

**State Records Board Meeting
Quarterly Meeting
July 17, 2008**

Acting under the provisions of the Kansas Statutes Annotated 45-404 and 75-3504, the State Records Board met on October 13, 2005 in the Executive Conference Room of the Kansas State Historical Society to consider requests for approval of retention and disposition schedules and of additions to or revisions of such schedules for the following agencies:

Department of Administration Division of Facilities
Kansas Housing Resources Corporation
Board of Indigents' Defense Services
Court of Tax Appeals
Office of the State Treasurer
Kansas Historical Society
County Health Departments
County Election Offices

In attendance were Mike Smith, chair, Kansas State Attorney General's Office; Matthew Veatch, State Archivist, Kansas Historical Society; Dr. Patricia Michaelis, Director, State Archives and Library Division, Kansas Historical Society; Bill Sowers, Kansas State Library; Duncan Friend, Department of Administration; Scott Leonard, State Records Manager and Electronic Records Specialist, Kansas Historical Society; Letha Johnson, Archivist, Kansas Historical Society; Kristopher Graves, Government Records Analyst, Kansas Historical Society; Kirsten Goodman, Sr. Administrative Assistant, Kansas Historical Society; Michelle Dittman, Department of Administration – Facilities Management; Jody Allen, Court of Tax Appeals; Amelia Kovar-Donohue, Court of Tax Appeals; Debbie Rosacker, Board of Indigents' Defense; and Beth Shirley, Kansas Historical Society.

Chairman Smith opened the meeting with introductions and welcomed visitors to the meeting.

Minutes

Mr. Smith noted a missed hyphen on the last page of the meeting minutes from the previous meeting, specifically in reference to Attorney General Opinion 87-25. Dr. Michaelis moved to approve the minutes with the change. Mr. Veatch seconded the motion. The meeting minutes were approved.

Department of Administration – Facilities Management

Mr. Leonard noted that the changes to the schedule were tabled at the previous meeting so the board could be provided with examples of the records in question. Michelle Dittman brought examples of the electronic records practices and clarification on records and their legality. She indicated that there was no personal information on the records, only the position number not employee numbers or employee ID numbers. Mr. Smith suggested that the position numbers be removed from the records before they are archived. He also recommended that the restrictions utilizing KSA 45-221(a)(4) be removed. Mr. Veatch moved to approve the schedule as amended. Mr. Sowers seconded the motion. The schedule was approved with amendments.

Housing Resources Corporation

Mr. Leonard informed the board that the series in question dealt with HUD records and that there was no distinction between performance and non-performance based Project files. The new series would supercede the previous two series, creating a new series to cover all Section 8 project files. He also noted that some of the description information was taken from previous series. Mr. Friend moved to approve the schedule. Mr. Veatch seconded the motion. The schedule was approved.

Indigents' Defense Services

Debbie Rosacker revised the retention period on the series that include 3rd party contracts for services, lengthening the retention period from three to ten years. She explained that Indigents' Defense Services served as the Public Defender system for the state, and that because of the length of time that can be involved in appeals, the IDS want to retain those vouchers used to pay attorneys, recorders and other fees associated with those cases in case there are questions about whether or not the defendant received effective counsel and an adequate defense. It includes attorney hours, experts and consultants that might have been hired for that case. Dr. Michaelis asked about office expenditures and wanted to clarify that these were expenses involved with those attorneys contracted with IDS for various cases. Ms. Rosacker confirmed that the expenses included in this series were strictly for contracted assistance and could include hotel stays for attorneys in other parts of the state who commute in for trials etc. Mr. Friend wanted to know if the board had a consistent philosophy for similar cases, i.e. hiring outside help. Dr. Michaelis noted that if the schedules were implemented inconsistently, it could present legal problems for the agency, if they retain some records and not others. That is why agencies are expected to bring exceptions before the board. Mr. Smith sought reassurance that these records were separate from communication files; Ms. Rosacker affirmed that there were two operations: Public Defenders who have contracted with IDS, and case files. Ms. Rosacker said those are retained based on how long the defendant is sentenced. She noted that death penalty cases can be indefinite or

40 years. These are counsel in districts where there aren't offices and they have signed up with the system and are willing to take indigent cases. The attorneys are responsible for maintaining the case records. This series of records are payment vouchers for expert witnesses, etc. Mr. Veatch asked if there would be value in modifying the series title to "Vouchers – Legal Services," or if the description alone was good enough to clarify the matter. Dr. Michaelis suggested Contracted Services Vouchers, but Ms. Rosacker said she preferred not to use the term "contracted" and would prefer using Assigned Counsel Vouchers. The board agreed to the revision to read: Vouchers – Assigned Counsel Program (Series 0026-328) Copies of vouchers used to pay attorneys, experts and Court Services Reporters hired for indigent defense services and/or for corresponding office expenditures. Dr. Michaelis moved to approve the schedule as amended. Mr. Sowers seconded. The schedule was approved.

