Policy & Procedure

SUBJECT:	Public Records Management
NUMBER:	PP 845-101-009
APPLICATION:	Commission-Wide
REVISED	May 2019
APPROVED:	/s/ Steven Marks, Executive Director **DATE:** 5/28/19

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 maintained and managed appropriately across the enterprise of state government, 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 at least once per biennium to reflect changes in applicable laws, policies and changing business needs, and to ensure ongoing access to agency records. Any updates or revisions must be submitted for review and approval by the State Archivist according to 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 the Oregon Liquor Control Commission (OLCC) and consistently across the enterprise of state government.

This OLCC Public Records Management Policy, adopted according to the requirements of DAS Statewide Policy 107-001-020 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

OLCC shall develop and implement internal processes and procedures that support compliance, deter abuse and detect violations of this policy.

DEFINITIONS

Authorized Retention Schedule: Either a General Schedule published by the State Archivist in the OAR in which certain common public records are described or listed by title and a retention period is established for each; or a Special Schedule approved by the State Archivist for the public records of a specific agency.

Cloud-computing: Has the same meaning established in the National Institute of Standards and Technology (NIST) Special Publication 800-145.

Custodian: 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: Real-time text communications between or among computers or mobile devices over the Internet or functionally similar communications networks.

Metadata: 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. Refer to the Secretary of State's guide for determination of a public record:
https://sos.oregon.gov/archives/Documents/recordsmgmt/rc/managing-records.pdf

Social Media: 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 include but are not limited to Twitter, Flickr, blogging sites, Facebook, YouTube and Instagram.

Text Messaging: 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 government e-mail accounts or e-mail accounts maintained by private entities.

Unified Communications: A service of IBM; 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.). Also known as IBM Unified Communications

POLICY GUIDELINES

I. PUBLIC RECORDS MAINTENANCE

Public records must be maintained and managed in a manner that protects the integrity of the records within OLCC 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)). The OLCC records officer will serve as primary liaison with the State Archivist and receive training from the State Archivist in performing their duties.

OLCC 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: The designated staff member for the Oregon Liquor Control Commission is the Operations Policy Analyst, who resides in the License Process Division as the records coordinator.

III. EDUCATION AND TRAINING

Basic public records training will be completed as a component of OLCC new employee orientation training; and incorporated as part of regular employee training, completed once a biennium. The Oregon Liquor Control Commission will utilize the following training program to provide public records training: Language incorporated in OLCC Employee Handbook which is distributed to new hires at the time of their New Employee Orientation.

IV. ACCESS AND OWNERSHIP

Without regard to how public records are being stored, OLCC will have custody and control over public records. Through ongoing review of technological advances, OLCC will ensure all public records are maintained and accessible for as long as required by authorized retention schedules or litigation holds.

OLCC's disaster mitigation process is addressed in its disaster preparedness and recovery plan and incorporated by reference in the following internal policies; PP 845-155-009, Administrative Services Emergency Plan; PP 845-155-008, Business Continuity Plan; PP 845-103-003, Emergency and Business Continuity Communications; PP 845-154-005 Emergency Operations Plan; PP 845-103-001, Government, Media and Public Contact; PP 845-155-007, Incident Response Plan; PP 845-155-003, Information Security; PP 845-101-007, Public Records Request.

V. INTEGRITY

OLCC 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

OLCC will preserve and classify public records according to ORS chapter 192, OAR chapter 166-300, OAR 166 Division 350, Boards and Commissions General Records Retention Schedule and DAS Statewide Policy 107-004-050 regarding Information Asset Classification.

OLCC 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

OLCC practices and procedures with respect to public records management in the Cloud will comply with the DAS Statewide Cloud Computing Policy (DAS Policy 107-004-150) and OAR chapter 166-300.

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. Therefore, this policy requires that virtually all email messages composed or sent using employees' official equipment or official email addresses be for primarily business purposes.

When OLCC 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 employees must use personal email accounts to conduct state business, OLCC requires 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

The Oregon Liquor Control Commission policy regarding Instant Messages shall be the same as that recited below regarding TEXT MESSAGING.

d. SOCIAL MEDIA

Any content OLCC places on any social media platform must be an accurate copy of an official record that is retained elsewhere by OLCC per the authorized records retention schedules.

OLCC 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.

- 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:

OLCC employees may use text messaging to communicate factual and logistical information related to official state business, only if 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, OLCC 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 Capitol?").
- 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 agency's work ("Spilled coffee all over myself right before my presentation!"), 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:

OLCC employees must avoid communicating official state business or engaging in discussions regarding the primary business of their 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, and employee uses text message to communicate information (not otherwise documented) relating to official state business or the primary business of their 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 their official state email).

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

OLCC 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 or information related to an employee's work that rises to the level of creating a public record.

f. UNIFIED COMMUNICATIONS

OLCC does not produce public records through use of Unified Communications features, and if it does in the future, it shall identify public records that would be created through use of those features in advance of activating the system, establish processes for ensuring those records are appropriately managed in accordance with authorized records retention schedules and other applicable State and Federal policies and laws, and update this policy.

g. VOICEMAIL

Unless otherwise required, OLCC will not retain messages on voicemail.

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

VII. STORAGE AND RETRIEVAL

Paper Records:

OLCC 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:

OLCC 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.

OLCC will work with the State Archivist to ensure the agency meets retention periods for all records before any data is destroyed and prior to deleting any large electronic record system.

VIII. PUBLIC RECORDS REQUESTS

LCC will respond to all official requests for public records as soon as practicable and without unreasonable delay, according to timelines outlines in ORS 192.324 and ORS 192.329.

OLCC's procedures for managing public records requests are incorporated by reference here.

IX. DISPOSITION AND DESTRUCTION OF PUBLIC RECORDS

OLCC will dispose of or destroy public records according to the requirements of authorized records retention schedules and OAR chapter 166-300.

Pursuant to ORS 357.855, OLCC employees will consult the State Archivist for advice and assistance with determining the disposition of certain record types not accounted for in State Agency General or Special Retention Schedules, and reconciling unforeseen public records issues.