KEEPING UP WITH COVID-19

Maintaining Your Pandemic Records

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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
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

P:\Fiscal
- Payroll
  - Year-end payroll_55 years
    - 2020 Year-end payroll.PDF/A
    - 2019 Year-end payroll.PDF/A
Avoid creating multiple copies

Don't create more health records

Purge ROT
- redundant, obsolete, or trivial

Dispose records according to retention periods

Records may now have historical or research value
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
• 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)
• 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

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LEGAL CONSIDERATIONS

• 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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