



WEST VIRGINIA SECRETARY OF STATE

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ADMINISTRATIVE LAW DIVISION

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Office of West Virginia
Secretary Of State

NOTICE OF RULE MODIFICATION OF A PROPOSED RULE

AGENCY: Records Management And Preservation
Board

RULE TYPE: Legislative

TITLE-SERIES: 100-02

RULE NAME: RULES FOR GENERAL MANAGEMENT
AND PRESERVATION OF COUNTY
RECORDS

CITE AUTHORITY: W. Va. Code §5A-8-15

The above proposed Legislative rules, following review by the Legislative Rule Making Review Committee, is hereby modified as a result of review and comment by the Legislative Rule Making Review Committee. The attached modifications are filed with the Secretary of State.

BY CHOOSING 'YES', I ATTEST THAT THE PREVIOUS STATEMENT IS TRUE AND CORRECT.

Yes

Jane Charnock -- By my signature, I certify that I am the person authorized to file legislative rules, in accordance with West Virginia Code §29A-3-11 and §39A-3-2.

100CSR2

TITLE 100
LEGISLATIVE RULE
RECORDS MANAGEMENT AND PRESERVATION BOARD

SERIES 2
RULES FOR GENERAL MANAGEMENT AND PRESERVATION OF COUNTY RECORDS

§100-2-1. General.

1.1. Scope. -- This Legislative Rule sets forth general Standards and Procedures for the effective and uniform management and preservation of public records created and filed under the jurisdiction of the various county government entities, to establish general standards and procedures for a uniform records management and preservation program, retention schedules for county government entities, and electronic records keeping systems.

1.2. Authority. -- W. Va. Code §5A-8-15.

1.3. Filing Date. -- ~~May 7, 2004.~~

1.4. Effective Date. -- ~~July 1, 2004.~~

1.5. ~~Purpose. -- The purpose of the rule is to establish general standards and procedures for a uniform records management and preservation program, retention schedules for county government entities, and electronic records keeping systems.~~ Sunset Date. This rule shall terminate and have no further force or effect August 1, 2032.

§100-2-2. Applicability.

2.1. This legislative rule applies to all county government entities and records, except those statutorily exempted from its application.

§100-2-3. Definitions.

3.1. "Active Record" is a record that is currently used to fill the need for which it was originally created or acquired.

3.2. "Archival quality" means a quality of reproduction providing permanent, durable, and nondestructive storage or copying medium for records consistent with established standards specified by state and national agencies and organizations responsible for establishing such standards, such as the Association for Information and Image Management, the American National Standards Institute, the National Bureau of Standards, the National Archives and Records Administration, and others as applicable to the project submitted for funding.

3.3. "Archival record" means all inactive record of continuing and enduring value useful to the citizens of the state and necessary to the administrative functions of counties in the conduct of services and activities mandated by law. In appraisal of public records deemed archival, the terms "administrative," "fiscal," "historical," and "legal" shall be defined as:

100CSR2

3.3.a. "Administrative value" means the records have continuing utility in the operation of an agency or a county office.

3.3.b. "Fiscal value" means the records are needed to document and verify financial authorizations, obligations and transactions.

3.3.c. "Historical value" means the records contain information, regardless of age, which provides understanding of some aspect of the government and promotes the development of an informed and enlightened citizenry.

3.3.d. "Legal value" means the records document actions taken in the protection and proving of legal or civil rights and obligations of individuals and agencies.

3.4. "Archives" means a repository specifically designed for the preservation, storage, access and display of archival records; the organization operating an archives.

3.5. "Board" means the Records Management and Preservation Board.

3.6. "Code" means the West Virginia Code of 1931, as amended.

3.7. "Converting Electronic Records" means transferring electronic records by export or import from one software environment to another without loss of content or structure of the records.

3.8. "Copying Electronic Records" means transferring records from an existing storage medium to an alternate storage medium, maintaining the format specifications without any loss of content or structure.

3.9. "Director" means the Director of the Archives and History Section of the Division of Culture and History.

3.10. "Electronic Imaging System" is a computer-based system ~~which~~ that stores digitally encoded records or documents, originally created in this form or a back-file conversion of original paper or microform records, to provide retrieval and access to imaged records on demand. Electronic Imaging Systems serve as an alternate format to paper or microfilm systems, which may provide for multiple and faster access to information. ~~Electronic imaging does not meet archival quality national standards for the preservation for records scheduled for long term or permanent retention.~~ Born-digital records may serve as the original, permanent copy of a record. Any permanent records that originally existed in the form of books/paper must be retained.

3.11. "Electronic Records" are records in a form that can be created, generated, sent, received, transmitted, read and processed by a computer and/or other electronic devices with digital and/or analog memories. Electronic records include data files and databases, electronic mail, machine-readable indexes, word processing files, electronic spreadsheets, magnetic tapes and disks, optical disks, compact disks, digital disks, and any other form of magnetic, electronic, or digital media, including video and audio.

