



Preserving Electronic Records While Transitioning out of Office

Constitutional officers have an obligation to properly manage the records created by their office during their tenure. Ignoring records can negatively reflect on an official. A shadow can be cast over achievements if critical state electronic records are discarded or destroyed instead of saved and sent to the state archives. Creating an office-wide records disposition policy during an official's tenure and especially during a transition out of office can prevent unfortunate mistakes. Clear steps, discussed below, can help transitioning constitutional officers to make sure public records are properly handled as well as provide for the continuity of operations.

Steps for Managing Public Records During Transition

1) Plan for Continuity of Operations: Identify and Maintain Public Records for the Incoming Officials

Most states have established records retention schedules for commonly created operational, administrative, fiscal, and legal records. Many states have established retention schedules for specific agencies. Consult the approved policies to determine if public records should remain in the office for the incoming administration, be transferred to the appropriate repository, or legally destroyed. Not following established records retention schedules and policies can lead to problems. Departing staff most often are in the best position to identify essential public records needed to facilitate the efficient continuity of office operations. If possible, departing staff should meet and collaborate with the incoming counterpart staff to help determine the public records that should be actively retained. These meetings should also address how the social media accounts will be handed over. State archives and records management staff can assist in transition planning and execution. Including them in transition meetings can make the process smoother and easier.

If there is no existing retention schedule or policies, the state archives and/or records management agencies can

assist with identifying the types of records that have been created; how these records are organized and accessed; the creation of a records retention schedule for public records to determine how long they should be retained and when they can be legally disposed of, including transfer of historically valuable records to the appropriate repository. They may also have specific transfer policies, procedures and forms. They should be consulted prior to disposing of any public records to understand and comply with these requirements.

The goal is to transfer all public records to the appropriate agencies with the exception of records retained by the incoming officials for continuity of operations and briefing materials specifically created for the incoming officials.

2) Plan for Transfer of Public Records

An outgoing official should follow the established records retention schedules and policies and plan for the transfer of public records. Contact the state designated archives and records management agencies for assistance with navigating the laws and best practices to which public records are subject, and any requirements such as transfer policies and procedures.

Contact them to get help developing policies and/or plans that will:

- Distinguish public records and personal papers.
- Facilitate the transfer of public records to the appropriate repository as designated by law or past state practices.

Transfer Public Records, Return Devices, and Hand-off Social Media Accounts

Transfer Public Records

Public records, regardless of format or location, are public property. State laws vary on requirements for retention, disposition, and access. Many states mandate the transfer of public records to a designated state agency, such as the state archives. Involving state archives and records management staff early in the transition will help with



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the transfer process. Staff should look to past state practices when transferring administration records if there are no laws or statutes in place to guide them.

Physical and electronic public records may be sealed for a short time, if allowed by law. Some individual records may also be sealed for varying periods of time to either protect confidentiality of ongoing issues being faced or to protect an individual's privacy for a set period of years. Statutes and state laws on confidentiality vary. Offices should consult with their state archives and records management staff to learn more and their legal counsel for advice. However, a decision to seal records can lead to highly critical reactions. Therefore, the decision to seal records needs to be considered carefully and judiciously.

Staff must also turn in any state-owned cell phones, computers, and storage devices in their possession as dictated by state policies and procedures. Staff must arrange to transfer any public records stored on personal devices or email accounts to their work computers or other government-owned devices.

Staff must hand over the login and passwords for any electronic communication accounts such as Twitter, Facebook, Instagram, or others.

Checklist for Managing Records While Transitioning Out

- Plan for continuity of operations.
 - Identify and maintain public records necessary for the incoming official.
- Consult with your state archives and records management agency to understand public records management obligations and policies.
- Plan for the transfer of public records.
 - Follow established records retention schedules and policies. If no retention schedules or policies exist consult with your state archives and records management agency.
 - Transfer public records to the appropriate repository as designated by law or past state practices.
- Officials should return all state-owned devices such as cell phones, laptops, storage devices, etc. as required by established state policies and procedures, and ensure that public records stored on those devices are transferred properly.
- Electronic communication accounts including, but not limited to, Twitter, Facebook, Instagram, or others should be handed over to the incoming officials.

Additional Resources

Find additional resources at the Council of State Archivists (CoSA) website, www.statearchivists.org.

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About CoSA

Formed in 2002, the Council of State Archivists (CoSA) is a national nonprofit using collaborative research, education, and advocacy to provide leadership that strengthens and supports state and territorial archives in their work to preserve and provide access to government records. Its members comprise the state archivists in the 50 state, 5 territorial and District of Columbia archives. These individuals oversee agencies that hold a legal mandate to document government and protect the rights and history of the American people across our country.

About NASS

Founded in 1904, the National Association of Secretaries of State (NASS) is the nation's oldest, nonpartisan professional organization for public officials. Membership is open to the 50 states, the District of Columbia and all U.S. Territories. NASS serves as a medium for the exchange of information between states and fosters cooperation in the development of public policy. The association has key initiatives in the areas of elections and voting, state business services, and state heritage/archives. Learn more about NASS at www.nass.org.