

From: Governor Brown * GOV <Governor.Brown@oregon.gov>

Date: July 7, 2016 at 10:00:30 AM PDT

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Subject: New public records management policy

Colleagues,

State government belongs to its people, and as agency professionals engaged in serving Oregonians, it is our duty to conduct state business in an open and accessible manner. This includes providing timely and consistent responses to requests for public records, regardless of the agency or nature of the request.

I know that on the whole, state agencies work hard to be responsive to public records requests. At the same time, it is apparent to me that agencies' efficiency and consistency in responding to such requests must be improved. That's why I issued [Executive Order No. 16-06](#), which implements the recommendations of the Secretary of State's recent audit of public records practices among state agencies.

Today, in furtherance of my Executive Order's underlying principles, I am directing all state agencies to submit to the State Archivist within 90 days their public records management policies. These policies must: (1) ensure compliance with Oregon's public records laws; and (2) be consistent with standards and practices across state government. By way of assistance, DAS has provided a [Model Public Records Management Policy](#). Agencies can immediately adopt this policy in its entirety or adapt it to fit their specific business needs, subject to the State Archivist's approval.

Once their policies have been approved by the State Archivist, agencies will be accountable for following them as they manage and retain public records, and as they make productions in response to requests.

To ensure policies keep up with changes in applicable laws, technologies, or objectives, all agencies must review and, if necessary, update their policies at least once each biennium.

The adoption of more standardized public records management policies is an important step forward in ensuring public access to information about their state government. This effort is ongoing, and we will continue to work together to develop new policies and procedures that further our efforts to increase accountability to the public.

Thank you for all you do in service to the people of Oregon.

Sincerely,

Kate Brown,
Governor

 STATEWIDE POLICY	NUMBER 107-001-020	SUPERSEDES
	EFFECTIVE DATE July 1, 2016	PAGE NUMBER Pages 1 of 11
DIVISION Office of the Chief Operating Officer	REFERENCE/AUTHORITY	
POLICY OWNER Department of Administrative Services	ORS 192.018, 174.112 Executive Order 16-06	
SUBJECT Public Records Management	APPROVED SIGNATURE George Naughton, Director <i>(signature on file with DAS Business Services)</i>	

PURPOSE

This Policy is intended to support statewide compliance with ORS 192.018 by establishing minimum standards for state agency policies relating to the internal management of public records and providing a Model Public Records Management Policy (Model Policy) for state agency reference and/or adoption.

State agencies may adopt the model policy language provided under each subsection of the **POLICY GUIDELINES** section of this Policy (and attached as EXHIBIT A) or adopt more restrictive policy requirements and practices to meet agency-specific business needs. Agencies may also incorporate by reference any existing internal policies that adequately address the policy areas outlined in the **POLICY GUIDELINES** and required by this Policy.

Agencies are required to seek review and approval from the State Archivist, in accordance with ORS 192.018, prior to adopting an internal public records management policy.

Agencies must review and, if necessary, update their public records management policy at least once per biennium to account for changes in applicable laws, policies and/or changing business needs and ensure ongoing accessibility. All policy amendments must be submitted to the State Archivist for review and approval in accordance with ORS 192.018, prior to adoption.

APPLICABILITY

This Policy applies to all agencies within the Executive Department, as defined in ORS 174.112, excluding the following:

- Secretary of State
- State Treasurer
- The Attorney General, but only with respect to its authority under ORS 182.124 over information systems security in the Department of Justice
- Oregon State Lottery
- State Board of Higher Education or any public university listed in ORS 352.002.

The requirements in this Policy do not supersede, modify or replace the existing legal responsibilities of any state agency. Agencies must continue to meet obligations required by all applicable laws, policies, procedures and standards including without limitation: state and Federal public records laws, privacy laws and regulations, and applicable DAS policies and procedures.

EXCLUSIONS

ORS 192.018 requires every state agency to have a “written policy that sets forth the agency’s use, retention and ownership of public records.” Therefore, other than the excluded organizations listed above in the **APPLICABILITY** section of this Policy, there are no other exclusions.

EXHIBIT

- **EXHIBIT A: Model Public Records Management Policy**

SPECIAL SITUATIONS

- Retained records may be subject to public disclosure upon request, even if their retention was not required by law. The statutes requiring public disclosure of records apply more broadly than the statutes requiring records to be retained.
- Agencies are not required to create public records that would not otherwise exist.
- Only the official copy of a public record must be retained. Stock of publications are not public records and may be preserved for convenience or destroyed.

