Public Records and Records Retention

Administrative Professionals Workshop
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Agenda

- Public Records Law Overview.
- How to respond to public record request.
- What about lawsuits & document requests?
- Retention Basics.

Public Records

- Every person has a right to inspect any public record of a public body in this state. ORS 192.420.
What’s a public record?

- Anything containing information relating to the conduct of the district’s business, no matter how informal:
  - Notes on a job application;
  - Emails, including those you’ve deleted;
  - Letters sent to the district;
    - Example: Tort Claim Notice sent to school.

I just received a public records request, now what?

- See District Policy KBA “Public Records.”
- Must respond “as soon as practicable without unreasonable delay.”
  - Even if this means you write a letter stating that you’re unsure you have the records and you’re still looking.
- You can charge for copies and staff time in compiling records.

Trouble Spots

- Employee addresses, telephone numbers, email addresses, social security numbers, dates of birth.
  - Exempt unless public interest prevails;
  - Exempt unless union requests.
Trouble Spots (cont’d)

- Superintendent’s Contract or Evaluation.
- Job applicants.
- Public employee salaries.

Trouble Spots (cont’d)

- Student Records:
  - Federal & State law;
  - Directory Information:
    - Know your policy.
  - Discipline.

Trouble Spots (cont’d)

- Email:
  - Personal computer vs. work computer.
Trouble Spots (cont’d)

- Employee discipline:
  - Investigation vs. discipline;
  - Resignation letters;
  - Settlement Agreements.

Trouble Spots (cont’d)

- What about unapproved board minutes?
- Executive session minutes?

Record Retention

- State law:
  - Oregon Law, Chapter 192.
  - Oregon Administrative Rules, 166-400-xxxx
    - The record retention schedule authorizes school districts to destroy records within a period of time.
- Federal law.
Why should I care about record retention?

- State and Federal law requires school districts to maintain documents for a certain period of time.
- Developing a solid record retention system avoids problems down the road with legal issues.

Record Retention Basics

- All retention periods apply only to the official copy of a document.
- If not sure if it’s the official copy, keep it.
- Doesn’t matter what form the official copy is in, applies to all formats.
- Retention periods are minimum requirements—ok to keep longer.
- Retention period begins with the creation date, unless otherwise stated.
- The schedule does not require creation of any of these documents.

What records don’t need to be retained?

- Library materials made or acquired solely for reference or exhibition.
- Extra copies of a document.
- A stock of publications.
- Telephone voicemails.
Why bother retaining records?

- The law requires that certain records be retained.
- It can be a crime to destroy some records.
- Records can be crucial when Districts encounter legal trouble.

Records Officer

- The District **MUST** designate a person as a records officer.
- General duties include planning, controlling and directing training and other activities involving the life cycle of documents.

What should District employees know?

- No destruction without approval.
- Do not store documents at home or in vehicles.
- Personal electronic devices are problematic.
- Notes.
Federal Rules re: Litigation

- Produce, preserve and avoid destruction of potential evidence in “electronically stored information.”
- Litigation Hold letters.

Practical Strategies

- Develop and implement record-retention policies that take the rules of discovery into account:
  - Actually implement;
  - Create a culture of preservation;
  - Create descriptions of policies with reasons behind them;
    - Show if you delete, it was in good faith.

Practical Strategies (cont'd)

- Identify likely sources of litigation:
  - Know where their data is, format, etc.
- Preserve documents as soon as litigation is reasonably foreseeable.
- Appoint responsible administrator(s) for e-data.
Practical Strategies (cont'd)

- When aware of litigation:
  - Discontinue data destruction policies;
  - Preserve all relevant hardware;
  - Preserve all passwords and network access code needed to access and view electronic data.

Questions?

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