

KEEPING UP WITH COVID-19

Maintaining Your Pandemic Records



New York State Archives
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WHAT WE WILL COVER TODAY

What NYSA is doing

Records Management and Remote Work

Records with Potential Historical Value

Records with Limited Historical Value

Legal Considerations

Records Access Considerations

Wrap up



WHAT NY STATE ARCHIVES IS DOING

Provide guidance on

- Identifying historical records
- Scheduling COVID-related records
- Managing
 - remote records
 - social media records

Contact agencies to identify & transfer records to NYSA

Capture key state agency websites

RECORDS MANAGEMENT & REMOTE WORK



CHALLENGES WITH REMOTE WORK

Use
of personal devices

Limited Internet
connectivity

Unable to
access records

Lack
of a disaster/business
continuity plan

Transition to
electronic records



MANAGING REMOTE WORK RECORDS (1)

Manage records created or received

- on device
- while working in office or at home

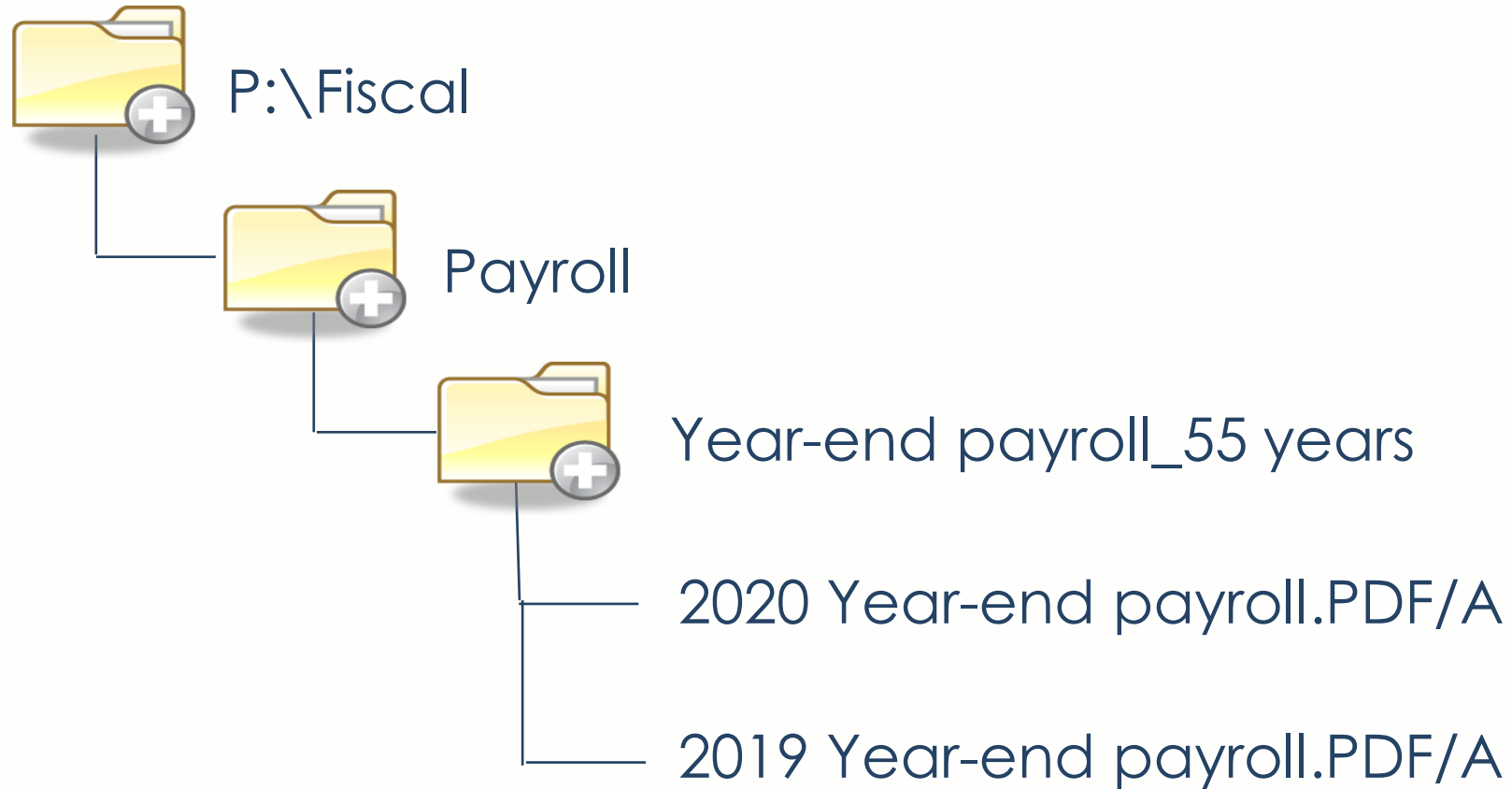
Don't leave records at home

Establish filing system when using cloud

- Office 365 or Google Drive

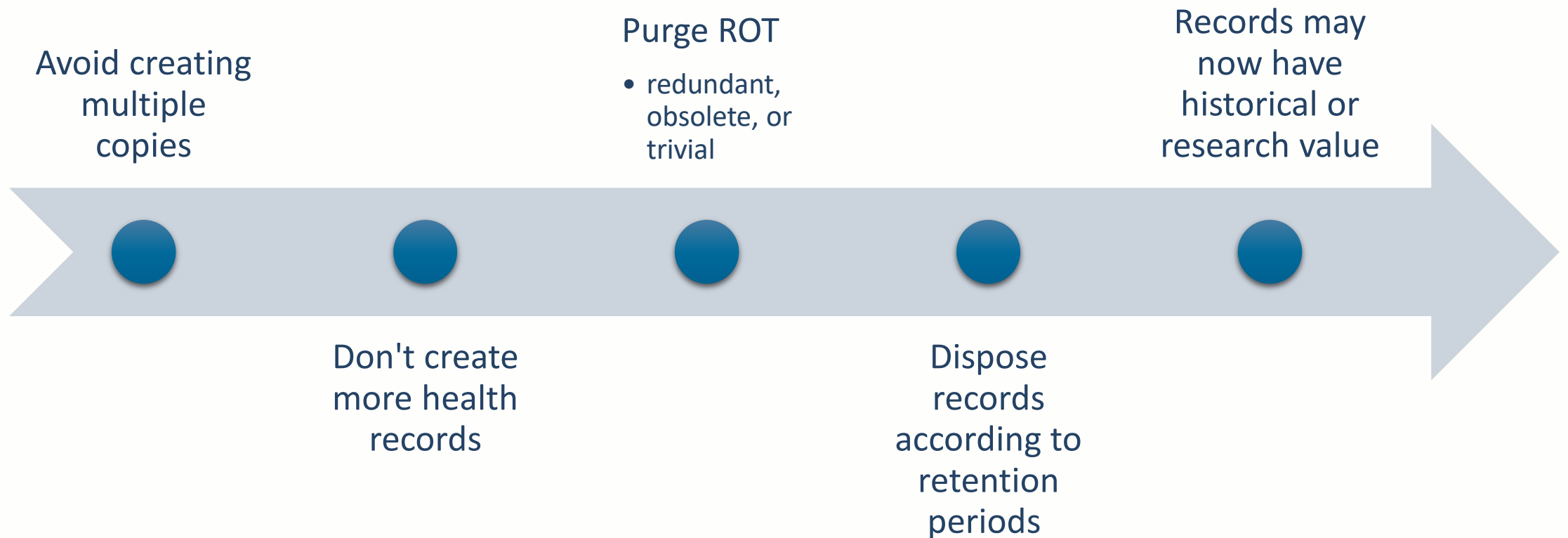
Remember privacy

FILE PLAN FOR REMOTE RECORDS





MANAGING REMOTE WORK RECORDS (2)