GENERAL INFORMATION

The goal of this policy is to ensure public records are managed and maintained appropriately across the enterprise of state government and streamline compliance with ORS 192.018 by requiring agencies to adopt internal public records management policies that address the following components, at a minimum:

- I. Public Records Maintenance
- II. Roles and Responsibilities
- III. Education and Training
- IV. Access and Ownership
- V. Integrity
- VI. Retention Generally
- VII. Storage and Retrieval
- VIII. Public Records Requests
- IX. Disposition and Destruction

COMPLIANCE

Agencies subject to this Policy must achieve compliance with ORS 192.018 within 90 days of the effective date of this Policy.

In addition, agencies will develop and implement internal processes and procedures that support compliance, deter abuse and detect violations.

If an agency’s public records management policy, approved and adopted in accordance with this Policy, cannot be feasibly implemented Agencies may submit a written request for assistance to the Secretary of State Archives Division (Archives Division). The request should specify: the policy section(s) and implicated requirements making implementation over-burdensome; and the type of assistance necessary for the agency to achieve compliance with their approved internal public records management policy.

REPORTING

Agencies shall notify DAS – Office of the Chief Operating Officer when the State Archivist has formally approved their public records management policy and the agency is in compliance with ORS 192.018.

DEFINITIONS

“**Cloud-computing**” has the same meaning as defined in the National Institute of Standards and Technology (NIST) [Special Publication 800-145](#) .

"Custodian" refers to a public body mandated, directly or indirectly, to create, maintain, care for or control a public record. "Custodian" does not include a public body that has custody of a public record as an agent of another public body that is the custodian, unless the public record is not otherwise available.

"Instant Messaging" refers to real-time text communications between or among computers or mobile devices over the Internet or functionally similar communications network.

"Metadata" is data that provides information about other data. Metadata assists in resource discovery by allowing resources to be found by relevant criteria, identifying resources, bringing similar resources together, distinguishing dissimilar resources and giving location information.

"Public Record" has the meaning established in ORS 192.005. In general it refers to information that is prepared, owned, used or retained by a state agency or political subdivision; relates to an activity, transaction or function of a state agency or political subdivision; and is necessary to satisfy the fiscal, legal, administrative or historical policies, requirements or needs of the state agency or political subdivision.

"Social Media" refers to web-based and mobile communication technologies that allow the creation and exchange of user-generated content such as comments or responsive postings. Examples of "social media" as of the time this Policy is adopted include but are not limited to Twitter, Flickr, blogging sites, Facebook, YouTube and Instagram.

"Text Messaging" refers to messages exchanged between fixed-line phones or mobile phones and fixed or portable devices over a network. Excluded from the definition of "text messages" are electronic mail ("e-mail") communications, whether such messages are exchanged among or between official State of Oregon e-mail accounts or e-mail accounts maintained by private entities.

"Unified Communications" refers to IBM Unified Communications and, more specifically, the packaged services or user-profiles available to agencies (e.g. instant messaging, video conferencing, telephony, call management and call control across multiple systems etc...).

POLICY GUIDELINES

I. PUBLIC RECORDS MAINTENANCE

Agencies shall adopt public records management policies and procedures to ensure public records are maintained and managed in a manner that protects the integrity of each record, without regard to the technology or medium used to create or communicate the record, from the time of creation of a public record to the time of final disposition of the public record as determined by their authorized records retention schedule.

Model Policy Language

*Public records shall be maintained and managed in a manner that protects the integrity of the records within **INSERT: Agency Name** without regard to the technology or medium used to create or communicate the record, from the time of creation of a public record to the time of final disposition of the public record as determined by their authorized records retention schedule.*

II. ROLES AND RESPONSIBILITIES

Agencies shall develop a Records Management Program that includes the program organizational structure, identified roles and associated responsibilities of agency employees necessary to properly manage the agency's public records.

Agencies shall designate an Agency Records Officer in accordance with ORS 192.105 (2)(a) and assign additional employees, as necessary, to be responsible for working with the Archives Division and State Archivist to carry out the following:

- Regular review of records, regardless of format (electronic, paper, etc...) to determine if records should be retained or destroyed;
- Identify and develop retention schedules for new records series (groups of records);
- Maintain a filing system of the agency's paper and electronic records based on authorized retention schedules. Agency filing systems must include the description and location of public records, including records the agency is required to retain due to litigation (active litigation hold) and/or special audit. Records retained beyond their authorized retention period due to mitigating administrative need must also be accounted for in the filing system. Agencies are required to submit written justification of the mitigating administrative need to the State Archivist for approval.
- Coordinate and track employee completion of public records management training to ensure agency staff understand how to records are properly managed, in compliance with authorized records retention schedules;
- Review and update internal public records management policies and procedures. Obtain State Archivist approval of revisions to the agency public records management policy;
- Develop and implement internal processes and procedures for the transfer, retrieval and destruction of records in accordance with authorized retention periods; and
- Ensure that records are destroyed according to their authorized retention period;
- Document the destruction of public records and retain that documentation according to the authorized records retention schedule found in OAR chapter 166-300.

