

# MANAGEMENT DIRECTIVE

## Commonwealth of Pennsylvania Governor's Office

<b>Subject:</b> The Commonwealth of Pennsylvania State Records Management Program	<b>Number:</b> 210.5 Amended
<b>Date:</b>  October 31, 2017	<b>By Direction of:</b>  Sharon P. Minnich, Secretary of Administration
<b>Contact Agency:</b> Office of Administration, Office of Continuity and Records Information Management (OCRIM), Telephone 717.783.5055	

**This directive establishes policy, responsibilities, and guidance for records management, including records created in electronic messaging systems. This amendment revises the Purpose, Scope, Objectives, Definitions, Policy, and Responsibilities sections. Marginal dots are excluded due to major changes.**

1. **PURPOSE.** To establish policy, responsibilities, and guidance for the State Records Management Program, including paper, electronic records and other formats.
2. **SCOPE.** Applies to all agencies subject to *The Administrative Code of 1929*, agencies and offices under the Governor's jurisdiction, and entities that store records at the State Records Center (SRC). Other state entities are encouraged to follow this directive.
3. **OBJECTIVES.** To provide guidance, definition, and documentation of policies to ensure that:
  - a. All current employees and departing employees are aware of their responsibilities for appropriate records management;
  - b. All records are identified and scheduled on File Plans and approved records retention and disposition schedules;

- c. All records are managed, retained, and disposed of in conformance with approved records retention and disposition schedules;
- d. Permanent/archival records are identified and transferred to the State Archives as soon as the records are no longer active;
- e. Vital records are properly identified and protected; and
- f. All records are managed efficiently, minimizing the cost of doing government business while assuring access.

#### 4. DEFINITIONS.

- a. **Active Records.** Records used to conduct current operations.
- b. **Agency File Plan.** A tool used by agency employees to manage their records in accordance with general and agency specific records retention and disposition schedules that provides bureau/office guidance to include bureau/office-specific record retention, disposition, record location, media type, and a designated record custodian, to ensure that all agency employees properly manage records under their care and control.
- c. **Agency Open Records Officer (AORO).** The official or employee designated by the agency head to receive and respond to *Right-to-Know Law* (RTKL) requests.
- d. **Agency Records Coordinator.** The employee appointed by the agency head to have agency-wide responsibility for managing and coordinating the agency's records management program. See *Manual 210.7, State Records Management Manual*.
- e. **Agency Records Legal Liaison.** Agency counsel assigned by the Agency Chief Counsel to provide legal guidance to the Agency Records Coordinator and AORO with RTKL responses and to assist with records issues.
- f. **Continuity of Operations (COOP).** Efforts within individual agencies to ensure that their critical functions continue during a wide range of emergencies and disruptions including, for example, localized acts of nature, accidents, and technological or attack-related emergencies. COOP activities include plans and procedures to ensure that critical functions are performed; testing, training, and exercising ensuring a viable COOP capability; managing agency response during a disruption; and continuing and/or resuming agency critical functions throughout a disruption.
- g. **Data.** Symbols or representations of facts or ideas that can be communicated, interpreted, or processed by manual or automated means, and often associated with electronic data or with statistics or measurements.
- h. **Disposition.** The changing of custody, location, or existence of records including transfer to the SRC; transfer of permanently valuable records to the State Archives; transfer of electronic records to a different storage system; or destruction.

