

OVERSIGHT COMMITTEE ON PUBLIC RECORDS
Regular Meeting September 19, 2012

12-09-19-01

CALL TO ORDER AND ROLL

A regular meeting of the Oversight Committee on Public Records was held Wednesday, September 19, 2012. The meeting was called to order by Chairperson Joe Hoage, Public Access Counselor, at 1:30 p.m. in Conference Room 10 Indiana Government Center South-First Floor. Members present constituting a quorum: Pam Bennett, Director, Indiana Historical Bureau; Jerry Bonnet, Designee for Connie Lawson, Secretary of State; Caroline Bradley, Designee for Brian Arrowood, Chief Information Officer, Office of Technology; Jim Corridan, Director & State Archivist, Indiana Commission on Public Records; Connie Smith, Designee for Robert D. Wynkoop, Commissioner, Department of Administration; and Micah Vincent, Governor's Office.

Members absent: Roberta Brooker, Director, Indiana State Library; John Jacob, Designee for Bruce Hartman, State Examiner, State Board of Accounts. Commission staff in attendance: Ted Cotterill, Deputy Director; Geoff Edwards, Electronic Records; Amy Robinson, Records Management; Beverly Stiers, County and Local Government Records Management. Guests in attendance: Rudy Cansino, State Department of Health; Danielle Coulter, Association of Indiana Counties; Steve Key, Hoosier State Press Association; Michael Sturm, Department of Child Services; and Moses Vejlil, Bingham Greenebaum Doll.

12-09-19-02

NEXT MEETING

Joe Hoage announced the next meeting would be held October 17, 2012 at 1:30 p.m. in Conference Room 10, Indiana Government Center South, 1st Floor.

12-09-19-03

PREVIOUS MEETING

Caroline Bradley moved approval of the August 15, 2012 minutes as presented, seconded by Pam Bennett.

Pam Bennett then stated for clarity of anyone who was not at the meeting, the second paragraph under Electronic Records Policy #12-01 at the bottom of page 1 and top of page 2, and the first paragraph under Email Retention Policy #5-01 on page 2 should be deleted from the Minutes. Pam Bennett made a motion to approve the minutes as amended, seconded by Jerry Bonnet. Motion carried.

12-09-19-04

OLD BUSINESS

1. ELECTRONIC RECORDS POLICY #12-01

Jim Corridan – stated the Attorney General's office concurred with the policy after making some minor modifications and combined the Email and Electronic Records policies together which is what the Committee has before it, labeled OCPR Electronic Records Policy #12-01. He stated ICPR added a clause that says this replaces the original OCPR Policy #05-01. We will say it has been rescinded if and when this is adopted.

Jerry Bonnet – Jim, does this then reference into the Indiana Code or to an Administrative Rule, if someone was readying the Code would be led to this somehow?

Jim Corridan – they would not, there is nothing in the Code that points back to this Policy. The Policy points back to the Code.

Jerry Bonnet – wondered if there was a way to accomplish that, if not a statutory change and if it would be helpful to Agencies.

Jim Corridan – pointed out two (2) things – between now and the end of the calendar year, one is to develop training along electronic records, email policy and also public access issues which will be ruled out to all employees of State Government in the next calendar year, and in addition to that once this policy or some version of it is adopted, we will be writing all of the Agency heads, letting them know that this is currently the policy for all Agencies in State Government. Some Agencies have adopted email policies in the past which meant that Agency would have had a transitory policy in place, but technically if they had not done that they really should not be deleting transitory messages because it is the only authority until we adopted a policy like this. He said they will explain that to the Agency heads and ask them to make sure to start the process preparing the records for the administrative changeover. He said they are going to do some effort to bolster education and make sure the people understand the policy.

Jerry Bonnet – does it point us in the direction of speaking into the microfilm policies.

Jim Corridan – no, that is a whole separate area.

Caroline Bradley – had a couple of general questions on the format. On page 2 at the top of the page where it refers to unsolicited advertising messages (“spam” email), spam emails are a class in themselves and that really should be an “and”, and take out the parentheses, advertising isn’t necessarily spam and spam isn’t necessarily advertising. Ms. Bradley then said the last bullet point under Policy states “potential legal holds” and legal holds can lengthen retention of electronic records and it just did not sound right when she was reading it.