Agencies must designate one or more employee(s) charged with the management of each responsibility related to public records management outlined above. The organizational structure, designated roles and associated responsibilities within the agency-specific records management program is left to agency discretion based on the agency size and business requirements.

- **Model Policy Language**

*Oregon law requires agencies to designate an Agency Records Officer "to coordinate its agency's Records Management Program" (ORS 192.105(2)(a)). **INSERT: Agency Name** records officer, will serve as primary liaison with the State Archivist and receive training from the State Archivist in performing their duties.*

***INSERT: Agency Name** will ensure agency public records are managed in accordance with their authorized records retention schedules, from the time of creation to final disposition, by assigning designated staff/positions with the following responsibilities:*

[INSERT: Agency-Specific Information]

III. **EDUCATION AND TRAINING**

Agencies are responsible for developing a public records training program for all employees. The agency Records Officer will receive additional training from the State Archivist and will work within the agency to coordinate staff training and awareness. The Archives Division will serve as a resource in agency training development.

Each agency shall implement a training program that includes basic public records training, as a component of new employee orientation training, completed at the time of hiring; and incorporated as part of regular employee training, completed once a biennium. The manner and mechanism through which training is disseminated is left to agency discretion (e.g. iLearn, Secretary of State Archives training, etc...).

- **Model Policy Language**

*Basic public records training will be completed as a component of **INSERT: Agency Name** new employee orientation training; and incorporated as part of regular employee training, completed once a biennium.*

***INSERT: Agency Name** will utilize the following training program to provide public records training:*

[INSERT: Agency-Specific Information]

IV. ACCESS AND OWNERSHIP

Without regard to how public records are being stored, agencies must have custody and control over created records and ensure all public records are maintained and accessible for as long as required by their authorized retention schedules or litigation holds.

Agencies shall develop a plan and implement procedures to ensure the on-going accessibility of public records in the event of a disaster. Additionally, agencies shall continuously review the technological advances related to their business practices and the availability of retained records and, migrate public records to keep up with technology and to ensure enduring accessibility.

- **Model Policy Language**

*Without regard to how public records are being stored, **INSERT: Agency Name** will have custody and control over public records. Through on-going review of technological advances, agencies shall ensure all public records are maintained and accessible for as long as required by applicable retention schedules or litigation holds.*

***INSERT: Agency Name** disaster mitigation process are addressed in the **INSERT: Agency Name** disaster preparedness and recovery plan and incorporated by reference [here](#).*

V. INTEGRITY

Agencies shall ensure all public records reliably represent information actually used to conduct state business process and shall apply adequate controls to ensure that the integrity of public records can be demonstrated by certified copy or accompanying metadata.

- **Model Policy Language**

***INSERT: Agency Name** will ensure appropriate access and version controls are applied to all electronically stored records from record creation to final disposition.*

The authenticity of each record can be demonstrated either by certified copy of paper records or via accompanying metadata for all electronic records.

VI. RETENTION GENERALLY

The public records retention practices of agencies shall be in compliance with ORS chapter 192 and OAR chapter 166-300. Records not found on the State Agency General Records Retention Schedule are considered to be program records of the State of Oregon listed under the Agency Special Retention Schedules.

Agencies shall preserve and classify public records in accordance with ORS chapter 192, OAR chapter 166-300 and DAS Statewide Policy 107-004-050 regarding Information Asset Classification.

- **Model Policy Language**

***INSERT: Agency Name** will preserve and classify public records in accordance with ORS chapter 192, OAR chapter 166-300 and DAS Statewide Policy 107-004-050 regarding Information Asset Classification.*

***INSERT: Agency Name** will work with the Archives Division to establish retention practices to ensure compliance with ORS chapter 192 and OAR chapter 166-300.*

CLOUD-COMPUTING

Refer to State Cloud Computing Policy (DAS Statewide Policy 107-004-150; 107-004-150 PR).

- **Model Policy Language**

INSERT: Agency Name practices and procedures with respect to public records management in the Cloud will ensure compliance with DAS Statewide Cloud-Computing Policy (DAS Policy 107-004-150; 107-004-150 PR) and OAR chapter 166-300.

EMAIL

Official Email Account:

Official, state-issued email accounts shall be primarily used for communications regarding official state business and virtually all e-mail messages composed or sent using employees' official equipment and/or official e-mail addresses be for primarily business purposes and assumed to be public records.

Personal use of official email accounts shall be limited, and must not: (1) interfere with normal business activities; (2) be associated with any outside for-profit business activity; or (3) otherwise contain any content that would cause embarrassment to the State of Oregon.

