

Chapter 12

Public Records Management Act

63A-12-100 Title.

This chapter is known as the "Public Records Management Act."

Amended by Chapter 258, 2010 General Session

Superseded 5/12/2015**63A-12-100.5 Definitions.**

- (1) Except as provided under Subsection (2), the definitions in Section 63G-2-103 apply to this chapter.
- (2) As used in this chapter, "division" or "state archives" means the Division of Archives and Records Service.

Amended by Chapter 265, 2011 General Session

Effective 5/12/2015**63A-12-100.5 Definitions.**

- (1) Except as provided under Subsection (2), the definitions in Section 63G-2-103 apply to this chapter.
- (2) As used in this chapter:
 - (a) "division" or "state archives" means the Division of Archives and Records Service; and
 - (b) "record" means:
 - (i) the same as that term is defined in Section 63G-2-103; or
 - (ii) a video or audio recording of an interview, or a transcript of the video or audio recording, that is conducted at a Children's Justice Center established under Section 67-5b-102, the release of which is governed by Section 77-37-4.

63A-12-101 Division of Archives and Records Service created -- Duties.

- (1) There is created the Division of Archives and Records Service within the Department of Administrative Services.
- (2) The state archives shall:
 - (a) administer the state's archives and records management programs, including storage of records, central microphotography programs, and quality control;
 - (b) apply fair, efficient, and economical management methods to the collection, creation, use, maintenance, retention, preservation, disclosure, and disposal of records and documents;
 - (c) establish standards, procedures, and techniques for the effective management and physical care of records;
 - (d) conduct surveys of office operations and recommend improvements in current records management practices, including the use of space, equipment, automation, and supplies used in creating, maintaining, storing, and servicing records;
 - (e) establish standards for the preparation of schedules providing for the retention of records of continuing value and for the prompt and orderly disposal of state records no longer possessing sufficient administrative, historical, legal, or fiscal value to warrant further retention;

- (f) establish, maintain, and operate centralized microphotography lab facilities and quality control for the state;
 - (g) provide staff and support services to the records committee;
 - (h) develop training programs to assist records officers and other interested officers and employees of governmental entities to administer this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;
 - (i) provide access to public records deposited in the archives;
 - (j) administer and maintain the Utah Public Notice Website established under Section 63F-1-701;
 - (k) provide assistance to any governmental entity in administering this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;
 - (l) prepare forms for use by all governmental entities for a person requesting access to a record; and
 - (m) if the department operates the Division of Archives and Records Service as an internal service fund agency in accordance with Section 63A-1-109.5, submit to the Rate Committee established in Section 63A-1-114:
 - (i) the proposed rate and fee schedule as required by Section 63A-1-114; and
 - (ii) other information or analysis requested by the Rate Committee.
- (3) The state archives may:
- (a) establish a report and directives management program; and
 - (b) establish a forms management program.
- (4) The executive director of the Department of Administrative Services may direct the state archives to administer other functions or services consistent with this chapter and Title 63G, Chapter 2, Government Records Access and Management Act.

Amended by Chapter 341, 2010 General Session

63A-12-102 State archivist -- Duties.

- (1) With the approval of the governor, the executive director of the Department of Administrative Services shall appoint the state archivist to serve as director of the state archives. The state archivist shall be qualified by archival training, education, and experience.
- (2) The state archivist is charged with custody of the following:
 - (a) the enrolled copy of the Utah constitution;
 - (b) the acts and resolutions passed by the Legislature;
 - (c) all records kept or deposited with the state archivist as provided by law;
 - (d) the journals of the Legislature and all bills, resolutions, memorials, petitions, and claims introduced in the Senate or the House of Representatives;
 - (e) Indian war records; and
 - (f) oaths of office of all state officials.
- (3)
 - (a) The state archivist is the official custodian of all noncurrent records of permanent or historic value that are not required by law to remain in the custody of the originating governmental entity.
 - (b) Upon the termination of any governmental entity, its records shall be transferred to the state archives.

