

Oregon Public Risk Manager's Conference October 2014

Email Retention and Public Records Requests



“What’s In YOUR In-Box”

- ▶ Staff unaware email is public record
- ▶ Request for elected officials email messages
- ▶ Public meeting held through use of email
- ▶ Elected officials unaware email was public record
- ▶ Public Records Law
- ▶ Use of personal devices

Email Facts

Email

- Was designed as a **tool** to transmit routine messages quickly and effectively
- Is an efficient communication tool, commonly found in the workplace
- Its informal nature creates a business challenge
- It may be a public record
- It is subject to disclosure

Retention

Preserve email for as long as it is needed to accurately document agency functions and to help create an historical record.

Public Record Definition

ORS 192.005 (5): Retention

Public Record

(a) Means *any* information that:

(A) Is prepared, owned, used or retained by a state agency or political subdivision;

(B) Relates to an activity, transaction or function of a state agency or political subdivision; **and**

(C) Is necessary to satisfy the fiscal, legal, administrative or historical policies, requirements or needs of the state agency or political subdivision.

If you answer Yes to all 3 statements you have a public record.

Public Records

- ▶ A public record does not include:
 - Extra copies of a document, preserved only for convenience or reference
 - A stock of publications
 - Messages on voice mail or on other telephone message storage and retrieval systems
 - Spoken communication that is not recorded

Email Retention

- ▶ What To Keep?
- ▶ How Long?
- ▶ Where?
- ▶ Who Is Responsible?
- ▶ What To Delete?



Retention Schedules

- State, County, City, and Special Districts
- Define length of time to keep record series
- Legal authority to destroy public records

Questions?

Public Records Requests

"Attorney General's Public Records and
Meetings Manual"

[www.doj.state.or.us/public_records/manual/
public_records_b.shtml](http://www.doj.state.or.us/public_records/manual/public_records_b.shtml)



Public Records

Who has the right to inspect public records?



Public Records

▶ Who and What is Subject to the Public Records Law?

- Public Bodies – defined in ORS 192.420
- Private Bodies – defined by 1994 Oregon Supreme Court Case
- Personal Devices / Email accounts

Public Records

▶ What Records are Covered?

▶ Oregon Public Records Laws (Access)

- **“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)

Public Records

- Receiving a Request
- Records Custodian
- Acknowledging a Request
- Opportunity to Inspect
- Copying, physical inspection
- Agency Prerogatives
 - Security, maintain record integrity, office order
- Fees
- Legal Counsel

[illegible]

Public Records

- ▶ Public Records Exempt from Disclosure
- ▶ Public Interest in Disclosure
- ▶ Drafts of Documents/Reports
- ▶ Petitions to the Attorney General



Helpful Hints

- › Designate one person to coordinate and respond to public records requests.
- › Inspect request for ambiguity and clarity. Ask for more information.
- › Acknowledge request.
- › Ask if they want to inspect documents or want copies

Helpful Hints cont.

- › Inform of any charges, provide written estimate if over \$25.00
- › Do exemptions apply to the requested records? If not, provide records in a timely manner.
- › When denying a public records request, provide cite specific exemption.