Personal Email Accounts:

If personal email accounts must be used, employees must copy their official e-mail accounts on all such outgoing communications, and forward any received messages on which their official e-mail accounts are not copied.

Personal email accounts (addresses) used for communications related to state business may be subject to search and production.

- **Model Policy Language**

Official Email Accounts

*In most circumstances, emails sent to or from a State employee's official email account will meet the definition of a public record. It is therefore **INSERT: Agency Name** policy that virtually all email messages composed or sent using employees' official equipment and/or official email addresses be for primarily business purposes.*

*When the **INSERT: Agency Name** receives a public records request, all official email accounts and systems used for official State business are subject to search and production.*

Personal Email Accounts

*If private email accounts must be used to conduct State business, it is **INSERT: Agency Name** policy that employees copy their official email accounts on all such outgoing communications, and forward any received messages on which their official email accounts are not copied immediately or as soon as practicably possible.*

INSTANT MESSAGING

Policy regarding Instant Messages shall be the same as that recited below regarding **TEXT MESSAGING**.

- **Model Policy Language**

***INSERT: Agency Name** policy regarding Instant Messages shall be the same as that recited below regarding **TEXT MESSAGING**.*

SOCIAL MEDIA

Agency use of social media must comply with all applicable laws, policies, procedures and standards including without limitation: public records laws, privacy laws and regulations, Statewide and Agency specific IT security policies, internal audit controls, risk management standards, and applicable DAS policies and procedures.

Agencies will develop a social media plan, including practices and procedures, to address agency use of social media for official state business to establish appropriate protocols for public records posted to, stored on, or generated by use of social media, when records are not documented elsewhere.

Content placed on a social media platform will be an accurate copy of an official record that is retained elsewhere by the agency per the official retention schedule.

Public records generated by use of social media must be accurately captured and retained in compliance with public records laws, authorized records retention schedules as well as other applicable Federal and State rules and policies.

Public records stored on social media must be accessible and retained in accordance with the authorized records retention schedule, as well as other applicable Federal and State rules and policies.

▪ **Model Policy Language**

Any content placed on any Social Media platform by INSERT: Agency Name shall be an accurate copy of an official record that is retained elsewhere by the INSERT: Agency Name per the authorized records retention schedules.

INSERT: Agency Name will develop practices and procedures to manage agency use of social media to ensure public records are accurately captured and retained per authorized records retention schedules.

[INSERT: Agency-Specific | Social Media Plan]

- *Agency Use Policy*
 - *List of Approved Social Media Platforms [Facebook, Twitter, Snapchat, etc...]*
- *List of Official Agency Social Media Sites*
- *Records Management Protocols*
 - *Agency Generated*
 - *Use Generated*
 - *Stored/Archived*
- *Site Maintenance and Monitoring Practices*

TEXT MESSAGING

Acceptable Use:

• **Business Communications**

Agencies may use text messages to communicate information related to official state business, only if the content of the communication is documented elsewhere in an official public record, meaning that the content of the text message communication:

- Has already been documented in a separate public record; or
- Necessarily will be documented and retained as a separate public record to comply with applicable laws.

In the absence of separate documentation, State employees are not to use text messages for official purposes other than routine communications that do not meet the definition of a “public record.”

• **Routine Communications**

Agencies may use text messages for communicating factual or logistical information that would not result in the creation of a text message-based public records, meaning text message communications:

- Regarding scheduling or logistical information; or
- Providing factual information unrelated to official state business.

Unacceptable Use:

State employees shall avoid communicating official state business or engaging in discussions regarding the primary business of employee's work over text-message. As noted above, relevant facts pertaining to official state business may be reported only if they are already documented in separate public records or they necessarily will be documented in a separate public record.

If, notwithstanding this Policy, text message is used to communicate information (not otherwise documented) relating to official state business or primary business of the employee's work, such discussion is to be immediately converted and saved in a separate public record format (e.g. by forwarding the relevant text messages to an employee's official e-mail).

State-owned devices with text message capability are always subject to search.

Agency employees' personal electronic devices shall not be used to transmit text messages related to state business. Personal devices used to transmit text messages regarding official state business and/or other substantive information related to employee's work are subject to search.

