

State Records Management Committee Meeting

Utah Division of Archives and Records Service

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18 May, 2020, 11:30 AM

Committee Members Present

- Josh Bullough (chair), Records manager, Church of Jesus Christ of Latter-Day Saints
- Rebekkah Shaw, SRC secretary, Utah Division of Archives and Records Service (substituting as designee for Ken Williams, State Archivist)
- Alycia Rowley, Program specialist, Utah Division of History
- Matthew LaPlante, News media representative, professor at Utah State University
- Tracy Hansen, Recorder, City of Ogden
- Drew Mingl, Open Data administrator, Division of Technology Services
- Jacey Skinner, Government relations attorney at Ballard Spahr, LLC

Others Present

- Daniel Black, Motor Pool Manager, Division of Fleet
- Lisa Rix, Records Officer, Division of Fleet
- Kendra Yates, Chief Records Officer, Utah State Archives and Records Service
- Avalon Snell, RIM specialist, Utah Division of Archives and Records Service
- Heidi Steed, RIM specialist, Utah Division of Archives and Records Service
- Renée Wilson, RIM specialist, Utah Division of Archives and Records Service
- Susan Mumford, Administrative Assistant, Utah Division of Archives and Records Service

Josh Bullough called the meeting to order at 11:33 a.m.

I. Oath of office for new committee member, Drew Mingl

Susan Mumford, Notary, read the oath of office to Drew Mingl, who recited the oath and sent the signed document to Susan Mumford.

II. Approval of April 27, 2020 meeting minutes

Tracy Hansen moves to approve minutes and Alicia Rowley seconds. The minutes are approved unanimously.

III. Series-Specific Retention Schedule 29959: Telematics data --Continued

This schedule is presented by Renee Wilson. Daniel Black and Lisa Rix from the Utah Division of Fleet are attending to explain the use and management of telematics data.

A summary of Lisa Rix and Dan Black's points on telematics information:

- If data is used for a purpose, most of those purposes already have retention schedules in place, i.e. vehicle accident reports or HR records. This is raw data that goes into pockets of data that have already been set up as part of other record series.
- It is not mandatory to have telematics on fleet vehicles; Departments get to choose. It is on about 1500 fleet vehicles.
- Telematics report contains 1232 lines of data for one vehicle for four hours of usage, with data pulled every three seconds. Data collects everything from engine speed, tire pressure, wiper uses, engine temperature, etc.
- Risk Management asks that for data regarding incidents and/or accidents, the Division of Fleet transfer to them all of the data for the relevant trip, which is usually the entire day's worth of data for the vehicle(s) involved.
- Telematics data tracks the vehicle usage, gas card, and driver pin number, but does not guarantee the identity of the driver. The employee's agency is responsible for tracking which employees are using Division of Fleet vehicles.
- This data is exclusively kept with the State and stored on servers owned by GeoTab. Division of Technology Services approved this to be installed on vehicles and stored by GeoTab.
- The three year retention period suggested by the RMC last month is acceptable to Fleet.

Tracy Hansen moves to approve the schedule with three year retention and Rebekkah Shaw seconds. Retention schedule passes unanimously.

IV. Series-Specific Retention Schedule 29954: Category two investigation case files --Continued

This schedule is presented by Kendra Yates.

Kendra Yates spoke with the agency and wants to clarify that category two case files are not referenced for litigation or court proceedings. Only category one investigation case files are referenced.

The normal general retention schedule for this type of investigation is 7 years, but the agency wants to keep records for 15 years to identify patterns of behavior. The agency will not use a retention of more than 15 years considering their suggestion is already longer than the general retention schedule. If the allegation in the investigation case file is substantiated, then the final results are reported in the employee's personnel file, which has a longer retention period.

V. Series-Specific Retention Schedule 16896: Category one investigation case files --Continued

This schedule is presented by Kendra Yates.