Renumbered and Amended by Chapter 382, 2008 General Session

63A-12-103 Duties of governmental entities.

The chief administrative officer of each governmental entity shall:

- (1) establish and maintain an active, continuing program for the economical and efficient management of the governmental entity's records as provided by this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;
- (2) appoint one or more records officers who will be trained to work with the state archives in the care, maintenance, scheduling, disposal, classification, designation, access, and preservation of records;
- (3) ensure that officers and employees of the governmental entity that receive or process records requests receive required training on the procedures and requirements of this chapter and Title 63G, Chapter 2, Government Records Access and Management Act;
- (4) make and maintain adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the governmental entity designed to furnish information to protect the legal and financial rights of persons directly affected by the entity's activities;
- (5) submit to the state archivist proposed schedules of records for final approval by the records committee;
- (6) cooperate with the state archivist in conducting surveys made by the state archivist;
- (7) comply with rules issued by the Department of Administrative Services as provided by Section 63A-12-104;
- (8) report to the state archives the designation of record series that it maintains;
- (9) report to the state archives the classification of each record series that is classified; and
- (10) establish and report to the state archives retention schedules for objects that the governmental entity determines are not defined as a record under Section 63G-2-103, but that have historical or evidentiary value.

Renumbered and Amended by Chapter 382, 2008 General Session

63A-12-104 Rulemaking authority.

- (1) The executive director of the Department of Administrative Services, with the recommendation of the state archivist, may make rules as provided by Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement provisions of this chapter and Title 63G, Chapter 2, Government Records Access and Management Act, dealing with procedures for the collection, storage, designation, classification, access, and management of records.
- (2) A governmental entity that includes divisions, boards, departments, committees, commissions, or other subparts that fall within the definition of a governmental entity under this chapter, may, by rule, specify at which level the requirements specified in this chapter shall be undertaken.

Renumbered and Amended by Chapter 382, 2008 General Session

63A-12-105 Records are property of the state -- Disposition -- Penalties for intentional mutilation or destruction.

- (1) All records created or maintained by a state governmental entity are the property of the state and shall not be mutilated, destroyed, or otherwise damaged or disposed of, in whole or part, except as provided in this chapter and Title 63G, Chapter 2, Government Records Access and Management Act.
- (2)
 - (a) Except as provided in Subsection (2)(b), all records created or maintained by a political subdivision of the state are the property of the state and shall not be mutilated, destroyed, or

otherwise damaged or disposed of, in whole or in part, except as provided in this chapter and Title 63G, Chapter 2, Government Records Access and Management Act.

- (b) Records which constitute a valuable intellectual property shall be the property of the political subdivision.
 - (c) The state archives may, upon request from a political subdivision, take custody of any record series of the political subdivision. A political subdivision which no longer wishes to maintain custody of a record which must be retained under the political subdivision's retention schedule or the state archive's retention schedule shall transfer it to the state archives for safekeeping and management.
- (3)
- (a) It is unlawful for a person to intentionally mutilate, destroy, or to otherwise damage or dispose of the record copy of a record knowing that the mutilation, destruction, damage, or disposal is in contravention of:
 - (i) a governmental entity's properly adopted retention schedule; or
 - (ii) if no retention schedule has been properly adopted by the governmental entity, the model retention schedule, as provided in Section 63G-2-604.
 - (b) Violation of this Subsection (3) is a class B misdemeanor.
 - (c) An employee of a governmental entity that violates this Subsection (3) may be subject to disciplinary action as provided under Section 63G-2-804.

Amended by Chapter 44, 2009 General Session

63A-12-106 Certified and microphotographed copies.

