
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<td>Permanent</td>
</tr>
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<td>Contractual Agreements Related Items</td>
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<td>Grant Awards Related Items</td>
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</tr>
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<td>Employee Handbook</td>
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</tr>
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<td>Employee Handbook Related Items</td>
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<td>Board Minutes</td>
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<td>Board Minutes Related Items</td>
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<td>Permanent</td>
</tr>
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<td>Budgets and Cits Related Items</td>
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<td>Permanent</td>
</tr>
<tr>
<td>Employee/Employee Records</td>
<td>10 years</td>
<td>Permanent</td>
</tr>
<tr>
<td>Employee/Employee Records Related Items</td>
<td>10 years</td>
<td>Permanent</td>
</tr>
</tbody>
</table>
Retention Periods

- A record retention period can be:
  - A set period of time with subsequent instructions
    - Routine e-mail correspondence must be kept for 6 months, then destroyed
    - Executive e-mail correspondence must be kept for 2 years, then transferred to State Archives.
  - An event-driven period
    - Mailing lists shall be kept until superseded or obsolete
  - A set period of time and an event driven period
    - Contracts shall be retained for 15 years after expiration

E-mail Messages

- E-mails are classified based on content:
  1. **Non-Record E-mails** such as personal correspondence or material that is publicly available to anyone
     - No requirement to retain
  2. **Transitory E-mails** such as telephone messages, drafts, and other limited documents that serve to convey information of temporary importance in lieu of oral communication
     - Retain until no administrative value
  3. **Intermediate E-mails** are more significant than transitory, such as internal memos, advisory reports, and meeting minutes
     - Depends on the subject matter
  4. **Permanent E-mails** have significant administrative, legal, and/or fiscal value, such as executive correspondence or departmental policies and procedures
     - Depends on the subject matter

Social Media

- Social media records should be given the same consideration as other records
- If the content of the social media record meets the definition of a record, then it must be retained for the appropriate retention period
- Public employees engaging in social media activities should be careful of the content of their communications and corresponding records retention requirements
Best Practices for Managing Email – Part of your Plan

- Record and copy email – generally speaking, the individual who sends an email message should maintain the record copy of the message.
- File email – create other folders to facilitate ease of retention.
- Subject lines – fill in the subject line to both help your recipient identify and file messages, and to help you file your messages that must be retained for some period. Should be as descriptive as possible.

<table>
<thead>
<tr>
<th>Poor or confusing subject lines</th>
<th>Better, description subject lines</th>
</tr>
</thead>
<tbody>
<tr>
<td>report</td>
<td>quarterly financial report</td>
</tr>
<tr>
<td>minutes</td>
<td>Jan 99 board minutes</td>
</tr>
<tr>
<td>today?</td>
<td>next plan today</td>
</tr>
<tr>
<td>read</td>
<td>new agency head appointed</td>
</tr>
</tbody>
</table>

Some thoughts about retention schedules....

- This is an art – not a pure science
- Reasonable minds can disagree
- It involves a risk/reward analysis
- You must be consistent
- The most relevant statute of limitations in Ohio is 6 years.

Recruiting

Job Descriptions

- 3 years after last posting or 3 years after last active employee holds the position, whichever is longer.

Applicant Resumes

- 3 years from the date employment action was taken.

Applicant Employment Application

- 3 years from the date of employment action was taken.

Payroll

- Payroll Registers: 7 years
- Time Sheets: 7 years
- Fed/State Tax Filings: 5 years
- Form W-2 filings: 5 years
- Child Support Notice: 5 years
- Garnishment Notice: 5 years
- Bankruptcy Notice: 5 years
- Tax Levies: 5 years
- Annual Bonus: 5 years
### Factors Determining Value (and ultimately retention)

- **Administrative Purposes** – Period needed by the office to carry out its duties
- **Fiscal Tracking** –
  - Needs pertaining to the receipt, transfer, payment, adjustment, or encumbrances of funds
  - Documents subject to audit
- **Legal Value** – Documents relating to rights or obligations of citizens or of the agency that created it
- **Historical Value** –
  - Documents policies, decisions, procedures, etc.
  - Contains significant info about people, places, or events
  - Ohio Historical Society/Archives
STORING THE DOCUMENTS

A Word About Formats...
Format Choice

- Technology will change
- Media will degrade

- You still must make sure that the record is available, readable, and authentic until it has met retention

Electronic Document Management Systems

- Filing Conventions
  - Create unique names
  - Names should be simple and easy to understand
  - Avoid special characters
  - Use dates of creation – beginning with year
  - Keep file name short
  - Include version number
  - Set up naming protocols

Electronic Document Management Systems

- Develop a Policy
  - File names must last
  - Access and ease of use
  - Make administration easy
  - How many names will you need?
  - Determine what metadata to collect and preserve
  - Universal retrieval
  - Which is the official copy
  - What is relationship to paper copies
Retrieval
- Plan for how documents will be collected and/or searched
- Set a protocol that matches your storage medium
- Train employees on how to search files (of whatever kind)
- Utilize vendors when necessary

DISPOSITION

Plan the Disposition
- Follow the retention schedule
- Decide how documents will be culled for destruction
- Set timelines and timeframes
- Make it manageable
Document the Disposition

- You need to know whether the record still exists
- You need proof of compliance with record retention schedule
- Demonstrates consistent business practice for litigation purposes

THANK YOU!
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