▪ Model Policy Language**Acceptable Use:**

***INSERT INSERT: Agency Name** employees may use text messaging to communicate factual and logistical information that: is not part of or related to conducting official state business, unless that information has been documented elsewhere; or will be documented and retained as a separate public record according to the agency's authorized records retention schedule.*

*In the absence of separate documentation, **INSERT: Agency Name** employees are not to use text messages for official purposes other than for routine communications that do not meet the definition of a "public record."*

Examples of Acceptable Uses

- Scheduling.
- Requesting a call or email on a matter, without substantive discussion.
- Requesting or offering logistical assistance ("Can you help me get these boxes to the courthouse?")
- Forwarding any person's contact information ("I'm at 503-378-6002.")
- Explaining your current whereabouts, or inquiring about someone else's ("We're at the meeting discussing this morning's announcement. Are you around?")
- Describing facts or events that do not relate to the substance of the Office's work ("Spilled coffee all over myself right before trial!"), or that have been or necessarily will be separately recorded ("Mr. Jones just testified to the committee that our bill would cost taxpayers \$3 million.")
- Inquiring about events like those in the previous bullet ("Has Mr. Jones testified in committee yet?")

Unacceptable Use:

***INSERT: Agency Name** employees must avoid communicating official state business or engaging in discussions regarding the primary business of employee's work over text-message.*

As noted above, relevant facts pertaining to official state business may be reported only if they are already documented in separate public records or they necessarily will be documented in a separate public record.

If, notwithstanding this Policy, text message is used to communicate information (not otherwise documented) relating to official state business or primary business of the employee's work, such discussion is to be immediately converted and saved in a separate public record format (e.g. by forwarding the relevant text messages to an employee's official e-mail).

*Because **INSERT: Agency Name** requires that no text message-based public records be created –or if they are created, that be converted and saved in an alternate format, which would serve as the official copy of the record - **INSERT: Agency Name** will not retain text messages.*

***INSERT: Agency Name** employees' personal electronic devices should not be used to transmit text messages related to state business. Personal devices are subject to search if used to transmit text messages regarding official state business and/or information related to employee's work that rises to the level of creating a public record.*

UNIFIED COMMUNICATIONS

The State of Oregon has entered into a contract with IBM to offer Unified Communications solutions directly to agencies. Agencies must carefully select a user profile which includes specific packaged services and determine which services should be active for employee use based on the agency-specific business needs.

Certain features offered to agencies, if actively used by agency employees for official state business, will result in the creation of public records. Agencies must develop internal policies and practices to ensure created public records are retained if necessary and otherwise, appropriately managed in accordance with authorized records retention schedules as well as other State and Federal policies and laws.

- **Model Policy Language**

***INSERT: Agency Name** shall identify public records created by actively using Unified Communications features and ensure those records are appropriately managed in accordance with authorized records retention schedules as well as other applicable State and Federal policies and laws.*

***INSERT: Agency Name** shall implement the following practices and procedures to accurately capture public records created by use of active Unified Communications features:*

INSERT: Agency-Specific Information

VOICEMAIL

Unless otherwise required, messages on voicemail or other telephone message storage and retrieval system will not be retained.

Email transcription of voicemail messages is a feature of **Unified Communications** solutions referenced in the previous section. Email transcriptions of a voicemail message may be considered a public record subject to retention and must be retained in accordance with authorized records retention schedules.

- **Model Policy Language**

*Unless otherwise required, **INSERT: Agency Name** will not retain messages on voicemail.*

Email transcriptions of voicemails that are determined to be public records will be retained in accordance with authorized records retention schedules and may be subject to public disclosure upon request.

VII. STORAGE AND RETRIEVAL

PAPER RECORDS

Agencies will maintain a filing system of the agency's paper records. The filing system will include location of records, retention periods and procedures for retrieval of agency records.

Agencies may transfer paper records to micrographics or convert paper records to an electronic format for storage using electronic or cloud systems in accordance with the technical and management standards in OAR chapter 166 and DAS Statewide Cloud Policy requirements. The exception to this is for records with an authorized retention period of 100 years or more where agencies are required to follow the requirements of OAR 166-017-0045(3) prior to converting or destroying the paper records.

- **Model Policy Language**

***INSERT: Agency Name** will maintain a filing system of the agency's paper records based on authorized retention schedules. The filing system will include the location of records, retention periods and procedures for retrieval to ensure accessibility of agency records.*

ELECTRONIC RECORDS

At a minimum, agencies must establish a filing system and naming conventions for all agency records stored in an electronic format. The filing system and naming conventions must support the agency's inventory of electronic records and must include the location of the records in agency directories, retention periods, access controls and privacy conditions of the records.

Before deleting any large electronic record system, the agency must ensure that all retention periods have been met before the data is destroyed.

- **Model Policy Language**

***INSERT: Agency Name** shall maintain a filing system and naming conventions for all agency records stored in electronic format based on the agency's authorized retention schedules. The filing system and naming conventions will include the location of records in agency directories, retention periods, access controls and privacy conditions to support management of the agency's inventory of electronic records.*

***INSERT: Agency Name** shall work with the State Archivist to ensure that retention periods for all records have been met before any data is destroyed and prior to deleting any large electronic record system.*

VIII. PUBLIC RECORDS REQUESTS

Agencies will process and respond to all official requests for public records as timely as possible, consistent with the proper exercise of judgment relating to the agency's other duties. Agencies shall develop and adopt internal policies and procedures to appropriately manage, track and fulfill requests for public records.