- i. **Disposition Code.** A code used to direct the final disposition of records. Records must be disposed of in accordance with the assigned disposal code listed on approved records retention and disposition schedules. For specific details, refer to *Manual 210.9, The Commonwealth of Pennsylvania General Records Retention and Disposition Schedule*.
- j. **Electronic Messages.** Information that is created, stored, and delivered in an electronic format. Types of electronic messages may include the following: email, text, discussion threads, digital voice mail, blogs, and message boards.
- k. **Electronic Record.** A record created, generated, sent, communicated, received, or stored by electronic means.
- l. **Enterprise Records Management System (ERMS).** The electronic system that the Pennsylvania Historical and Museum Commission (PHMC) uses to manage all commonwealth records retention and disposition schedules.
- m. **Executive Board.** The Executive Board consists of the Governor, as Chairman, and six other heads of departments. It has the power and authority in the administrative and executive functions directed to be performed under provisions of §506 of *The Administrative Code of 1929*.
- n. **Human-Readable Format.** The representation of information that can be read with the human eye and does not require machine (computer) assistance. Printed material, microfilm and microfiche are examples of human readable format. For purposes of this policy, 'human-readable format' also includes any electronic format designated by the PHMC as an appropriate substitute.
- o. **Inactive Records.** Records that are not needed for ongoing agency business or that are accessed relatively infrequently, but whose retention period has not yet expired.
- p. **Information System.** The organized collection, processing, transmission, and dissemination of information in accordance with defined procedures, whether automated or manual.
- q. **Long-term records.** Records that must be maintained for ten years or more.
- r. **Non-records.** Information that does not meet the definition of a record as defined in this Management Directive. These materials relate to non-government business or activities and may include items such as announcements of community events and personal emails. Non-records may also include publications such as trade journals, pamphlets, and reference materials received from outside organizations, conferences, and workshops.
- s. **Official Records.** Records that reflect the position or official business of an agency and that are to be retained by a designated record custodian in accordance with the appropriate records retention and disposition schedule.
- t. **Pennsylvania State Archives.** The Pennsylvania State Archives collects, preserves and makes available for study the permanently-valuable public records of the commonwealth, with particular attention given to the records of state government.

- u. Permanent/Archival Records.** Records appraised by the PHMC as having sufficient historical, administrative, or legal value to warrant continued preservation by the commonwealth.
- v. Preservation of Records.** The process and procedures used to ensure historical records are kept from harm, injury, decay, or destruction while remaining accessible.
- w. Record.** Information, regardless of physical form or characteristics, that document a transaction or activity of an agency and that is created, received, or retained pursuant to law or in connection with a transaction, business or activity of the agency. The term includes a document, paper, letter, map, book, tape, photograph, film or sound recording, information stored or maintained electronically, and a data-processed or image-processed document.
- x. Record Custodian.** Any person having custody, possession, or control of a record.
- y. Record-Keeping Requirements.** The prerequisites needed to manage records regardless of format, throughout the creation, maintenance, and disposition of a record.
- z. Records Legal Hold.** The suspension of ordinary practices and procedures for disposing of records, as necessary, to comply with existing preservation obligations related to actual and reasonably anticipated litigation, government investigation, or audit.
- aa. Records Management.** The planning, controlling, directing, organizing, training, promoting, and other managerial activities involved with respect to records creation, records maintenance and use, and records disposition, in order to achieve adequate and proper documentation of the policies and transactions of the commonwealth for an effective and economical management of agency operations.
- bb. Records Retention and Disposition Schedules.** A comprehensive statement approved by the Executive Board showing retention periods and all actions to be taken with respect to disposition of records. The schedule lists each record series, indicates length of time each series is to be maintained in a prescribed format, and the location where the records are to be stored. There are two types of records schedules used by state agencies to control records: general and agency-specific. General schedules identify record series common to most agencies. Agency-specific schedules identify unique record series created by an agency.
- cc. Record Series.** A group of records that may be treated as a unit for purposes of classification, designation, description, management, or disposition because they relate to a particular subject or function, result from the same activity, have a particular physical form, or because of some other relationship arising out of their creation, receipt, or use.
- dd. Senior Management Employee.** An agency head, deputy secretary or equivalent, chief counsel, bureau director or equivalent and members of boards or commissions.