3.12. "Filing System" is a set of policies, procedures, methods, and equipment used for organizing files or records to facilitate access, retrieval, use and disposition.

3.13. "Inactive Record" means a record not in current use, having fulfilled its original purpose but

retained for other administrative, fiscal, legal or historical value.

3.14. "Information System" means the organizational structure, processing, transmitting, and dissemination of information within defined manual or automated procedures.

3.15. "Migrating Electronic Records" means transferring records from one system or platform to another, usually requiring a specific program which must ensure that all records are migrated without loss of information content, structure, context, retrieval, or access.

3.16. "Non-record" is a convenience, courtesy, information, or display copy - a duplicate copy which is disposed of after this use.

3.17. "Preservation" means maintaining archival records in their original form by stabilizing them chemically or strengthening them physically to ensure their survival as long as possible in their original form. It also means the reformatting of written, printed, electronic or visual archival originals to extend the existence (life) of the information and access to it.

3.18. "Preservation Duplicate" is an exact copy of a vital record, made for reference purposes thereby preserving the original.

3.19. "Preservation Master Copy" is a copy of an original permanent record used only for purposes of making use copy and stored under archival conditions.

3.20. "Public record" means recorded information that documents a transaction or activity by a county official or office. 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 on which the information is recorded may be, but is not limited to, paper, film, magnetic, optical or solid state devices which can store electronic signals, tapes, Mylar, linen, silk or vellum. The general types of records may be, but are not limited to, books, papers, letters, documents, printouts, photographs, films, tapes, microfiche, microfilm, photostats, sound recordings, maps, drawings, and any representations held in machine-readable form.

3.21. "Record Series" means a file unit or group of documents arranged in a filing system or kept together because they relate to a particular function or subject, or the same activity, transfer or transaction, or have some internal relationship based on creation, receipt, or use, and may have a particular physical form.

3.22. "Records Grant Program," means the CSR Title 100, Series 1, County Records Management and Preservation Grant Program, which receives and awards grants of merit to county government entities for projects to address management or preservation needs of county government entities' records from funds derived from fees collected by clerks of the county commission.

3.23. "Records Management" means the efficient and effective management and control of the creation, maintenance, use, and disposal of records, files and forms.

3.24. "Records Management and Preservation Board" is the body of ~~nine~~ eleven members established ~~in Code~~ created by statute to establish a system of records management and preservation for county government records.

3.25. "Records Management Manual" means the written policies, practices, procedures, and standards set forth by the Board to guide all employees in county government entities in the creation, maintenance, preservation and disposition of records.

3.26. "Records Manager" is that person elected or appointed to office, or designee, who has administrative or supervisory role over office functions responsible for planning, maintenance, use, and disposition of records created and filed in that office; staff training to carry out those functions; and the implementation of the Board's records manual and records schedules. Records Manager may also be referred to as "Records Clerk", "Records Officer", "Records Administrator", "Records Custodian", "Records Keeper", as well as statutory office titles.

3.27. "Records Schedule" is a document which imposes mandatory instructions for the records of a government entity when no longer active or current, provides retention period for all record series of an office and authority for final disposition. Records schedules may be specific to an office or a general records schedule encompassing series of records, such as fiscal or personnel, common to all offices.

3.28. "Reformatting Records" means the transfer of a record or records from one medium to another, which may be from paper to microfilm, an audio analog cassette to digital disk, or analog video to DVD disk, but without any change in the intellectual content or information conveyed or carried on the format from which the alternate is made.

3.29. "Vital Record," for the purposes of this rule, is a record absolutely essential to the conduct of daily business or to protect and preserve the rights of the state, county or its citizens.

§100-2-4. Objectives.

4.1. The county records management program shall manage the creation, use, maintenance, preservation and disposition of the records of county government entities utilizing uniform, efficient, and economical procedures and standards. The program shall:

4.1.a. Provide for the management and retention of all records of county government entities in all formats, to ensure the administrative, legal, fiscal, and historical needs of county government are met.

4.1.b. Identify, protect and preserve records vital to county government and its citizens.

4.1.c. Identify, preserve, and ensure records of permanent enduring value, historical or archival, are accessible to county government and its citizens, or are submitted for transfer to the director of archives and history for preservation.

4.1.d. Ensure that records of temporary or short term value are disposed of in accordance with approved records schedules.

4.1.e. Provide for economical government business operations and quality service to the public.

4.2. The county records management program shall provide record schedules for the records of county government entities to ensure proper retention of records of continuing value and proper disposition of records of minimal value or no longer possessing administrative, legal, fiscal, or historical

value sufficient to justify continuing maintenance. The program shall:

4.2.a. Provide a records management manual for county government entity records managers to serve as a guide to the management of county government entity records.

4.2.b. Issue general records schedules for records common to all county government entities.

4.2.c. Issue specific records schedules for each county government entity listing all records identified with specific government entity and reflecting most recent county records survey.

4.2.d. Provide for retention and disposition based on state and federal codes and regulations, Supreme Court of Appeals orders, and record values.