Jim Corridan – in theory State Board of Accounts audits could also lengthen the retention and it is just a matter of waiting until those things are completed and he thinks their intent here was simply to say obviously if there is an ongoing court case do not destroy even if retention has lapsed.

Caroline Bradley – do we really want to say “potential” though because they would not have to be held unless we have received a legal hold or given notice of a hold.

Jerry Bonnet – what if it says that taking into account the possibility of a legal hold, because what you are saying is the records need to survive and be there if there were a hold.

Jim Corridan – the best thing to do is remove the word “potential” per Ms. Bradley’s suggestion.

Pam Bennett – also take out the comma after the word audits.

Ted Cotterill – in that case in first full paragraph on page 2 where it says materials cannot be destroyed to avoid a public records request which may be responsive, like you cannot destroy records that may be responsive……. We should do the same thing there with the word may.

After discussion, it was decided it should read “however, these materials cannot be destroyed to avoid an existing public records request filed with the governmental entity to which the records may be responsive under Indiana’s Access to Public Record Act.”

A motion was made by Connie Smith to adopt the Electronic Records Policy #12-01 with the amendments to include on page 2, first full paragraph should read “to avoid an existing public records request” as opposed to a public records request and the third bullet point should read “unsolicited advertising messages and “spam” email and take out parentheses and then last bullet point at bottom of page 2 under Policy, remove the comma under the word audits and also remove the word potential before legal holds, seconded by Caroline Bradley. Motion carried.

12-09-19-05

DIRECTOR'S REPORT

Jim Corridan stated a written report was sent in the packets to the OCPR Committee.

12-08-19-06

AGENCY REQUESTS-RECORDS RETENTION AND DISPOSITION SCHEDULES(S)

The Oversight Committee on Public Records took the following action regarding retention and disposition schedules.

1. COUNTY/LOCAL GENERAL RETENTION SCHEDULE

Jim Corridan reported there were two (2) changes in this Schedule. Record Series No. 12-1, Remote-Capture Checks, page 4 of 8, was added. These are checks given by citizens to some unit of local government and they now have the capacity to run that through a machine at the location, which will automatically scan it and send it directly to their bank. They still have the actual paper check on hand. We have worked with the State Board of Accounts, County Treasurers, and Association of Indiana Counties and we recognize the checks because they are in the custody of the county become a public record. They are not deposited in the bank and are retained in the county office. Once they run them through the system, they have been digitized, so long as the county has access to the digital images for the three (3) year retention, they should be able to destroy the paper checks. In addition, there is language in here that talks about the confidentiality of these records, under financial disclosure so you cannot obtain the routing number and the checking account number as well as the social security number.

In addition, when the Oversight Committee on Public Records Committee adopted the county/local retention schedules instead of the counties' adoption, Record Series No. 10-34, page 6 of 8, needs to be changed to show that these should be updated when they are adopted by the Oversight Committee on Public Records.

Jim Corridan introduced Danielle Coulter from the Association of Indiana Counties who thanked him for getting this matter resolved.

A motion was made by Pam Bennett and seconded by Connie Smith to add GEN 12-1 and change Gen 10-34 on Schedule No. 1. A motion was then made by Caroline Bradley and seconded by Pam Bennett to approve Schedule No. 1 as submitted. Motion carried.

2. DEPARTMENT OF CHILD SERVICES

Child Welfare

Michael Sturm from this Agency was introduced. Joe Hoage had a question concerning retention period of 24 years on Record Series No. 2008-36. Mr. Sturm stated it was supposed to be 24 years in this schedule as submitted last month. A motion was made by Caroline Bradley and seconded by Jim Corridan to approve Schedule No. 2 as submitted. Motion carried.

3. DEPARTMENT OF HEALTH

Indoor Air

Rudy Cansino from this Agency was introduced. A motion was made by Pam Bennett and seconded by Caroline Bradley to approve Schedule No. 3 as submitted. Motion carried.

4. DEPARTMENT OF WORKFORCE DEVELOPMENT

Agency Wide Schedule

A motion was made by Caroline Bradley and seconded by Jim Corridan to approve Schedule No. 4 as submitted. Motion carried.