- ee. Series or Item Number.** A unique number assigned to designate a record series when creating or revising a records retention and disposition schedule.
- ff. State Records Center.** The State Records Center (SRC) is a low-cost, high density, secure storage for semi active and inactive records of state agencies.
- gg. Transitory Records.** Records that have little or no documentary or evidential value and that need not to be set aside for future use; have short term administrative, legal, or fiscal value and should be disposed of once that administrative, legal or fiscal use has expired; or are only useful for a short period of time, perhaps to ensure that a task is completed or to help prepare a final product. For more detail, refer to *Manual 210.9, The Commonwealth of Pennsylvania General Records Retention and Disposition Schedule*.
- hh. Vital Records.** Records needed to support critical functions during a COOP event, to recover full operations following an emergency or disruption, and to protect the legal rights and interests of citizens and government. The two basic categories of vital records are emergency operating records (e.g. plans and directives, orders of succession, delegations of authorities and staffing assignments) and legal and financial records.

## 5. POLICY.

- a. Employees and Records Management.** All Commonwealth of Pennsylvania employees are to manage records under their care and control on an ongoing basis to ensure proper records management, retention, and disposition.
  - (1) Employee Orientation.** New or transferred employees are to review the policies, responsibilities, and procedures in this Management Directive and *Manual 210.1, The Commonwealth of Pennsylvania Employee Records Management Manual*.
  - (2) Employee Separation.** The departing employee will work with their manager and/or supervisor to verify that the appropriate records remain with the agency, pursuant to records retention and disposition schedules, including email records, and shall do the following:
    - (a)** Consult with the Agency Records Coordinator in determining proper disposition of records;
    - (b)** Ensure that agency records under the control of the departing employee, including emails and other electronic records, are transferred to the control of the supervisor (i.e. moved from the network drive of the employee to the network drive of the supervisor or that paper records are left in the office of the departing employee) or otherwise retained for the successor employee following appropriate records retention and disposition schedules;
    - (c)** Have an agency designated representative review requests for employees to copy records for personal use or to remove non-records in the employee's custody;

- (d) Notify the departing employee of the results of such review and direct what records may be copied and what non-records may be retained by the employee. The employee may appeal the decision of the supervisor to the Agency Chief Counsel or designee; and
- (e) Comply with restrictions on the copying or destruction of records that may be subject to a litigation hold, audit reporting requirements, confidentiality provisions, archival review, or other considerations noted in the appropriate general or agency-specific records retention and disposition schedules.

**(3) Separation of Senior Management Employees.** Senior Management Employees are to comply with the direction set forth in Section 5(a)(2), above. The following additional measures apply to ensure that records are not inappropriately taken upon departure. The Agency Chief Counsel or a person delegated by the Chief Counsel is to verify in writing both to the agency head and to the General Counsel, or their designees, at least seven business days prior to the departure of any Senior Management Employee, that the employee has been advised as follows:

- (a) That the Senior Management Employee shall provide to the agency head and the General Counsel, or their designees, at least five business days prior to departure, a written summary of any records remaining in the employee's sole possession or control, as of that time, and any records that the employee wishes to retain for personal use after departure;
- (b) That a decision as to which records the Senior Management Employee may retain after departure shall be made by the agency head and General Counsel, or their designees; and
- (c) That the Senior Management Employee shall notify the Agency Chief Counsel of and provide to that office any records either designated as necessary for litigation purposes or that are reasonably likely to be subject to litigation, investigations, subpoenas, or discovery requests.

**Note:** Managers, supervisors, and employees should refer to *Manual 210.1, The Commonwealth of Pennsylvania Employee Records Management Manual* to ensure adequate knowledge of records management requirements.

**b. New Record Types.** During the creation of a new document or electronic system that contains agency data and/or records, the agency shall conduct an analysis to determine the format, retention requirements, and value of the record (vital, permanent, non-permanent, etc.) at each stage. Upon completion of the records analysis, new record types should be added to the Agency File Plan and/or to the agency-specific records retention and disposition schedule.

