INTRODUCTION

An ad hoc committee of stakeholders was formed to address a library community-wide retention guideline to assist all libraries and systems with handling their records. The initial guidelines were presented to the Wisconsin library community via listservs and a presentation at the Wisconsin Library Association conference in October 2005. The Wisconsin Public Records Board reviewed the schedule and also made amendments before adopting it in February of 2006. The goal is for public libraries and systems to adopt the schedule as is; but remember that libraries and systems have the option to lengthen any retention period.

- Open Records and Legal Access
- Retention Guidelines and Adoption
- Procedural – How to Clean those Files

My presentation will consist of actually three parts today. Overview of Legal, Procedural, How to use the manual and clean those files

- - Legal (Open Records and Legal Access)
- - Retention Guidelines/Adoption (Retention Schedule)
- - Procedural (How to Clean those Files)

OPEN RECORDS AND LEGAL ACCESS

OPEN RECORDS AND LEGAL ACCESS

Julie Schmude, Administrative Services Coordinator

Winnefox Library System

Wisconsin's Open Records Law

Wisconsin Statutes Chapter 19.31
…In recognition of the fact that a representative government is dependent upon an informed electorate, it is declared to be the public policy of this state that all persona are entitled to the greatest possible information regarding the affairs of government and the official acts of those officers and employees who represent them….To that end, ss. 19.32 to 1.37 shall be construed in every instance with a presumption of complete public access…The denial of public access generally is contrary to the public interest, and only in an exceptional case may access be denied.

Let's start with Wisconsin's Open Records Law

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What this means…

- The statutes state that all public records are open to inspection
  - unless the law provides otherwise
  - or if a balancing test suggests disclosure would be considered harmful to the public interest.
- If a balancing test is used, legal counsel should be gained as if a decision is made to withhold access, specific policy rationale must be provided.

Basically what this means is that the statues require all public records be open to inspection unless the law provides otherwise. OR, unless disclosure of the information would be considered harmful to public interest. If a balancing test is used, it is highly recommended that you confer with legal counsel.

Legal Custodians

- Designation (in writing)
- Full Legal Power
- Can Be Appointed by Library Board or by City/Town/Village Board or Council
- Shall Designate Deputies

A legal custodian is the person who has been designated in writing to be responsible for the records of the organization. If there is no designation, it falls to the authority's highest ranking officer. This person has full legal power to render decisions and carry out the duties of this authority under State Law. And the legal custodian shall designate one or more deputies to act as legal custodian in his/her absence. (19.33(4-5))

Procedural Information

Notice must be prominently displayed and contain the following where public may obtain information and access to records, request records, obtain copies of records, and costs thereof.

• Description of Organization
• Established Times and Places
• From Whom
• Methods

In turn, the authority must adopt and display the information necessary to make records available for inspection and copying. This notice must include the description of the organization, the established times and places when and where records can be viewed, who and how the public may obtain information and access to records.

Records Must Be:

• Accessible during workings hours
• Or must permit access upon 48-hour notice

OR

• Establish a period of 2 consecutive hours /week for access*

*excluding Saturday, Sunday and legal holidays

Records must be accessible during working hours or the custodian must permit access upon a 48-hour notice. Another option is to establish a period of 2 consecutive hours each week (not including Saturday, Sunday or holidays) for access to records.

Non Print Records

- Audio Tapes
- Video Tapes
- Handwritten or recorded when it would identify an informant

If copying not permitted by record. Permission to photograph or authority provide photograph

These do not apply to a record which has been or will be published with copies for sale or distribution.

A requestor has a right to receive a record if it is in the form of an audio or video tape. The copy of the tape must be substantially as audible as the original. If the voice recording would identify an informant or example, the authority can provide to the requestor a transcript of the record or information contained in the record.

Requests

- Sufficient if reasonably describes the record or information
  - Request for record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request.
- Request may be made orally
- Request must be in writing before action to enforce
- Cannot be 8refused if stored in the home and person is unwilling to be identified or state purpose
- Cannot be refused because received by mail (unless prepayment of a fee is required.
- Requester may be required to show acceptable identification.

Requests are sufficient if they reasonably describe the record. In other words, you cannot go in and request every time the Library Board mentioned a particular trust fund in their meeting minutes. In general, requests can be made orally, but it must be in writing before any action to enforce the request is begun under State Statute 19.37.

No request may be refused because the requestor is unwilling to be identified or to state the purpose of the request. Likewise a request cannot be refused because it has been received by mail unless a prepayment of a fee is required. If the record is kept in a private residence or if security reasons or federal law requires, the requester may be required to show acceptable identification.

