



Office of the Public Records Administrator
Connecticut State Library
State of Connecticut

Public Records Policy 06: Retention of Records for Agency Closures, Mergers, and Consolidations

Date Issued: May 6, 2011

Supersedes: This policy supersedes the *Records Retention Policy for Hospital Closures, Mergers, and Consolidations* (revised 03/1999).

I. Scope and Authority

Scope: The Office of the Public Records Administrator has established this policy outlining management, retention, and disposition of records during agency closures, mergers, and consolidations. This policy applies to all State agencies within the Executive department.

Authority: The Office of the Public Records Administrator issues this statement under the authority granted by §11-8 and §11-8a of the *General Statutes of Connecticut*.

II. Policies

Due to the nature of state government, many agencies may face reorganization, consolidation, relocation, or closure of facilities or programs. In such situations, staff must carefully consider how the agency's records will be handled. It is very important that an agency begins planning for maintenance and disposition of records as soon as possible and develops a written policy regarding the care and preservation of records.

Statutory Requirements: Pursuant to CGS §4-38d(f), "Unless otherwise expressly provided by law, the head of a department, institution or agency, the functions, powers or duties of which are so assigned or transferred, shall deliver to the department, institution, agency or authority to which such assignment or transfer is made all contracts, books, maps, plans, papers, records and property pertaining to or used in connection with the functions, powers or duties so assigned or transferred." Pursuant to CGS §11-8b, "all public records, as defined in section 11-8 or section 11-8a, or other such records, created by public offices, are the property of the agency concerned and shall not be removed, destroyed, mutilated, transferred or otherwise damaged or disposed of, in whole or in part.... Such public records shall be delivered by outgoing officials and employees to their successors and shall not be otherwise removed, transferred, or destroyed unlawfully."

Documentation: Agencies must file documentation regarding responsibility for records with the Office of the Public Records Administrator.

Disposition Requirements: Agencies should follow proper requirements for destruction or transfer of records.

III. Procedures

a. Institutional Change

- i. The Records Management Liaison Officer (RMLO) should be the primary contact person for the agency regarding records management issues. The RMLO may choose to form a committee or task force comprised of key stakeholders to plan for the management of records during periods of transition.
- ii. There are several steps that can make relocation, consolidation, or reorganization more efficient from a records management standpoint:
 1. Ensure that the agency has designated an RMLO, and if necessary, a sufficient number of Assistant RMLOs, using the *Records Management Liaison Officer Designation* (Form RC-078).
 2. Conduct an inventory of all affected records (remember to include electronic records).
 3. Review and update records schedules as needed.
 4. Identify and dispose of non-records (e.g., reference publications and duplicate materials).
 5. Apply records schedules:
 - a. Dispose of records eligible for disposition after receiving written approval.
 - b. Transfer inactive records not eligible for disposition to an off-site records storage facility, such as the State Records Center.
 - c. Transfer "Permanent / Archival" records to the State Archives or an approved archival repository.
 6. Organize active files for transfer to the new facility or to the successor agency or program.

b. Personnel Change

- i. Similar to organizational change, personnel change is a common occurrence. In addition to the above-listed events, employees leave for a variety of reasons, including retirements, resignations, terminations, transfers, and layoffs. Careful planning is needed to ensure that agencies properly maintain records formerly in the custody of these employees.
- ii. Many of the same tactics for dealing with institutional change apply for personnel changes:
 1. Conduct an inventory of all records in the person's custody (remember to include electronic records).
 2. Identify and dispose of non-records (e.g., reference publications and duplicate materials).
 3. Apply records schedules:
 - a. Dispose of records eligible for disposition after receiving written approval.
 4. Transfer custody of remaining records to the appropriate authority (e.g., successor, another employee in the work unit, or the supervisor).
 5. If the employee was an RMLO or Assistant RMLO, the agency head should designate a successor, using the Form RC-078.

c. Special Requirements for Health Care Facilities

- i. In addition to the above-listed guidelines, it is important to note that health care facilities must follow specific legal requirements, such as those outlined in the Health Insurance Portability and Accountability Act (HIPAA).
- ii. During a closure, merger, or consolidation, health care facilities should ensure:

1. Protection of the confidentiality of Protected Health Information (PHI).
 2. Access to records by patients, new health care providers, and other legitimate users.
 3. Compliance with Federal and State laws regarding records retention and statutes of limitation.
 4. Compliance with Federal and State laws governing treatment of specific conditions, such as treatment for alcohol and drug use.
 5. Compliance with Medicare / Medicaid requirements.
 6. Compliance with State licensing standards.
 7. Compliance with guidelines issued by professional organizations.
- iii. During a merger or consolidation, the agency head should obtain a written agreement between the facilities regarding the disposition of patient records. This agreement should include:
1. A list of employees from each facility who are authorized to access records.
 2. A provision designating which facility will become the record custodian and be responsible for maintenance, protection, storage, and confidentiality.
 3. A provision regarding maintenance of the master patient index.
- iv. During a closure of a private facility that sub-contracts with the State, staff should follow these procedures:
1. Ensure that provisions for the custody of records are written into appropriate contracts.
 2. Identify another health care provider to accept the records. Please note that if another provider will not be taking the records, the agency may transfer the records to the State Records Center or a records storage facility approved by our office.
 3. Contact affected patients to offer them an opportunity to obtain a copy of their records before destruction or transfer of records.

If you have any questions regarding this policy, please contact our office at (860) 757-6540.

Approved by



LeAnn R. Power, CRM
Public Records Administrator

May 6, 2011

Date