Additional guidance and policies related to requests for public records will be the subject of separate statewide standard protocols, process and procedures (DAS Statewide Procedures ~~###-###-###~~, under development).

Instructions and supporting forms for submitting a public records request must be accessible, clear and user friendly.

- **Model Policy Language**

***INSERT: Agency Name** shall respond to all official requests for public records as timely as possible, consistent with the proper exercise of judgment relating to the **INSERT: Agency Name** other duties.*

Additional policies and procedures related to requests for public records (intake, processing, and disclosure and/or determinations related to fees and charges) are the subject of separate agency policies and statewide protocols, processes and procedures.

IX. DISPOSITION AND DESTRUCTION OF PUBLIC RECORDS

Public Records retained beyond their authorized retention period, may be subject to public disclosure upon request, even if their retention was not required by law. Unless otherwise stated, a retention period shall be calculated from the date the public record was created. Retention periods are both a minimum retention and maximum retention period.

Agencies shall dispose of and/or destroy public records in accordance with the requirements of OAR Chapter 166-300.

Pursuant to ORS 357.855, the State Archivist shall be consulted by state employees within the executive branch for advice and assistance with determining the disposition of certain record types, not accounted for in State Agency General or Special Retention Schedules and reconciliation of unforeseen issues regarding public records.

- **Model Policy Language**

INSERT: Agency Name shall dispose of and/or destroy public records in accordance with the requirements of authorized records retention schedules and OAR chapter 166-300.

Pursuant to ORS 357.855, the State Archivist shall be consulted by INSERT- Agency Name employees for advice and assistance with determining the disposition of certain record types, not accounted for in State Agency General or Special Retention Schedules and reconciliation of unforeseen issues regarding public records.

	POLICY NUMBER 107-001-020
	EFFECTIVE DATE July 1, 2016
STATEWIDE POLICY	
EXHIBIT A – Model Public Records Management Policy	

POLICY

ORS 192.018 requires every state agency to have a “written policy that sets forth the agency’s use, retention and ownership of public records” so that public records are being maintained and managed appropriately across state agencies, enterprise-wide, from the time of creation of a public record to the time of final disposition of the public record.

Agencies are required to seek review and approval from the State Archivist, in accordance with ORS 192.018, prior to adopting an internal public records management policy.

Agencies must review and, if necessary, update their public records management policy to reflect changes in applicable laws and policies and/or changing business needs and ensure ongoing accessibility at least once per biennium. Any updates or revisions must be submitted for review and approval by the State Archivist in accordance with ORS 192.018, prior to adoption.

SPECIAL SITUATIONS

- Retained records may be subject to public disclosure upon request, even if their retention was not required by law. The statutes requiring public disclosure of records apply more broadly than the statutes requiring records to be retained.
- Agencies are not required to create public records that would not otherwise exist.
- Only the official copy of a public record must be retained. Stock of publications are not public records and may be preserved for convenience or destroyed.

GENERAL INFORMATION

The goal of this Policy is to ensure public records are managed and maintained appropriately within INSERT: Agency Name and consistently across the enterprise of state government.

This INSERT: Agency Name Public Records Management Policy, adopted in accordance with the requirements of DAS Statewide Policy 107-011-020 and ORS 192.018, addresses the following components:

- I. Public Records Maintenance
- II. Roles and Responsibilities
- III. Education and Training
- IV. Access and Ownership
- V. Integrity
- VI. Retention Generally
- VII. Storage and Retrieval
- VIII. Public Records Requests
- IX. Disposition and Destruction

COMPLIANCE

INSERT: Agency Name shall develop and implement internal processes and procedures that support compliance, deter abuse and detect violations of this Policy.

DEFINITIONS

“**Cloud-computing**” has the same meaning as defined in the National Institute of Standards and Technology (NIST) [Special Publication 800-145](#).

“**Custodian**” refers to a public body mandated, directly or indirectly, to create, maintain, care for or control a public record. “Custodian” does not include a public body that has custody of a public record as an agent of another public body that is the custodian, unless the public record is not otherwise available.

“**Instant Messaging**” refers to real-time text communications between or among computers or mobile devices over the Internet or functionally similar communications network.

“**Metadata**” is data that provides information about other data. Metadata assists in resource discovery by allowing resources to be found by relevant criteria, identifying resources, bringing similar resources together, distinguishing dissimilar resources, and giving location information.