Requestor

- Shall comply with regulations or restrictions
- Legal custodian may impose reasonable restrictions if record irreplaceable
- Does not require authority to create a new record

The requestor must comply with regulations or restrictions on the use of the information which are specified by law. The custodian can impose reasonable restrictions on record if the record is irreplaceable or is easily damaged. And, the requestor cannot demand that an authority create a new record by extracting information from existing records and compiling the information in a new format. For example, a requestor cannot ask a library to collect circulation statistics and complete a cost per circulation statistic if it is not something the library would normally keep.

Are there any questions here before we move on?

RECORDS RETENTION

Record Series

16.61 2(b)(6)(c)
"Record Series" means public records that are arranged under a manual or automated filing system, or are kept together as a unit, because they related to a particular subject, result from the same activity, or have a particular form.

Example: "Library Board" is considered a single records series. Although it can consist of meeting information, minutes, and reports, it is all common to the workings of the library board.

Let's start with a description of our generic filing system. All systems have record series. State statutes defines a record series as public records arranged under a manual or automated filing system or are kept together as a unit because they are related to that particular subject. For example, Library Board is considered a single records series. Although it can consist of meeting announcements, minutes and reports, it is all common to the topic of the library board.

Record Schedule

Records schedules are documents that identify records series, describing attributes such as the format, creating office, the estimated annual accumulation and purpose of the series. Scheeules also identify the amount of time nece3ssary to keep these records (rentention period) as well as the disposition method to be used after that time has expired. Record schedules usually apply to a single division within an agency.

A record schedule is a document that identifies records series with items such as the format, who created the record, the purpose of the record series. It will also list how long you need to keep the records (which is called the retention period) as well as what to do with the record when the retention period is over.

General Schedule

- A general schedule is a collection of numerous schedules that can be applied to more than one division, usually to an entire agency or multiple agencies.
- Examples: Fiscal and Accounting

Next is a general schedule which is a collection of numerous record schedules that can be applied to more than one division, usually to an entire agency or multiple agencies. Examples of this would be fiscal and accounting.

Definition

- Local Records are Public Records
- Wis. Stats. 19.21 (1) is read to define public reacords (and public property) as:

- "…all property and things received (by a public officer) from his predecessor or other persons and rquired by law to be filed, deposited, or kept in his office, or which are in the lawful possession or control of himself or his deputies, or to the possition on control of which he or they be lawfully entitled as such officers.

Now let's go back, we know how to make records known and we know how to sort them down, so lets talk about records themselves. Local records are public records. Wis. Stats. 19.21 (1) is read to define public records (and public property) as:

"…all property and things received (by a public officer) from his predecessor or other persons and required by law to be filed, deposited, or kept in his office, or which are in the lawful possession or control of himself or his deputies, or to the position on control of which he or they be lawfully entitled as such officers.

Records definition

"Public Records" means all books, papers, maps, photographs, films, recordings, optical disks, electronically formatted documents or other documentary materials, regardless of physical form or characteristics, made, or received by any state agency or its officers or employees in connection with the transaction of public business…"

And a record means all books, papers, maps, photographs, films, recordings, optical disks, electronically formatted documents or other documentary materials, regardless of physical form or characteristics, made, or received by any state agency or its officers or employees in connection with the transaction of public business…"

Does Not Include

- Records and correspondence of any member of the legislature
- Any state document received by a state document depository library
- Duplicate copies of materials
- Notices or invitations received by a state agency that were not solicited
- Drafts, notes, preliminary computations prepared for the originator's personal use
- Routing slips and envelopes
- Published material available for sale or at the library
- Purely personal property with no relation to the office.
- Materials in the possession of a library or museum solely for reference or exhibition purposes.
- Materials with access limited due to copyright, patent, or bequest.

A record does NOT include:

- Records and correspondence of any member of the legislature
- Any state document received by a state document depository library
- Duplicate copies of materials, the original copies of which are in the custody of the same state agency and which are maintained only for convenience or reference and for no other substantive purpose

- Notices or invitations received by a state agency that were not solicited by the agency and that are not related to any official action taken, proposed or considered by the agency.
- Drafts, notes, preliminary computations and like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working
- Routing slips and envelopes
- Published material available for sale or at the library
- Purely personal property with no relation to the office.
- Materials in the possession of a library or museum made or acquired solely for reference or exhibition purposes.
- Materials with access limited due to copyright, patent, or bequest.