- (1) Upon demand, the state archives shall furnish certified copies of a record in its exclusive custody that is classified public or that is otherwise determined to be public under this chapter by the originating governmental entity, the records committee, or a court of law. When certified by the state archivist under the seal of the state archives, the copy has the same legal force and effect as if certified by the originating governmental entity.
- (2) The state archives may microphotograph records when it determines that microphotography is an efficient and economical way to care, maintain, and preserve the record. A transcript, exemplification, or certified copy of a microphotograph has the same legal force and effect as the original. Upon review and approval of the microphotographed film by the state archivist, the source documents may be destroyed.
- (3) The state archives may allow another governmental entity to microphotograph records in accordance with standards set by the state archives.

Renumbered and Amended by Chapter 382, 2008 General Session

63A-12-107 Right to replevin.

To secure the safety and preservation of records, the state archivist or the state archivist's representative may examine all records. On behalf of the state archivist, the attorney general may replevin any records that are not adequately safeguarded.

Renumbered and Amended by Chapter 382, 2008 General Session

63A-12-108 Inspection and summary of record series.

The state archives shall provide for public inspection of the title and a summary description of each record series.

Renumbered and Amended by Chapter 382, 2008 General Session

63A-12-109 State Archives Fund created -- Donations -- Use of money -- Reporting.

- (1) There is created an expendable special revenue fund known as the "State Archives Fund."
- (2) The fund consists of money or other assets deposited in the fund from:
 - (a) a donation;
 - (b) a deposit;
 - (c) a contribution;
 - (d) a gift;
 - (e) an endowment;
 - (f) a devise; and
 - (g) a bequest of real property, personal property, or service.
- (3) The division shall use the fund money for:
 - (a) the purpose specified by the grantor, if any; or
 - (b) if no purpose is specified by the grantor, the preservation of and access to the archival records and exhibits.
- (4)
 - (a) The fund shall earn interest.
 - (b) The state treasurer shall deposit all interest earned on money in the fund into the fund.
- (5) The division shall annually report on the use of the fund to an appropriation subcommittee designated by the Executive Appropriations Committee as part of the appropriation subcommittee's budgetary process under Title 63J, Chapter 1, Budgetary Procedures Act.

Amended by Chapter 400, 2013 General Session

63A-12-110 Online training course.

- (1) As used in this section, "records officer" is as defined in Section 63G-2-103.
- (2) The division shall:
 - (a) develop an online training course for records officers of all governmental entities and political subdivisions;
 - (b) make the online training course available on or before January 1, 2013;
 - (c) on an annual basis, provide certification to a records officer after the records officer successfully completes the online training course; and
 - (d) post a list on its website of all records officers, including for each:
 - (i) the name of the records officer;
 - (ii) the name of the governmental entity or political subdivision to which the records officer provides services as a records officer;
 - (iii) contact information for the records officer;
 - (iv) the most recent date on which the records officer completed the online training course; and
 - (v) the date on which the records officer's certification expires.
- (3) The online training course described in this section shall train a records officer regarding the provisions of:
 - (a) Title 63G, Chapter 2, Government Records Access and Management Act;
 - (b) rules made under Title 63G, Chapter 2, Government Records Access and Management Act; and
 - (c) other legal and policy matters relating to responding to a public records request.
- (4) The division:

- (a) shall develop the online training course in consultation with the attorney general's office; and
- (b) may make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

Enacted by Chapter 377, 2012 General Session

63A-12-111 Government records ombudsman.

- (1)
 - (a) The director of the division shall appoint a government records ombudsman.
 - (b) The government records ombudsman may not be a member of the records committee.
- (2) The government records ombudsman shall:
 - (a) be familiar with the provisions of Title 63G, Chapter 2, Government Records Access and Management Act;
 - (b) serve as a resource for a person who is making or responding to a records request or filing an appeal relating to a records request;
 - (c) upon request, attempt to mediate disputes between requestors and responders; and
 - (d) on an annual basis, report to the Government Operations Interim Committee on the work performed by the government records ombudsman during the previous year.
- (3) The government records ombudsman may not testify, or be compelled to testify, before the records committee, another administrative body, or a court regarding a matter that the government records ombudsman provided services in relation to under this section.

Amended by Chapter 278, 2013 General Session