**c. Records Maintenance and Use.**

- (1) All records, regardless of format, must be identified and maintained in accordance with general and agency-specific records retention and disposition schedules.
- (2) Each email message must be categorized and classified according to its content.
  - (a) Since email is a method or a tool for communicating, a blanket retention for "Email Records" does not exist.
  - (b) Employees should ensure that priority is given to the classification of email messages whose retention periods have not been met and that all others are routinely deleted.
- (3) As part of the normal course of doing business for records management purposes, electronic format(s) may be used in lieu of hard copy. Resulting format(s) must be retained in accordance with general and agency-specific records retention and disposition schedules and provide for the retention of a hard copy as may be required for long-term records.
- (4) Appropriate measures must be taken to maintain confidentiality of records in order to protect the privacy of individuals, employees, taxpayers, clients, or service recipients.
- (5) All retention periods in the general and agency specific records retention and disposition schedules are to reflect at least the minimum legal, fiscal, and administrative (operational) business requirements.
- (6) Electronic records, including electronic messages, designated by the PHMC as having permanent/archival value, shall be maintained in human-readable format, as well as any other media types or format. The creating agency shall retain the records permanently or until such time as they may be scheduled for transfer to the State Archives.
- (7) All commonwealth records must be maintained in such a way that they are readily retrievable, in facilities that provide a suitable environment to protect them from damage, deterioration, and loss, and are in compliance with the applicable records retention and disposition schedules.
- (8) Records, including inactive records, are to be accessible within five business days, to allow for a timely response to any RTKL request.

**d. Inactive Records Storage.** Inactive records must be stored so records are readily retrievable, in facilities that provide a suitable environment to protect them from damage, deterioration, or loss.

- (1) **SRC Storage Fees.** Agencies with inactive records stored at the SRC shall pay a storage fee to support the SRC operations and services based on a per box charge. The SRC does not charge additional fees for disposal or retrieval. In instances where records are removed from SRC storage, in accordance with an Executive Board approved records retention and disposition schedule, removal will coincide with SRC's normal disposal cycle. The SRC storage fee shall be payable annually and be based on a computation as follows:
  - (a) SRC Operating Costs/Service Data (boxes stored) = Annual Service Rate (ASR).
  - (b) ASR x Agency Usage (boxes stored by each agency) = Agency Billing Amounts.
- (2) **SRC Retention.** Agencies with records scheduled for retention at the SRC may not store these records in another location without submitting a records action to amend the retention of the record series.
- (3) **Agency Obligations for non-SRC Storage of Inactive Records.** Executive Board approval of an agency records action seeking non-SRC storage shall be contingent upon a demonstration that the storage facility complies with requirements set by the PHMC, which are published on the PHMC web site. The fees for such storage must be lower than fees for storage at the SRC or there must be another compelling reason for using an alternate storage location.

**e. Disposition.**

- (1) Records are to be disposed of according to applicable disposition codes provided by the appropriate records retention and disposition schedule.

**Note:** Records subject to a records legal hold or that are reasonably likely to be involved in litigation shall not be disposed of without approval from Agency Chief Counsel. Consult with your Agency Records Legal Liaison for direction.
- (2) Disposition actions should be appropriate to the media upon which the records reside, agency business needs, record's security classification, and archival value.
- (3) Unscheduled records cannot be destroyed until approval is received from the Executive Board and the PHMC.

**f. Records Legal Hold.** Agencies are to establish and uphold policies and procedures in coordination with the Agency Records Legal Liaison for records legal hold to ensure that the records will not be destroyed or reformatted until the event resulting in the records legal hold has concluded and all appeal periods are exhausted.

- (1) Procedures must include the preparation of reports or lists identifying such records and the circulation of this information to all agency employees that may hold the records subject to records legal hold.

