

State Records Board
26 July 2012
Center for Historical Research, West Conference Room

Present:

Lisa Mendoza, chair, designee for the Attorney General
Dennis Taylor, Secretary, Department of Administration
Matt Veatch, State Archivist, Kansas State Historical Society
Pat Michaelis, designee for the Executive Director, KSHS

Not present:

Bill Sowers, designee for the State Librarian

Also present:

Susan Maxon, Kansas Department of Transportation
Janet Arndt, Office of the Attorney General – Crime Victims Compensation
Board
Darrell Garwood, State Records Manager, KSHS
Lu Ann Harris, KSHS
Marcella Wiget, KSHS
Martin Gengenbach, KSHS

1. Ms. Mendoza called the meeting to order at 8:38 a.m. Introductions were made.
2. *Minutes:* Ms. Maxon made a request for a minor change to the 19 April meeting minutes; Ms. Mendoza also requested a minor change.
Motion to approve: Mr. Veatch moved approval as amended for the 19 April meeting and as written for the 19 June meeting, Ms. Michaelis seconded, unanimous approval as amended for the 19 April meeting and as written for the 19 June meeting.
3. *Kansas Department of Agriculture – Fertilizer and Pesticide Program:* Ms. Harris explained that there are two records series related to these investigations, those with no action (under discussion today) and those with. The no-action series, 0150-046, was originally listed to be sent to Archives and staff would like to reappraise for destruction. There are some boxes in the Archives that will be deaccessioned if this is approved. Will change word from “issued” to “confirmed” in description.
Motion to approve: Mr. Veatch approved, Secretary Taylor seconded, unanimous approval as revised.
4. *Kansas Department of Transportation:*
 - a) *Bureau of Local Projects:* Ms. Maxon first discussed the Bureau of Local Projects records series. Documents in this series are not those kept in the final project file permanently, but instead are considered working documentation. They may include inspections to ensure project is staying on schedule. The agency wants to keep these records through project closure in case of litigation, need for fiscal information and information that may not be needed for official correspondence, and other related reasons. Mr. Veatch noted the “vital records” remark and asked Ms. Maxon whether she has been trying to determine that information across the agency. Ms. Mendoza asked whether completion close and fiscal finalization were the same date; Ms.

Maxon explained that fiscal completion may occur years after the physical completion of the project. Ms. Maxon also explained that she's putting together a file plan for each unit in her agency and that she may therefore include more information than needed for the retention schedule creation. Secretary Taylor requested more information about potential litigation during a project, concerned that these records may need to be kept longer than the fiscal close. Ms. Maxon explained that KDOT usually expects litigation during project construction and therefore would already either have a litigation hold and/or expect the permanent project file to support the agency in its litigation. Ms. Mendoza wondered whether the working files may still be necessary for an agency to support it in litigation. Ms. Maxon discussed the notices of acceptance in which county and city officials sign off on their agreement with the department on construction projects. Secretary Taylor argued that there can be an inadvertent acceptance, if there is something discovered after the notice of acceptance has been signed. Ms. Maxon suggested that the state department largely acts as a pass-through for funds and that most of the documents that could be considered litigious likely would be held in the city or county offices. Ms. Michaelis wondered whether this retention schedule should be put on hold for Transportation's legal staff to look; Ms. Maxon explained that the legal staff essentially wrote this schedule and that their lawyer who mostly works with these documents has stated he has never needed to look at the working documents during a litigatory process. Mr. Veatch asked the two lawyers in the room whether a court would ever admonish an agency for having too short a retention; Secretary Taylor explained that a court would probably not substitute a judgment based upon an administrative agency's decision.

Motion to approve: Mr. Veatch moved approval as submitted, Secretary Taylor seconded, unanimous approval as written.

- b) *Office of Civil Rights:* The Office of Civil Rights at Transportation has never thrown anything away, but now the agency is going through an office and other space consolidation process. Ms. Maxon was concerned with the contract compliance reviews particularly, as they can contain sensitive information and date back up to 30 years. When a review is done—20 to 25 a year—the contractor is sending in a great deal of information about recruitment process, benefit packages, payroll documentation, and other related information that could be considered confidential. The federal government only requires that these review documents be kept for 3 fiscal years after the cut off. KDOT sends an annual summary report on each of the reviews to the U.S. Department of Transportation, and Transportation chooses to keep that report in Word so they can refer back to it. Ms. Michaelis wondered whether the reports should be kept permanently for historical purposes; Ms. Maxon explained that the federal agency keep these reports for that reason and do not require the states keep these reports. Mr. Veatch moved on to the Inactive (Dead) DBE files, noting that this records series seems to include a great deal of sensitive information. He wondered whether KSA 45-221(a)(3) should also be added to the Restrictions, as well as a KSA 45-221(a)(30) restriction for both this series and the OJT records. Ms. Mendoza questioned whether noting a restriction based upon a taxpayer's statute should also be added. Ms. Maxon explained that oftentimes in the On the Job Training (OJT) programs will provide information about individuals' financials; Ms. Mendoza suggested using KSA 45-221(a)(30) instead. Will strike out "in Word" in Contract Compliance Reviews and add to Comments that summary reports are maintained permanently at the federal level.