5. OFFICE OF INSPECTOR GENERAL

State Ethics Commission

A motion was made by Jim Corridan and seconded by Connie Smith to approve Schedule No. 5 as submitted. Pam Bennett had a question on Record Series No. 78-26, Financial Disclosure Statement, SF #40876, basically the way those are defined to people who have to do the Financial Disclosure Statements, appointed officials can be interpreted to be anyone else who has a job that would require

that at any level and certain appointed officials are broadly interpreted in that, she assumes. Amy Robinson stated this was not changed. Ms. Robinson stated certain appointed officials was basically meant to cover anyone. Caroline Bradley had a question on that same Record Series 78-26, the definition indicates it is a four (4) page document, but the majority of people complete those online, so are they printing them out and signing them or do we have some paper and some electronic records. Ms. Robinson stated it is whatever gets to the Archives. Ms. Bradley stated she was curious if the retention is really reflecting how they are storing it and handling it since some people are completing the web form. Jim Corridan stated he was wondering if a period should be put after officials because it doesn't really matter if it is paper or electronic, it has no bearing on the retention. Ms. Robinson stated there was no notice from the Ethics Commission concerning the four (4) page document that it had changed. Ms. Bradley's stated her question was does that impact because she is looking at the same thing on Record Series No. 90-056, she thinks their formal opinions are on paper and their informal opinions are done electronically. Ms. Bradley had one other question concerning Record Series No. 93-23 on page 2 of 3 at the bottom the amendment of this Record Series, "Reporting Approval to Accept Payment of Expenses", is that not covered by the General Retention Schedule? Ms. Bradley asked if that was not just travel expenses already covered by the General Retention Schedule. Ms. Robinson stated in theory it is but because this is an Ethics Commission issue that they are required to have reported this, it is an archival record. Mr. Corridan stated the retention is different. Connie Smith stated there are also a couple of typos – "Please amend the description of Record Series 90-060 to read" should be 90-061 and "Please amend Record Series 93-22 to read" should be 93-23. Mr. Robinson stated these do not actually need to be amended in a vote. Mr. Corridan stated there is still an issue about the Financial Disclosure Statement and Ms. Robinson stated there is nothing in the advisory opinions that refers to it being paper whereas it does in Financial Disclosure Statement. Mr. Corridan made a motion that Record Series No. 78-26 be amended so the verbiage would be "Candidates for these offices as well as certain appointed officials must also file this document" deleting the words "four (4) page", seconded by Jerry Bonnet. Motion carried.

6. DEPARTMENT OF TOXICOLOGY

Jim Corridan stated this is a relatively new Agency that was transferred from I.U. to the State and this is the first version of their retention schedule which we have been negotiating for probably two (2) years. A motion was made by Caroline Bradley and seconded by Pam Bennett to approve Schedule No. 6 as submitted. Caroline Bradley had a question on Item 5, Toxicology Legal Files, is this a different retention period than what is one the General Retention Schedule? Amy Robinson stated yes only for storage purposes, the time period is different and includes Records Center storage prior to transferring to the Archives. A vote was then taken and motion carried.

12-09-19-07

NEW BUSINESS

1. Fee Schedule for Certified Transcript Copies-Nursing Schools

Jim Corridan stated in August, 2012, we discussed setting a standardized fee for the Agencies that had worked with COPE, which is the Commission on Proprietary Education, for those educational transcripts from two (2) and four (4) year institutions that have now been closed and the records are transferred to the State. Mr. Corridan stated the Archives is handling those and responding to requests for transcripts from those institutions and they have set the fee of \$10.00 which is a reasonable fee. Mr. Corridan stated they have now identified that they have a different fee for the transcripts from nursing schools of \$5.00 and they would like to make them both \$10.00. Mr. Corridan made a motion to establish a fee for transcripts from nursing schools and those institutions that fall under COPE, where the Archives now has their records, charging \$10.00 for the transcript and \$1.00 for each additional page after the first page which is the Archives regular copying fee. Connie Smith seconded the motion. Mr. Corridan stated the people that attended the Deaf School, the Blind School, Soldiers'

and Sailors' Children's Home (those institutions run by the State) would still get their transcripts at no charge. Caroline Bradley asked if that would be stated in the Fee Schedule so that it is clear in the future, because that could get lost, they could be charged and we certainly do not want that to happen. Mr. Corridan stated they would add to continue not to apply fees for transcripts from the Deal School, Blind School and Soldiers' and Sailors' Children's Home to his motion, seconded by Connie Smith. Motion carried.

12-09-19-08

ADJOURNMENT

There being no further business, Pam Bennett moved that the meeting be adjourned. Caroline Bradley seconded. Motion carried. Meeting adjourned at 2:05 p.m.