

Records Management Basics



**Records Management
Secretary of State Tre Hargett**

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Statute Authorizing the County Public Records Commission (PRC)

In order to provide for the orderly disposition of public records created by agencies of county government, the county legislative body shall create within the county a county public records commission, composed of at least six (6) members. The county mayor shall appoint three (3) members and the county legislative body shall confirm each appointee. Of the three (3) appointees, one (1) shall be a member of the county legislative body, one (1) shall be a judge of one of the courts of record or designee of such judge which holds court in the county and one (1) shall be a genealogist. The county clerk, or the designee of the county clerk, county register, or the designee of the county register, and the county historian shall be ex officio members of the commission... Tenn. Code Ann § 10-7-401.

What is a Record?

- “Public records within the county shall be construed to mean: all documents, papers, records, books, books of account in all county offices, including, but not limited to the county clerk,” T.C.A. § 10-7-403(1)
- “The pleadings, documents, and other papers filed with the clerks of all courts, including the courts of record, general sessions court, and former courts of justices of the peace, and the minute books and other records of these courts;” T.C.A. § 10-7-403(2)
- The test for determining whether a record is public is “whether it was made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency.” *Griffin v. City of Knoxville*, 821 S.W. 2d 921, 924 (Tenn. 1991).

Examples of Records

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- Budget Documents
- Payroll Documents
- Contracts
- Revenue Reports
- Investigation files
- Audit reports
- Personnel's files
- Grants
- Attendance and Leave Documents

Retention Schedules

- A retention schedule is the official document utilized by an organization for the disposition of records. The County Public Records Commission is the authority for determining the proper disposition of county records.
- The county is to refer to guidance from CTAS in determining which records are to be destroyed and which records are to be kept permanently. T.C.A. § 10-7-404(b)

Retention Schedules - Importance

- Establishing a retention schedule requires appraising the use and value of information, as well as researching regulations that may govern retention.
- Retention schedules are not merely suggestions. Records cannot be destroyed before the stated period, nor should they be retained longer than the stated period unless needed for unexpected legal or administrative reasons.

Permanent Records

- Preservation of records of permanent value is covered under T.C.A. § 10-7-413 and require 90 days notice to be given to the State Library & Archives prior to destruction.
- Transfer of records for historical preservation is allowed under T.C.A. § 10-7-414. This section allows the transfer of records to libraries, historical societies, colleges, and universities.
- Example from CTAS Retention Schedule: Record of Civil Actions

Temporary Records & Working Papers

- T.C.A. § 10-7-404(a) The requirement to photocopy, photostat, film, microfilm, or preserve by microphotographic process prior to destruction in accordance with this section shall not be required of "temporary records" and/or "working papers" as defined in § 10-7-301.
- "Temporary records" means material which can be disposed of in a short period of time as being without value in documenting the functions of an agency. Temporary records will be scheduled for disposal by requesting approval from the public records commission utilizing a records disposition authorization; and T.C.A. § 10-7-301(13)
- "Working papers" means those records created to serve as input for final reporting documents, including electronic data processed records, and/or computer output microfilm, and those records which become obsolete immediately after agency use or publication. T.C.A. § 10-7-301(14)

Electronic Records

- Electronic Records are governed by all the same laws and retention requirements of paper or microfilm records.
- Long term storage of electronic records requires proper maintenance, security, and data migration. There are costs but it has to be done in order to properly maintain the record.
- Electronic Content Management (ECM) systems are perhaps the best way to maintain long term records.

Email

- Email and text are methods of delivering a record. The type of record is defined by the content of the message. The message is then governed by the appropriate retention schedule.
- Retain for the appropriate amount of time according to the retention schedule.
- Email and text messages are not independent records series. These items are subject to audit, litigation, and public requests like any other record.
- For preservation, email should be moved to a separate archive. This may be a departmental server or specifically established archive.

Storage of Physical Records

- Records should be kept in clean, dry, secure facilities for the duration of the retention period.
- Consider climate conditions that may effect the physical state of the records. (Humidity, temperature, direct sunlight, etc.)
- Protect from damage caused by animals and vermin. It is surprising how easily vermin may access facilities and how much damage can be done.
- Do not store records in a flood zone.

Confidential vs. Non-Confidential

Confidential

- Records are considered confidential if the state is not required to produce them in response to a public records request. These records are covered under a TCA or CFR citation.
- Examples of confidential records can be found under T.C.A. § 10-7-504
- Medical records
- Law Enforcement Investigations
- Security Plans

Non-Confidential

- All other records are considered non-confidential. These are the records that the state is required to produce in a public records request.
- These records may contain sensitive information such as address, social security number, date of birth, etc.
- This information will need to be redacted if the records are requested in a public records request.

Public Records Requests

- The public has the right to access government records. All government agencies in the state of Tennessee are required to have a public records request coordinator to facilitate records requests. T.C.A. § 10-7-503.
- The government agency is allowed to establish a schedule of reasonable charges in regards to public records requests under the guidelines of T.C.A. § 10-7-503.
- The Office of the Open Records Counsel provides guidance and may answer questions on this subject. <https://eli.ctas.tennessee.edu/reference/current-retention-schedules>

Where to Turn for advice

- County Attorney – Consult with your county’s legal counsel for guidance.
- County Executive – Keep an open line of communication on issues of access, funding, and compliance.
- State Library & Archives – Experts on historical preservation who can help you.
- CTAS – Provide the guides to assist you in developing your retention schedules and policies.

Remember...

- Records are not to be destroyed without approval by the County Public Records Commission according to T.C.A. § 10-7-404
- Destruction Procedures. The county public records commission has the right to authorize the destruction of any and all public records as defined in § 10-7-403, which are required by law to be retained ... § 10-7-404(a)
- Nothing in § 10-7-401 or § 10-7-511 shall be construed to permit or authorize a county public records commission, a court clerk, a county or municipal official or any other person to destroy or authorize the destruction of any original process in a civil action or criminal proceeding. § 10-7-404(c)

T.C.A. Reference

- T.C.A. § 10-7-101 "Records," construed
- T.C.A. § 10-7-121 Government records kept on computer or removable computer storage media.
- T.C.A. § 10-7-123 Electronic access to county government information
- T.C.A. § 10-7-401 County public records commission created
- T.C.A. § 10-7-403 "Public Records" defined
- T.C.A. § 10-7-404 Destruction of public records authorized
- T.C.A. § 10-7-406 Original records photographed in duplicate before destruction
- T.C.A. § 10-7-409 Charges for copies of records authorized

More T.C.A. Reference

- T.C.A. § 10-7-410 Reproductions admissible as evidence
- T.C.A. § 10-7-412 Destruction of public records authorized
- T.C.A. § 10-7-413 Preservation of records of permanent value
- T.C.A. § 10-7-503 Records Open to public inspection
- T.C.A. § 10-7-506 Right to inspect public records – Commercial value
- T.C.A. § 10-7-515 Personally Identifying information on documents - Redaction

Even More T.C.A. Reference

- T.C.A. § 18-1-201 Disposition of documents according to order of the court
- T.C.A. § 18-1-202 Documents disposable
- T.C.A. § 18-1-204 Preservation of historical records
- T.C.A. § 18-1-205 Periodic disposal of documents
- Supreme Court Rule 34

Contacts

Records Management Division

- Kevin Callaghan , Director 615-253-4566
- Kevin.callaghan@tn.gov
- <https://sos.tn.gov/rmd>

Office of Open Records Counsel

- Lee Pope, Records Counsel 615-401-7891
- open.records@cot.tn.gov
- <http://www.comptroller.tn.gov/openrecords/>