Motion to approve: Ms. Michaelis moved approval as amended, Mr. Veatch seconded; the Disadvantaged Business Enterprise series is approved with the understanding that it will come back in October for revision to include that taxpayer's confidentiality statute. Unanimous approval as amended.

5. *Kansas Department of Corrections – All Facilities*: Records management staff at KSHS have talked with all the facilities' records officers and received approval from the Central Office's records officer to begin revising and updating the facilities' retention schedules. A majority of the facilities' ROs had given their approval to proceed about the schedules under discussion today; Mary Chambers also confirmed going ahead. Discussion of revised 0172-521; there are currently two versions available of this series on the public records management interface, and Ms. Wiget would prefer to go with the 2006 version, which allows for destruction rather than sending to Archives as in the previous version. Mr. Veatch would prefer that firmer language be found than "Retain until no longer useful, then destroy"; also need to change the KSA 45-221(a)(4) restriction to KSA 45-221(a)(30). Will table this records series until that disposition can be changed.

Motion to approve obsolete schedules: Ms. Michaelis moved approval, Mr. Veatch seconded, unanimous approval of obsolete schedules.

Tabled series: Tabled 0134-521 for discussion at a later date when it can be discussed with the facilities' in conjunction with 0515-521 and other disciplinary records.

Motion to approve agency-superseded schedules: Ms. Michaelis moved approval of agency-superseded schedules minus 0134-521, Mr. Veatch seconded, unanimous approval for these schedules.

Motion to approve general-schedule superseded schedules: Mr. Veatch moved approval, Secretary Taylor seconded, unanimous approval of schedules superseded by general schedule.

6. *Attorney General – Crime Victims Compensation Board*: Jan Arndt from the Crime Victims Compensation Board explained the board's purpose, noting that individuals who go before the board usually have no other compensation available, such as for medical bills, lost wages, property damage, etc. Police officers and medical personnel, used to providing a great deal of proof, usually provide too much information. These are confidential records under statute and therefore cannot be opened.

Ms. Mendoza worked with Ms. Wiget to revise this schedule. All records referencing a claim were required to be kept for 25 years; the Board does not ask for or require many records, which are sent to them voluntarily. Ms. Michaelis asked about other records from the Board, wanting to know if there were any higher-level information from the Board documenting what it does without providing information about specific individuals, such as meeting minutes or annual reports. Mr. Veatch wanted more information about what is presented to the Board to help them make their determination, and Ms. Arndt explained that everything necessary is compiled into board packets used at their meetings. Secretary Taylor asked for clarification about what was considered extraneous documentation if it was compiled into the board packet, objecting to the "Documents not relied upon by the board" language. The board is not as interested in the medical information as it is in the crime itself. Ms. Arndt clarified that the board receives a packet and then when a hearing occurs the board may receive additional documents. Revise Comments in 0154-082 to "Documents presented to the board for a claim in a packet or at a hearing are kept for 25 years, then destroyed. Documents not presented to the board may be destroyed when the appeal process is final." Ms. Michaelis moved approval, Mr. Veatch seconded, unanimous approval of records series as amended.

7. *State Records Board & Records Management staff procedures*: Ms. Wiget stated that section IV. Procedures Specific to Electronic Records is incomplete as written, or rather that she expects more will be added to this section, but she wanted to move it out of the State Records Board general procedures, as discussed at the 19 June meeting. Mr. Veatch explained that they still

plan to bring to the October or January meeting electronic records standards for the Board to approve and that at that point this section may be completely revised or expanded as needed, but it reflects current practices. Ms. Wiget confirmed that this document will go on the KSHS website. Mr. Veatch moved approval, Ms. Michaelis seconded, unanimous approval of procedures as presented.

8. *Other business:* Ms. Michaelis talked about Kansas Bureau of Investigation case files that have come up for auction regarding the Clutter murders; KBI staff are pursuing these records in order to bring them back to the agency and will begin working with the son of the investigating officer, who is auctioning them. Ms. Michaelis noted that KSHS has in the past gone directly to the dealer and told the dealer that these are state records that cannot be sold, and the dealer usually turns them over. Ms. Mendoza said that she has been part of higher-level discussions in her agency about what remedies are available to the state in this instance, and Mr. Veatch noted that the State Archives staff would like to be kept informed about this issue, as it is of tremendous importance to government archivists.

Meeting was adjourned at 10 a.m.