

ADMINISTRATOR'S GUIDE TO STATE RECORDS RESPONSIBILITIES

A Guideline of the Utah State Archives and Records Service

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Government officials create and maintain public records as part of their official duties. The Government Records Access and Management Act (GRAMA, Utah Code 63G-2-101, et seq.) and the Public Records Management Act (Utah Code 63A-12-101, et seq.) are Utah's government records laws. They detail the duties and responsibilities of government officials in maintaining government records and providing public access. Officials may also maintain other records including reference materials and personal records which do not relate to agency business. These materials may be in paper, electronic, or other formats. This guide will assist you in the following:

- Understanding your responsibilities in managing your agency records
- Identifying records that must be incorporated into agency files and maintained as public records
- Identifying personal files that may be removed at your discretion and maintained separate from public records

By following these guidelines your time in office and accomplishments will be well documented and preserved for future generations.

PUBLIC RECORDS

By state law (Utah Code 63G-2-103(22)(a)) a government records is a:

book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics that is prepared, owned, received, or retained by a governmental entity or political subdivision; and where all of the information in the original is reproducible by photocopy or other mechanical or electronic means. (Section 103 (22)(a) (2010)).

The law also states that the following, among other materials, are not a government record:

- a personal note or personal communication prepared or received by an employee or officer of a governmental entity in the employee's or officer's private capacity
- a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working
- material that is legally owned by an individual in the individual's private capacity
- junk mail or a commercial publication received by a governmental entity or an official or employee of a governmental entity
- a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working

- a note or internal memorandum prepared as part of the deliberative process by a member of the judiciary, an administrative law judge, a member of the Board of Pardons and Parole, a member of any other body charged by law with performing a quasi-judicial function

(For a complete list of non-records, see Section 103 (22)(b) (2010))

RECORDS RESPONSIBILITIES

(Utah Code 63A-12-103, 105)

As chief administrative officer, you are ultimately responsible for the proper management of records in your department or division. In order to carry out this responsibility you, with your staff's assistance, are mandated to do the following:

- Designate a records officer(s) to oversee records management in each office of your department or division. Records officers should receive training in records management, which is offered by the State Archives.
- Establish records retention schedules for the records created by your agency and ensure those retention schedules are legally approved and followed.
- Ensure that important policies and functions of your agency are being documented for the future and to protect the legal and financial rights of citizens.
- Determine records designations and classifications and ensure that employees who are making classification decisions receive training.

These and other responsibilities are outlined in the Public Records Management Act (Utah Code 63A-12, et seq.) and you should become familiar with all records management mandates.

All records created or maintained by a state governmental entity are the property of the state. They cannot be destroyed; mutilated, or otherwise damaged without proper and legal authority. Intentional violation of the law is a Class B misdemeanor. Therefore it is important to develop and maintain good recordkeeping procedures.

Developing good records management practices includes inventorying the records the office is creating to understand what they are, where they are, and who is responsible for maintaining them. Once records officers are designated, the agency needs to provide them the time and support they need.

Because the majority of government records are in electronic formats, it is important to ensure that records are maintained in formats that will support their retention and access requirements. This requires developing a migration or reformatting plan to prevent the loss of important data. A migration plan will need to include formats, media, and systems.

Records need to be secure and the agency's continuity of operations plan needs to address the issues of records recovery.

PERSONAL FILES

Personal files are files that relate to individual personal affairs and not to the affairs of the governmental entity. Personal files are not used in conducting the business of the government and may include the following types of materials:

- materials that are legally owned by an individual in his private capacity (UCA 63G-2-103 (22)(b)(ii)).
- daily calendars and other personal notes prepared by the originator for the originator's personal use (UCA 63G-2-103 (22)(b)(vii)).

Personal files should be kept separate from public records in order to maintain proper control and authority over your records management. If records include information on personal and government business, the sections relating to government business should be extracted and treated as government records. If the information cannot be extracted without altering the record, such as in email, then the document must be maintained as a record and subject to an approved retention schedule.

Personal files are not considered government records and are not subject to GRAMA requests. However, the rules of discovery are different and personal files maintained in the office may be subject to discovery in instances of litigation.

Managing personal files

As you prepare to leave your position in state government, a number of records issues should be considered. This is an opportune time to review the records in your office and fulfill their disposition. Records can be sent to the State Records Center, to the Archives, or destroyed as dictated by their approved retention schedules.

Government records belong to the State and cannot be taken with you even if they have already met retention. You may take copies of public government records, such as materials you helped draft or records of public events with which you were involved. The agency should authorize the creation and removal of extra copies of work-related records in which you have an interest. If you are uncertain whether materials are government records or personal materials, consult with your records officer or the State Archives. A designated official such as the records officer, legal counsel, or other official, should review the materials that you plan to remove.

Copies of government records classified as private, protected, or controlled should not be removed from government custody. Furthermore, you are under obligation to hold information you may have acquired from such documents in accordance with their designated classification, even when you are no longer employed by the State.

When you leave your position, your office will need to retain all email that has not met retention. Email should be managed according approved retention schedules so that it can appropriately be retained after transitory messages are deleted and any personal messages forwarded to a private account.

Review personal files that you wish to remove to ensure no public records have been included.

WHERE DO I GO FOR FURTHER ASSISTANCE?

The purpose of the State Archives is to assist Utah government agencies in the efficient management of their records, to preserve records of enduring value, and to provide quality access to public information.

Call (801) 531-3866 or contact the State Archives

(<http://archives.utah.gov/recordsmanagement/records-analysts.html>) for additional information.