How to Destroy Legally?

- By Ordinance – Wis. Stats. 19.21 (4) provides a city council, village board or town board the ability to pass an ordinance that defines the process for the destruction of obsolete public records.
- By a general schedule – Wis. Stats. 16.61 allows the Public Records Board (PRB) to approve statewide general schedules, only two of which apply to local governments.

- So you have all these records – you just keep them forever? Well, there are two ways that you can legally destroy records. First, by ordinance – Wis. Stats. 19.21 (4) provides a city council, village board or town board the ability to pass an ordinance that defines the process for the destruction of obsolete public records. And second? By a general schedules – Wis. Stats. 16.61 allows the Public Records Board (PRB) to approve statewide general schedules

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What Is Not Legal

- Using a "recommended" retention policy as defined by a professional organization
- Using another local government's or department's retention policy.
- Using a state general schedules that does not apply to local governments.
- Saying "Mom said." (freely stolen from John DeBacher, DLTCL)

What is NOT legal?

- Using a "recommended" retention policy as defined by a professional organization
- Using another local government's or department's retention policy.
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General Schedules

- provides guidance and authorization to agencies to either dispose or transfer these types of records
- Cover administrative records thereby freeing up resources for agencies to focus on their program specific records
- help identify duplication by analysis of the interrelationships between like records at various levels in government
- Provide agencies with uniform guidelines for retention and disposition of common records;
- Ensure that records are maintained for the established minimum time periods to meet all applicable program requirements and statewide legal, fiscal and historical requirements.
- Reduce state exposure to litigation involving records that need not be retained for business purposes;
- Save money by reducing record keeping related expenses

The benefit of adopting a general schedule for your library or system includes:

- provides guidance and authorization to agencies to either dispose or transfer these types of records
- Cover administrative records thereby freeing up resources for agencies to focus on their program specific records
- help identify duplication by analysis of the interrelationships between like records at various levels in government
- Provide agencies with uniform guidelines for retention and disposition of common records;
- Ensure that records are maintained for the established minimum time periods to meet all applicable program requirements and statewide legal, fiscal and historical requirements.
- Reduce state exposure to litigation involving records that need not be retained for business purposes;
- Save money by reducing record keeping related expenses

Retention Schedule

- Has instructions for the length of time, location, and form in which record series are kept and the method of filing record series.
- Has been reviewed and approved by the State Historical Society and the public records board.
- No further approval required to destroy or transfer records that are covered either under agency specific or general schedule approved by the Public Records Board except: scheduling records is required only if: records are not being retained permanently; or for paper records only.

The retention schedule includes:

- Instructions for the length of time, location, and form in which record series are kept and the method of filing record series.
- Has been reviewed and approved by the State Historical Society and the public records board.
- No further approval required to destroy or transfer records that are covered either under agency specific or general schedule approved by the Public Records Board except: scheduling records is required only if: records are not being retained permanently; or for paper records only.

Retention Schedule

Record Retention Schedule for Wisconsin's
Public Libraries and Public Library Systems

Adopted by the Wisconsin Public Records
Board February 27, 2006

This brings us to the Record Retention Schedule for Wisconsin's Public Libraries and Public Library Systems. You each should have a copy in your folders. We will take a look at parts of the information in our next section.

I spoke earlier of the ad hoc committee of stakeholders that was formed to address a library community-wide retention guideline to assist all libraries and systems with handling their records. This is the document prepared to assist all libraries and library systems in Wisconsin with their file retention program.

To Adopt the Schedule

- Audit your library records to determine type, ranges, and any duplication
- Review to see if any additional records may be required
- Determine if any records or series are superseded by a municipal retention schedule

To adopt this schedule, it is asked that your library audit your records to determine what type and ranges of records you have and duplication of records. I know we have places that, for example, our bills for approval. Located in the board report, in a separate file, in a computer file, online, to each management staff person. Tons of copies out there.

Then review to see if you have any additional records that need to be addressed in a record schedule, and also determine if any records or series are superseded by a municipal retention schedule.

Formal Adoption

- Review and amend schedule
- Library Board approval
- Submit notification to SHS
- Obtain approval
- Retain, destroy, or archive as appropriate

Next, review and amend the schedule as appropriate and obtain library board approval. File the Notification of Adoption of the Public Library/Public Library System Records Retention Schedule (copy in your packets). This covers your notice to the Wisconsin Public Records Board and also the State Historical Society of Wisconsin. When you receive the completed Notification, you are prepared to retain, destroy or archive your library records. Note that many libraries have adopted the schedule in its entirety and will only make amendments as necessary in the future.