- (2) Records involved in a record legal hold must be retained for the duration of the legal action, even if the records exceed the relevant records retention and disposition schedule requirements.
- g. Discovery and Disclosure.** Agencies are to establish and update policies and procedures in coordination with Agency Records Legal Liaison, Agency Records Coordinator, and Agency Chief Information Officer to process discovery and disclosure requests, including RTKL requests, for commonwealth records that include policy and procedures:
- (1) Identifying employee roles in the process.
  - (2) Notifying employees of a records legal hold.
  - (3) Providing for the redaction of sensitive and/or non-public information from records.
- h. Electronic Messaging System.** Records maintained in an electronic messaging system must be managed appropriately based on their content.
- (1) Records created in electronic messaging systems must be retrievable and available for the retention period listed on the appropriate, approved records retention and disposition schedules.
  - (2) Messages in the in-box should be limited to very short term transitory messages with a retention value of three months or less.
  - (3) Messages with a permanent retention, a retention period of ten years or more, or which may be archival (disposal code of 2 or 4) can be printed or maintained according to Section 5(c)(6) in this Management Directive.
- i. State Records Management Performance Program.** The State Records Management Performance Program is to be administered by OCRIM and provide for policy review, assessments tools, and methods for examination of state agency records management programs to ensure state agencies are sufficiently capturing and managing records that document commonwealth business.
- (1) **Review.** OCRIM shall review the State Records Management Program policies and procedures and records retention and disposition schedules to determine the degree to which outcomes defined in the program are met.
  - (2) **Assessment.** Through various survey instruments, on-site interviews, agency file plan review, and agency records management self-assessment results, OCRIM shall assess state agency records management programs for evidence of proficient performance.
  - (3) **Performance Standards.** These standards will be used as the criteria in evaluating proficient performance.
    - (a) Records are maintained and disposed of in accordance with valid records retention and disposition schedules.

- (b) Agency has evidence of internal policies, training, and procedures for managing agency records.
  - (c) Records are retrieved in a reasonable amount of time.
  - (d) Agency records management programs are managed and planned with the involvement and support of agency heads, senior management, Agency Records Coordinator, Records Legal Liaisons, Agency COOP Manager, and IT Managers and CIOs.
- j. **Use of Management Directive.** This Management Directive should be used in conjunction with *Executive Order 1992-1, Records Management, Administrative Code of 1929*, the *History Code (Title 37 of Pennsylvania Code)*, other related Management Directives, Manuals, Information Technology Policies and applicable provisions of the *Pennsylvania Right-To-Know-Law, 65 P.S § 67.101, et seq.*

## 6. RESPONSIBILITIES.

- a. **The Secretary of Administration** shall issue all directives (i.e. Management Directives, Manuals and General Records Retention and Disposition Schedules) regarding the State Records Management Program.
- b. **OCRIM** shall:
  - (1) Administer the State Records Management Program as designated by the Secretary of Administration, by working collaboratively with agencies to draft policies, standards, and procedures to control the creation, use, maintenance, transfer, scanning, preservation, and retention and disposition of records.
  - (2) Administer and audit the State Records Management Performance Program.
  - (3) Advise the Secretary of Administration on the development of policies and procedures and on the overall administration and evaluation of the State Records Management Program.
  - (4) Collaborate with the Executive Director of the PHMC on the development of policies and procedures that may affect the implementation of the State Records Management Program.
  - (5) Issue reports, as needed, on the results of the State Records Management Program reviews, including the compliance of specific agencies, and on the overall effectiveness of the State Records Management Program.
  - (6) Conduct studies, as needed, pursuant to *Section 527 of The Administrative Code of 1929*, of the accumulation of records in the possession of agencies.

- (7) Serve, in coordination with the Office of Administration, Office for Information Technology (OA/OIT) and the PHMC as a central clearinghouse for information on the State Records Management Program.