“**Public Record**” has the meaning established in ORS 192.005. In general it refers to information that is prepared, owned, used or retained by a state agency or political subdivision; relates to an activity, transaction or function of a state agency or political subdivision; and is necessary to satisfy the fiscal, legal, administrative or historical policies, requirements or needs of the state agency or political subdivision.

“**Social Media**” refers to web-based and mobile communication technologies that allow the creation and exchange of user-generated content such as comments or responsive postings. Examples of “social media” as of the time this Policy is adopted include but are not limited to Twitter, Flickr, blogging sites, Facebook, YouTube and Instagram.

“**Text Messaging**” refers to messages exchanged between fixed-line phones or mobile phones and fixed or portable devices over a network. Excluded from the definition of “text messages” are electronic mail (“e-mail”) communications, whether such messages are exchanged among or between official State of Oregon e-mail accounts or e-mail accounts maintained by private entities.

“**Unified Communications**” refers to IBM Unified Communications and, more specifically, the packaged services or user-profiles available to agencies (e.g. instant messaging, video conferencing, telephony, call management and call control across multiple systems etc.).

POLICY GUIDELINES

I. PUBLIC RECORDS MAINTENANCE

Public records shall be maintained and managed in a manner that protects the integrity of the records within [INSERT: Agency Name](#) without regard to the technology or medium used to create or communicate the record, from the time of creation of a public record to the time of final disposition of the public record as determined by their authorized records retention schedule.

II. ROLES AND RESPONSIBILITIES

Oregon law requires agencies to designate an Agency Records Officer “to coordinate its agency’s Records Management Program” (ORS 192.105 (2)(a)). [INSERT: Agency Name](#) records officer, will serve as primary liaison with the State Archivist and receive training from the State Archivist in performing their duties.

[INSERT: Agency Name](#) will ensure agency public records are managed in accordance with their authorized records retention schedules, from the time of creation to final disposition, by assigning designated staff/positions with the following responsibilities:

[\[INSERT: Agency-Specific Information\]](#)

III. **EDUCATION AND TRAINING**

Basic public records training will be completed as a component of **INSERT: Agency Name** new employee orientation training; and incorporated as part of regular employee training, completed once a biennium. **INSERT: Agency Name** will utilize the following training program to provide public records training: **INSERT: Agency-Specific Information**

IV. **ACCESS AND OWNERSHIP**

Without regard to how public records are being stored, **INSERT: Agency Name** will have custody and control over public records. Through on-going review of technological advances, agencies shall ensure all public records are maintained and accessible for as long as required by applicable retention schedules or litigation holds.

INSERT: Agency Name disaster mitigation process are addressed in the **INSERT: Agency Name** disaster preparedness and recovery plan and incorporated by reference **here**.

V. **INTEGRITY**

INSERT: Agency Name will ensure appropriate access and version controls are applied to all electronically stored records from record creation to final disposition.

The authenticity of each record can be demonstrated either by certified copy of paper records or via accompanying metadata for all electronic records.

VI. **RETENTION GENERALLY**

INSERT: Agency Name will preserve and classify public records in accordance with ORS chapter 192, OAR chapter 166-300 and DAS Statewide Policy 107-004-050 regarding Information Asset Classification.

INSERT: Agency Name will work with the Archives Division to establish retention practices to ensure compliance with ORS chapter 192 and OAR chapter 166-300.

a. **CLOUD-COMPUTING**

INSERT: Agency Name practices and procedures with respect to public records management in the Cloud will ensure compliance with DAS Statewide Cloud-Computing Policy (DAS Statewide Policy 107-004-150; 107-004-150; 107-004-150 PR) and OAR chapter 166.

b. **EMAIL**

Official Email Accounts

In most circumstances, emails sent to or from a State employee's official email account will meet the definition of a public record. It is therefore **INSERT: Agency Name** policy that virtually all email messages composed or sent using employees' official equipment and/or official email addresses be for primarily business purposes.

When the **INSERT: Agency Name** receives a public records request, all official email accounts and systems used for official State business are subject to search and production.

Personal Email Accounts

If private email accounts must be used to conduct State business, it is **INSERT: Agency Name** policy that employees copy their official email accounts on all such outgoing communications, and forward any received messages on which their official email accounts are not copied immediately or as soon as practicably possible

c. **INSTANT MESSAGING**

INSERT: Agency Name policy regarding Instant Messages shall be the same as that recited below regarding **TEXT MESSAGING**.

d. **SOCIAL MEDIA**

Any content placed on any Social Media platform by **INSERT: Agency Name** shall be an accurate copy of an official record that is retained elsewhere by the **INSERT: Agency Name** per the authorized records retention schedules.