Procedures – NOW I CAN TOSS?

So we have our schedule approved and we are ready to clean, right? Well, mostly right. The most difficult thing to understand when going through the process isn't the time that it takes, but the time that you can afford away from other tasks in order to do an efficient job with retention.

The goal of our record management program is not necessary to get rid of the filing packed in boxes in the back hall. My favorite definition is that "It is the ability to get the right information into the hands of the right individual within the shortest amount of time." For Winnefox, we have set the goal of 5 minutes – to and including records stored in the basement.

State agencies are required by law to manage their records and information. Records serve as the memory, evidence and history of government actions. They contain information that is an essential resource. This resource has value and entails costs.

Effective organizations rely on accurate, complete data collection and sound record keeping methods. All employees – managers, supervisors, technicians, support personnel, production staff, and clerical workers use records. They need timely and accurate information to perform their duties and distribute benefits, provide services and to make decisions.

At the same time, this can also be a liability. Public records impose costs. Responding to information needs can require additional data collection and processing expenditures. It can also create a legal risk when an organization maintains its information too long.

Non-paper data and information confuse this information as well. These types of documentation are considered records and are subject to statutory requirements. I will only speak to paper records today but understand that electronic records are treated the same as far as retention.

Here are just a couple pictures of the daunting task that Winnefox and Oshkosh Public Library have undertaken. Unfortunately I don't have the finished pictures because we are still wading our way through the procedures and setting up our individual retention schedules.

Flagging Files & Assigning Retention

When file is initiated and retention period has been established, an appropriate flag (label) should be placed on the file listing the pertinent information.

Inspect file, locate appropriate record series

The first thing that needs to be done is to identify (inventory) the type of file you have and the appropriate retention from the Record Retention Schedule. Once the retention has been determined, the necessary label is placed on the folder to easily identify the

record type and its retention. If you want to follow along, pull out the sheet called Flagging Files from your folder. There will be a test.

Tagging Files

- Permanent
- Non-Record (convenience copies)
- Active
- Inactive

So you take your file and you look at it, what is it? Is it a record? Go to the definition. Are you keeping something you don't need to keep? Then move to the retention schedule and locate that type of record. Determine the record series and the retention for the record. Determine if it is active or inactive. Do you need/use it yet? Or are you just keeping it until the retention schedule says you can dispose of it? At this point, you will tag the file – which essentially places it into your retention.

- Permanent
- Non-Record (convenience copies)
- Active
- Inactive

At Winnefox, we use 9 different files depending on the records which we retain.

PERMANENT

- **Permanent** - this signifies that the file will not enter a disposition and will remain permanently in the files of the System.   If a record is determined to be Permanent, place a label (as shown below) on the file. The file can be kept with active or inactive files as storage space permits. There is no further information that needs to be placed on these files. They do not have to enter the retention schedule.

PERMANENT

This signifies that the file will not enter a disposition and will remain permanently in the files of the System. If a record is determined to be permanent, place a label on the file. The file can be kept with active or inactive files as storage space permits. There is no further information that needs to be placed on these files. (Just a note – as you tag files, it is a good time to clean out duplicates and unnecessary papers within the file.)

NON-RECORD

- **Non-Record** – These are convenience files only. The information contained in them does not belong to the System, nor is there any requirement to retain these files. They should be destroyed as soon as the convenience factor is no longer necessary.

> **NON-RECORD**

Samples:
- Notes, Tickler Reminders
- Rough Drafts

Non records are convenience files only. The information contained in them does not belong to the library, nor is there any requirement to retain the file. These files should be destroyed as soon as the convenience factor is no longer necessary.

ACTIVE

- **Active – Event**
- Place the appropriate length of time on the label as shown below. This record becomes inactive upon conclusion of the event. In other words, once a request has been filled. Or, once an event has reached conclusion, the record is then tagged as an inactive file.

> **ACTIVE** EVT + ___
> **Inactive: Upon Conclusion**

Samples:
- Grievances
- Open Records Requests
- Requests for Information

Active – Event. The key word here is the conclusion of an event.

ACTIVE

- Active – Superceded
- These records should receive the label as shown below. Policies, procedures and plans are examples of superceded files. Once a new procedure has been set into place, the old one can be destroyed immediately.

> **ACTIVE** SUP
> **Destroy when superceded**

The key to superseded records are that once a new record has been set in place, the old one can be destroyed.