VIDEO CONFERENCING TOOLS



Choose the right platform



Use randomized meeting IDs



Use the waiting room



Turn off file- and screen-sharing



Block or regulate chat



If you record a meeting notify participants

RECORDS WITH POTENTIAL HISTORICAL VALUE



WHAT TO KEEP (1)

Executive subject and correspondence files

Chief executive and senior leadership

LGS-1 471a

Public meeting and hearing records

Minutes, transcripts and related records

Governing bodies

LGS-1 47 & GS
90372

Non-public or internal meeting records

Non-governing bodies

LGS-1 49



WHAT TO KEEP (2)

Counsel records

- Legal opinions and decisions,
- Development of laws and regulations
- LGS-1 29-30

Public relations records

- Press releases and publications
- LGS-1 68a & GS 90336

Administrative policies

- Plans or studies
- LGS-1 53a, 54, 74a, 75 & GS 90202, 90203, 90208



WHAT TO KEEP (3)

Public health response records

- Summary records of COVID-19 treatment testing
- Records of testing and vaccination operations
- LGS-1 729a, 733-34, 743-44, 749a, 754b, 757a, 765, 792, 802

Emergency response records

- Health threats to communities
- Health hazards in public facilities
- LGS-1 146, 925a, 926 & GS 90368

WHAT TO KEEP (4)