INSERT: Agency Name will develop practices and procedures to manage agency use of social media to ensure public records are accurately captured and retained per authorized records retention schedules.

[INSERT: Agency-Specific | Social Media Plan]

- Agency Use Policy
 - List of Approved Social Media Platforms [Facebook, Twitter, Snapchat, etc...]
- List of Official Agency Social Media Sites
- Records Management Protocols
 - Agency Generated
 - Use Generated
 - Stored/Archived
- Site Maintenance and Monitoring Practices

e. **TEXT MESSAGING**

Acceptable Use:

INSERT: Agency Name employees may use text messaging to communicate factual and logistical information that: is not part of or related to conducting official state business, unless that information has been documented elsewhere; or will be documented and retained as a separate public record according to the agency's authorized records retention schedule.

In the absence of separate documentation, **INSERT: Agency Name** employees are not to use text messages for official purposes other than for routine communications that do not meet the definition of a "public record."

Examples of Acceptable Uses

- Scheduling.
- Requesting a call or email on a matter, without substantive discussion.
- Requesting or offering logistical assistance ("Can you help me get these boxes to the courthouse?")
- Forwarding any person's contact information ("I'm at 503-378-6002.")
- Explaining your current whereabouts, or inquiring about someone else's ("We're at the meeting discussing this morning's announcement. Are you around?")
- Describing facts or events that do not relate to the substance of the Office's work ("Spilled coffee all over myself right before trial!"), or that have been or necessarily will be separately recorded ("Mr. Jones just testified to the committee that our bill would cost taxpayers \$3 million.")
- Inquiring about events like those in the previous bullet ("Has Mr. Jones testified in committee yet?")

Unacceptable Use:

INSERT: Agency Name employees must avoid communicating official state business or engaging in discussions regarding the primary business of employee's work over text-message.

As noted above, relevant facts pertaining to official state business may be reported only if they are already documented in separate public records or they necessarily will be documented in a separate public record.

If, notwithstanding this Policy, text message is used to communicate information (not otherwise documented) relating to official state business or primary business of the employee's work, such discussion is to be immediately converted and saved in a separate public record format (e.g. by forwarding the relevant text messages to an employee's official e-mail).

Because INSERT: Agency Name requires that no text message-based public records be created –or if they are created, that be converted and saved in an alternate format, which would serve as the official copy of the record - INSERT: Agency Name will not retain text messages.

INSERT: Agency Name employees' personal electronic devices should not be used to transmit text messages related to state business. Personal devices are subject to search if used to transmit text messages regarding official state business and/or information related to employee's work that rises to the level of creating a public record.

f. **UNIFIED COMMUNICATIONS**

INSERT: Agency Name will identify public records created by actively using Unified Communications features and ensure those records are appropriately managed in accordance with authorized records retention schedules as well as other applicable State and Federal policies and laws.

INSERT: Agency Name will implement the following practices and procedures to accurately capture public records created by use of active Unified Communications features:

[INSERT: Agency-Specific Information]

g. **VOICEMAIL**

Unless otherwise required, INSERT: Agency Name will not retain messages on voicemail.

Email transcriptions of voicemails that are determined to be public records will be retained in accordance with authorized records retention schedules and may be subject to public disclosure upon request.

VII. STORAGE AND RETRIEVAL

Paper Records:

INSERT: Agency Name will maintain a filing system of the agency's paper records based on authorized retention schedules. The filing system will include the location of records, retention periods and procedures for retrieval to ensure accessibility of agency records.

Electronic Records:

INSERT: Agency Name will maintain a filing system and naming conventions for all agency records stored in electronic format based on the agency's authorized retention schedules. The filing system and naming conventions will include the location of records in agency directories, retention periods, access controls and privacy conditions to support management of the agency's inventory of electronic records.

INSERT: Agency Name will work with the State Archivist to ensure that retention periods for all records have been met before any data is destroyed and prior to deleting any large electronic record system.

VIII. PUBLIC RECORDS REQUESTS

INSERT: Agency Name will respond to all official requests for public records as timely as possible, consistent with the proper exercise of judgment relating to the INSERT: Agency Name other duties.

Additional policies and procedures related to requests for public records (intake, processing, and disclosure and/or determinations related to fees and charges) are the subject of separate agency policies and statewide protocols, processes and procedures.

IX. DISPOSITION AND DESTRUCTION OF PUBLIC RECORDS

INSERT: Agency Name will dispose of and/or destroy public records in accordance with the requirements of authorized records retention schedules and OAR chapter 166-300.

Pursuant to ORS 357.855, the State Archivist shall be consulted by INSERT- Agency Name employees for advice and assistance with determining the disposition of certain record types, not accounted for in State Agency General or Special Retention Schedules and reconciliation of unforeseen issues regarding public records.