**c. PHMC shall:**

- (1) Work with OCRIM to regularly assess and seek to improve records management procedures, guidelines, and standards.
- (2) Work with agencies on the development of records inventories and recommend appropriate retention periods and disposition to be submitted to the Executive Board.
- (3) Appraise agency records for permanent or historical value and work with agencies to preserve these records. Upon agreement by the agency and the PHMC, transfer records to the State Archives.
- (4) Be responsible for the designation, management, and preservation of records of permanent or historical value.
- (5) Train Agency Records Coordinators and Agency Records Legal Liaisons in records management practices.
- (6) Work with the Office of Administration, Office of Human Resources Management, to develop records management training for state employees other than Agency Records Coordinators and Agency Records Legal Liaisons.
- (7) Administer the Enterprise Records Management System (ERMS).
- (8) Manage the SRC to provide adequate safety, security, and space for storage of inactive commonwealth records, regardless of format. Management of the SRC includes setting fees; administering information systems used to manage or preserve inactive records; training agency employees who interact with such systems; and other activities required to effectively manage inactive records.
- (9) Approve agency storage of inactive commonwealth records at facilities other than the SRC and establish minimum requirements for such facilities.
- (10) Determine the formats for storage of inactive and archival records that are stored by agencies or by the PHMC.

**d. The Executive Board shall:**

- (1) Review and approve the general and agency-specific records retention and disposition schedules.
- (2) Review and approve requests for microfilming of records.

**e. Agency Heads shall:**

- (1) Ensure that an agency records management program is established and maintained.
- (2) Appoint an Agency Records Coordinator, according to guidelines provided in *Manual 210.7, State Records Management Manual*, to have agency-wide responsibility for managing and coordinating the agency records management program.
- (3) Provide for all necessary support, staff, and agency authority for the Agency Records Coordinator to carry out designated records management responsibilities.

**f. Agencies shall:**

- (1) Be responsible for supporting agency employees in developing and adhering to the agency records management program.
  - (a) Delineate record and non-record information within the agency.
  - (b) Outline program responsibilities.
  - (c) Oversee management of agency records.
- (2) Ensure that employees are trained and comply with requirements, policy, and procedures for the State Records Management Program.
- (3) Ensure that electronic records, including electronic messages, are:
  - (a) Organized and maintained in such a manner as to ensure accessibility over time in order to meet business/legal requirements, technology migration requirements, and user expectations.
  - (b) Maintained in such a way to preserve the integrity of electronic records, including electronic messages along with attachment(s) in a safe and secure environment.
  - (c) Retained following an approved commonwealth records retention and disposition schedule; non-records should be deleted immediately and transitory records should be deleted once their short-term business value has ended.
  - (d) Reviewed regularly to determine retention requirements and compliance with disposal codes.
  - (e) Appropriately maintained for those records designated by the PHMC as having permanent/archival value. This shall include provision for maintenance of such records in human-readable format. The creating agency shall retain the records permanently or until such time as they may be scheduled for transfer to the State Archives.

- g. Agency Chief Counsel** shall report to the General Counsel in compliance with the section of this Management Directive regarding departing Senior Management Employees.

## **7. Related Guidance/References.**

- a.** Agency Records Coordinators shall manage commonwealth records using the procedures set forth in *Manual 210.7, State Records Management Manual*.
- b.** Agency Records Coordinators shall manage vital records using the guidelines provided in *Manual 210.8, Vital Records Disaster Planning*.
- c.** Agency employees are to create and maintain their individual records in accordance with procedures and instructions issued through *Manual 210.1, The Commonwealth of Pennsylvania Employee Records Management Manual*.
- d.** Agencies must comply with the RTKL as indicated in *Management Directive 205.36, Right-to-Know Law Compliance*.
- e.** Authorized Users that have access to commonwealth IT Resources must comply with *Management Directive 205.34, Commonwealth of Pennsylvania Information Technology Use Policy*.
- f.** Agency employees should use this management directive in conjunction with Executive Order 1992-1, Records Management and Sections 506 and 527 of the Administrative Code of 1992.
- g.** For storing long-term records in electronic formats, agencies must follow [Guidance for Policy Regarding Agency Long Term Records in Electronic Format](#) and [Policy on Preservation of Electronic Records Retained Permanently by an Agency \(and Exception to PDF/A\)](#).
- h.** Information Technology Policies should be referenced on OA's IT Policy page at <http://www.oa.pa.gov/Policies/Pages/itp.aspx>.

**This directive replaces, in its entirety, *Management Directive 210.5*, dated July 29, 2010.**