Program level subject and correspondence files

Policy and decision-making

Legal decisions related to the pandemic

LGS-1 53a

Labor management relations summary records

Accommodations because of COVID-19

LGS-1 648a & GS 90359

Summary and annual fiscal reports

Grant records

Summary of expenditures or summary of CARES Act grants

LGS-1 502, 556, 55, 520

RECORDS WITH LIMITED HISTORICAL VALUE



OSHA

- COVID is recordable illness if meets all criteria:
 - Confirmed case of COVID-19
 - Work-related as determined by employer investigation
 - Documented medical treatment or missed workdays
- Covered employers must record COVID work-related illnesses on their OSHA 300 log (5-year retention)
- Covered employers retain employee's work-related COVID records for 30 years



WHAT CAN BE DESTROYED: EMPLOYEE RECORDS (1)

Health screening records

- Cover employees, students, visitors, and contractors
- Do not include medical records
- LGS-1 792 & new GS item

Employee medical records

- Exposure to toxic substances (OSHA): LGS-1 661 & GS 90013
- Not related to exposure to toxic substances: LGS-1 662 & GS 90003

OSHA 300 logs

- LGS-1 659 & GS 90295



FAMILIES FIRST CORONAVIRUS RELIEF ACT (FFCRA)

- Relates to paid sick leave and expanded family and medical leave
- Covers private companies with fewer than 500 employees & public employers with 1+ employees
- Applies only to FFCRA-related leave requests dating between April 2, 2020 and December 31, 2020
- Records must be maintained for 4 years (29 C.F.R. 826.140)
- Includes both approved & denied requests



WHAT CAN BE DESTROYED: EMPLOYEE RECORDS (2)

Family and Medical Leave Act (FMLA) records*

- LGS-1 662 (3 yrs) & GS 90003 (3 yrs)

Time and attendance records*

- LGS-1 638 (6 yrs) & GS 90003 (3 yrs)

*Note that FFCRA requests made between 4/2/20 & 12/31/20 should be kept a minimum of 4 years



WHAT CAN BE DESTROYED: PUBLIC HEALTH RECORDS

Vaccine distribution and usage records (LGS-1 791)

Individual immunization records (LGS-1 790: 6 yrs or age 21)

Communicable disease case report (LGS-1 749a: 6 yrs or age 21)

Patient case records (LGS-1 743, 744: 7 yrs after death or discharge but not until age 21)



CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY (CARES) ACT

- Paycheck Protection Program (PPP)
 - Loans to small businesses
 - For loans \$150,000+, borrowers retain records for 6 years
 - For loans \$150,000 or less, borrowers retain
 - Employment records for 4 years
 - Other records for 3 years
- Coronavirus Relief Fund (CRF)
 - Grants to states and local governments
 - Retain records for 5 years



CARES ACT DOCUMENTATION (1)

- 1. General & subsidiary ledgers
 - (LGS-1 502 & 503, GS 90396, 6 yrs)
- 2. Budget records
 - (LGS-1 490, GS 90109, permanent)
- 3. Payroll, time, & HR records
 - (LGS-1 524, 55 yrs; 528/638, 6 yrs; GS 90003, 3 yrs)
- 4. Receipts of purchases
 - (LGS-1 547, GS 90392, 6 yrs)
- 5. Contracts
 - (LGS-1 547, GS 90392, 6 yrs)



CARES ACT DOCUMENTATION (2)

- 6. Grant agreements
 - (LGS-1 55, 6 yrs)
- 7. Monitoring records of contractors & grant recipients
 - (LGS-1 472, GS 90105, 6 yrs)
- 8. Performance outcome records of contractors & grant recipients
- 9. Emails related to CARES Act payments
- 10. Investigation records involving payments

LEGAL CONSIDERATIONS



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- Ensure that retention schedule has been adopted and is up-to-date
 - Note the temporary increases in retention periods for some records
- Ensure that there is a procedure for investigating whether an employee with a confirmed case of COVID-19 was infected at work
- Segregate and keep employee health records for 30 yrs (OSHA)
 - If the employer used medical personnel for health screening or recorded health data

RECORDS ACCESS CONSIDERATIONS



WHAT IS CONFIDENTIAL

- Federal Health Insurance Portability and Accountability Act (HIPAA)
- Americans With Disabilities Act (ADA)
- NYS Public Health Law
- NYS Mental Hygiene Law
- Family Educational Rights and Privacy Act (FERPA)



CONCLUDING REMARKS

- Cloud-based solutions
- EDMS & imaging solutions
- Reduction of office space
- Update your disaster and business continuity plans

QUESTIONS?

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