4.2.e. Provide forms to authorize destruction of records having no further administrative, legal, fiscal, or historical value; for transfer of records to archives and history, an approved repository, authority, or storage center; and for the reformatting to microfilm, image, electronic, or other formats approved by the Board.

~~4.2.f. Provide forms for the biennial inventory of each county government entity, which shall serve as the basis for Board review and revision of records schedules, a report on the state of the conditions and needs of county government entity records, and for comparison and support of the Board's continuing annual records grant program.~~

4.3. The county records management and preservation program shall identify and set forth uniform guidelines, procedures, and requirements for electronic record keeping systems and technologies which ensure the preservation of the original record, regardless of original format, which is incapable of erasure or alteration of any recorded information, which may be retrieved in form which accurately depicts and presents the image and recorded information of the original record, and which meets all legal requirements for evidentiary records. Electronic record keeping systems shall:

4.3.a. Include complete, current technical and system documentation for producing, using and storing electronic records.

4.3.b. Provide portability of the record(s) and format so as to be neither equipment nor program dependent on a single manufacturer, but capable of being produced and managed by multiple manufacturers, to ensure economical transfer from one system or medium to another without loss or compromise to the original record, data, database, or other electronic record keeping medium or format.

4.3.c. Ensure management, access and retrieval in an easy, timely manner, and storage of records, meeting required recopying or "refreshing" requirements, in compliance with required scheduled retention period.

4.3.d. Ensure security and authorization procedures which prevent unauthorized access, or modification by addition, revision or deletion of a record.

4.3.e. Provide backup against power interruptions and for recovery of records without information loss through redundant electronic storage media systems for long-term record retention requirements and CD's, optical, DVD's or other currently acceptable state-of-the-technology or media for

records of lesser retention requirements.

4.3.f. Ensure records are not lost due to changes in technology, reformatting, copying, converting, or migrating records to alternate hardware, software or medium.

4.3.g. Ensure that records scheduled as permanent are retained in format meeting national and industry standards for archival records and acceptable for transfer to archives and history, with appropriate finding aids or indexes meeting national, industry and/or board standards to provide access and retrieval of the records.

4.3.h. Require submission to and approval by the Board of the county government entity's administrative plan of procedures and policies, including its ability to ~~insure~~ ensure maintenance of electronic records in compliance with industry and national standards, demonstrated ability to retain continuity of the electronic system, and comply with requirements in the most current records management manual.

§100-2-5. Responsibilities.

5.1. The Board shall:

5.1.a. Issue, revise and update records management manual to guide county record managers in the efficient and economical management of the records of county government entities.

5.1.b. Issue, revise and update record schedules providing for the retention and disposition of the records of county government entities.

5.1.c. Review, and approve or reject proposals or plans for electronic records systems being considered for implementation by county government entities to ~~insure~~ ensure compliance with industry and national standards, and the Board's requirements for statewide uniformity.

5.1.d. Sponsor continuing surveys of the records and conditions of county government entities and the study of records management procedures and standards ~~so as~~ to introduce, improve, and increase uniformity in records management practices throughout county government entities.

5.1.e. Support and promote projects to improve access and preservation of the records of county government entities through the records grant program and other funding sources which might be identified.

~~5.1.f. Provide opportunities for continuing records management training for record managers in county government entities.~~

5.2. County government entities will:

5.2.a. Implement and maintain a continuing uniform program of economical and efficient records management based on the rules, records management manual, and record schedules issued through the Board.

100CSR2

5.2.b. Have office holders, or record manager designees, serve as liaison with the Board with regard to the records management program, assisting in the collection of information regarding records creation, conditions, and needs, in revising and maintaining the records management manual and schedules to be current with best practices and national standards, and by participating in records management training opportunities.

5.2.c. Develop written procedures and policies for electronic record systems to ~~insure~~ ensure access, retrieval, security, and preservation of all public records for scheduled retention period.

5.2.d. Prepare and submit proposals to board and other sources to secure funds to improve records management and preservation.

5.2.e. Implement records schedules ~~so as~~ to dispose of records in the most proper and efficient ~~fashion~~ manner at expiration of the scheduled retention period, and work with archives and history for the proper transfer of records of historical value.

5.3. Director of Archives and History, or his or her designee shall:

5.3.a. Provide staff assistance to the Board in developing, implementing and maintaining the records management and preservation program for county government entities.

5.3.b. Assist the Board and work with county government entities in developing, implementing, updating, and maintaining the records management manual for county government entity records.

5.3.c. Assist the Board and work with county government entities in developing, implementing, updating, and maintaining records schedules for county government entities.

5.3.d. Assist the Board and county government entity record managers in identifying and implementing uniform, economical and efficient records management and preservation programs for manual and electronic record systems.

5.3.e. Assist the Board with technical information and expertise for county records management and preservation; manual and electronic information management systems; and state and federal regulations, and industry standards regarding records management and preservation.

5.3.f. Serve as liaison between the Board and county record managers and government entities.

5.3.g. Assist county government entities in the proper disposition and transfer of records in compliance with approved records schedules.