ACTIVE

Active – Fiscal

Fiscal Records include such things as Bank
Statements, Payroll Deduction Records and Journal
Entries. These records become inactive upon
conclusion of a fiscal year. Once the fiscal year has
reached conclusion, the record is then tagged as an
inactive file.

ACTIVE   FIS + ___
Inactive: End of fiscal year

Active – Fiscal – become inactive upon conclusion of a fiscal year.

Active

- Active – Expired
- Expired Records include such things as Contracts and
  Insurance Policies. These records become inactive upon
  expiration. Once the file has expired the record is then tagged
  as an inactive file.

ACTIVE   EXP + ___
Inactive: Upon Expiration

Expired are those that become inactive upon expiration. Once the file has expired, the record is then tagged as an inactive file.

Active

- Active – Creation
- These records include such things as Security Logs
  and time cards. The records become active as of the
  time they are created and an immediate inactive date
  can be assigned. In order to handle files consistently
  we have placed an inactive date on the file to assign
  a time that the record is no longer needed in the
  active files and can be considered an inactive file.

ACTIVE   CR + ___
Inactive Date: _____

Creation – These records become active as of the time they are created and an immediate inactive date can be assigned. By placing inactive dates on files, it tells us when we can move the file from our upstairs offices to the basement storage area.

Active

Active – Active

This term is used for fairly generic files such as purchase requests and correspondence. Once the need for the file has ended, the file can then become inactive and subsequently purged from the system.

ACTIVE   ACT + ___
Inactive Date: _____

Active files can become inactive once a need for the file has ended.

Inactive

Inactive

Once a file has been termed inactive, the following label is placed on the folder and the destruction date and method are assigned. These files can then be stored until such a time as the destruction date is reached.

INACTIVE
Destruction Date: _____
Method: _____

Inactive

Inactive

Once a file has been termed inactive, the following label is placed on the folder and the destruction date and method are assigned. These files can then be stored until such a time as the destruction date is reached.

INACTIVE
Destruction Date: _____
Method: _____

Finally, there are Inactive files. Once a file has been termed inactive, this label is placed on the folder and the destruction date and method are assigned. These files can then be stored until such a time as the destruction date is reached.

RECORD RETENTION LISTING
WINNEFOX LIBRARY SYSTEM

As your files are "tagged." The records schedule is prepared. This is a schedule specific to your organization. Our example show Winnefox's retention schedule in process. The first column is the subject of the file, next is the actual file number we use to keep track of the file. Next is the file name, the series number from the Records Guide. Whether it is confidential, and the retention established. The next action for the file, the disposition (in this case it is to recycle – it may be shred if it contains confidential information). Also listed are the location and the sticker placed on the file. Just a note that most always, our retention will match the records guide approved – but sometimes we may lengthen it to serve needs of our system. Remember you can always lengthen the life of the record, but you cannot shorten it unless you have approval from the State Records Board.

Destruction

Records should be promptly destroyed as they become eligible for destruction. If records are confidential or extremely sensitive in nature, staff must ensure that they are shredded and handled securely at this final step. Non-confidential records may be destroyed without shredding. Recycling or other methods should be used for destroying all records.

Records destruction is contingent on restrictions contained in the Open Record Law. A record may not be destroyed if litigation involving the record has commenced, or; the agency received a request for the record before it is destroyed.

Disposition

Implemented annually or more frequently. During the disposition cycles of records, all those who handle the records must know what they are doing because they will be flagging closed files, transferring files to archives or inactive storage, or destructing the records.

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Records destruction is contingent on restrictions contained in the Open Record Law. A record may not be destroyed if litigation involving the record has commenced, or; the agency received a request for the record before it is destroyed.

Updating the Records Schedule

The retention schedule must be maintained, amended, as information needs are revised, laws are enacted and repealed. The following should be considered the following when updating records scheduled
.
• Conduct physical records inventories every 2 years to identify new records, revised series and obsolete series.
• Include review of records as a part of policy and procedures.
• Establish a policy and procedure for users to review annually
• Develop; a method of notifying the records office when new or revised programs forms, or systems are developed.

Updating the Records Schedule

The schedule must be maintained, amended, as updated agency records and information needs are revised, laws are enacted and repealed. The following should be considered the following when updating records scheduled.

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- Include review of records as apart of policy and procedures.
- Establish a policy and procedure for users to review annually
- Develop; a method of notifying the records office when new or revised programs forms, or systems are developed.