These case files are the more serious investigation case files that could affect their ability to act as a witness in court proceedings. The agency wants to keep for 25 years from case closure. The general retention schedule is 7 years. They want to accommodate federal investigations by keeping them longer than the 7 year retention, but the 30 year suggestion by committee is considered too long.

Tracy Hansen moves to approve both types of investigation case files schedules as presented and Rebekkah Shaw seconds. Both schedules 16896 and 29954 were approved unanimously.

VI. Other business

RMC administrative rules discussion:

Josh Bullough has concerns about electronic meetings Section R38-3-8(a)(b)(c) and having an anchor location designated in the administrative rules. Rebekkah Shaw clarifies that there does not need to be an anchor location in the current situation, due to Governor Herbert's order on March 18, but normally there would need to be one designated. There does not have to be any committee member at anchor location, just a place where the public can come and participate.

Josh Bullough also recommends always having an electronic meeting component to help attendance. All members support adding an electronic option to attend.

Tracy Hansen suggests an update to section R38-3-3 that clarifies the chair is elected annually, but there is no term limit to chairmanship. This change will be made.

Rebekkah Shaw suggests a correction in section R38 to replace State Records Committee (SRC) with Records Management Committee (RMC). Also, in section R38-4-3 change wording from "get" to "are." These changes will be made.

Tracy Hansen has concerns with section R38-4-3 because practitioners aren't always aware of or able to implement updates on a monthly basis. She suggests having annual or semi-annual dates when the changes would go into effect instead of having them go into effect immediately. State Archives sends a monthly ARO Newsletter to records officers that does report retention schedule changes approved by RMC. Kendra said that for practical application, if there are gaps of several months between the retention schedule change and an agency's annual update, being able to show that they have a records management program in place, were following it in good faith, with annual review and update of retention rules, should keep them safe with the courts. Jacey said that typically there has to be intent to knowingly destroy records contrary to retention schedule to be criminally liable. Matthew likes the idea of doing what we can to help people be compliant. Kendra Yates asks if they would like to add "will be implemented as soon as possible" to the administrative rule to help the agencies that may not have time and/or staff to complete updates quickly. Tracy said that it isn't necessary to adjust the language, but that it should be an education point for records managers.

Tracy Hansen suggests that language be added to section R38-3-6 clarifying that a majority vote (of members present) is required for a motion to pass. This change will be made.

Rebekkah Shaw moves to approve rules as amended. Tracy Hansen seconds motion. Administrative Rules are unanimously approved as amended.

The posting of the administrative rules for public review will happen as soon as possible.

Utah HealthyTogether App discussion:

Matthew LaPlante brings attention to what he considers issues related to how the vendors manage records for the state and has questions about the vendors records management practices and whether or not they have to follow state laws and retention schedules. He is also worried that the state promised the destruction of app information to the public that does not follow state retention laws and suggests sending a letter to the governor's office outlining concerns about records management and retention compliance.

Kendra Yates confirms we could request the contract but the committee would need a records sharing agreement with the governor's office.

Rebekkah Shaw believes this will come to the State Records Committee. There should be a contract and records management should be spelled out in contract.

Tracy asks how do we ensure that the vendor isn't selling the information and that they will actually destroy it according to law. Likes the idea of RMC creating a guideline for contracts.

Creating guidelines for vendors/agency contracts is suggested along with a possible submission of changes to PRMA next legislative session.

Drew Mingl adds that just because the state writes something into a contract doesn't mean that the vendor will actually follow it. A lot of valuable personal identifying data passes through the vendors servers so they have a financial incentive to not delete information. State auditors do have some authority to audit the data of vendors to make sure they are complying with the contract, however the agency that holds the contract has to initiate the audit, not the Auditor's Office or Division of Technology Services. There is also the potential for legislation next year to add a Chief Privacy Officer and a Personal Privacy Committee.

The discussion regarding the creation of guidelines for third-party vendor contracts will be added to the agenda for the next meeting.

Next meeting scheduled for June 22, 2020. Enough people say they can attend to constitute a quorum.

Josh Bullough adjourned the meeting at 1:05 p.m.