Court of Tax Appeals

First of all, Mr. Smith wanted to note on the Retention/Disposition schedule that Jody Allen was now the Records Officer, replacing Amelia Kovar-Donohue. Mr. Leonard said the series were created from the CTA's Electronic Recordkeeping Plan, implementing a case management program for application. He said the ERKP was approved by the ERC, and that all entries, as proposed, are to be retained permanently, with two exceptions: Small Claims Decisions (0025-562) and Tax Appeals Case Files (0019-562). Mr. Smith noted that if the plan was approved by the ERC and had been gone over thoroughly, issues have probably been resolved. Mr. Veatch moved to approve the schedules. Mr. Friend seconded. The schedules were approved.

Office of the State Treasurer

Mr. Leonard said there were two series with changes because the State Treasurer's office wanted to lengthen the retention period(s). They needed to clarify that State Deposit Box Contents (formerly Safe Deposit Files) are just items that have been abandoned by owners, but the office wants to keep them until the owners claim the items. The other proposal, for Claim Files, would lengthen the retention period from 10 to 30 years, and Mr. Leonard noted that though the comments, as presented, still called for 10 years, it should read "Retain in office 1 calendar year, transfer to the records center for 29 calendar years." Mr. Veatch moved to approve the series changes. Mr. Sowers seconded the motion. The schedule was approved.

Kansas Historical Society

Mr. Graves introduced two series for the Historical Society, the first of which dealt with intern files. Because there has been no specific policy on retention for these records, the Records Management staff agreed to address the records and get

them scheduled. There also isn't a schedule entry for the records from the Law Enforcement Memorial. The makeup of the Law Enforcement Memorial Advisory Committee includes a representative from the Historical Society; Mr. Veatch volunteered and is that entity's Secretary/Treasurer. This series would deal strictly with record files for the committee. Mr. Duncan questioned KSHS staff as to whether the interns were paid. Dr. Michaelis said usually paid interns (which are, in and of themselves, rare) receive their wages from KSHS, Inc., the private foundation. She also noted that paid employee records are kept in a different place. The private society and the state keep and track their records separately. When Mr. Veatch posed the question that if an intern is paid by the private society, but performs as an employee, is that person an employee, Mr. Smith said he was inclined to call that person an employee. He said it would be easier to determine to whom the Kansas Open Records Act would apply and that would be different entirely if the intern is not compensated at all. Mr. Graves questioned whether or not Social Security Numbers were kept in volunteer files. Ms. Goodman, as Volunteer Coordinator, indicated that within the Library and Archives division, SSNs were not even listed anywhere in the volunteer's file but that the agency Volunteer Coordinator, Joy Brennan, may have them. Mr. Smith said that, if they are not being compensated, the agency shouldn't need volunteer Social Security Numbers. Dr. Michaelis and Mr. Veatch reiterated that individuals paid by KSHS, Inc., would be paid by KSHS, Inc., and their records kept separate; they would never come to the state archives or records center. Mr. Smith suggested using KSA 45-221(a)(30), ratified in 2006 to protect the personal privacy of interns and employees, which would allow the Historical Society to withhold any private information. He also suggested the agency add the (a)(30) restriction to both private side contracts and state employee records, and that (a)(30) would protect even those who are not paid. The board also agreed to change the word "resign" to "termination" so the comment section would read "Retain 5 years after termination..." Dr. Michaelis moved to approve the schedules with changes and Mr. Sowers seconded the motion. The motion was approved.

County Health Departments

Two county health departments, Grant County and Sedgwick County, initiated the seven series addressed at this meeting. They had records for which there were no entries and staff wanted to address the language involving adult vs. juvenile files. Mental health records had not been covered and not mentioned on the mental health schedule, so KSHS staff added mental health files to the general Client Records. Dr. Michaelis pointed out that the language for client records was confusing because it said, "Retain 10 years after last contact or 21st birthday, whichever is later, then destroy." Mr. Graves said the retention is to destroy 10 years after last contact with adults, whereas for juveniles records should be kept at least until their 21st birthday. Mr. Smith suggested changing the punctuation to turn the Retention period into two sentences. He also

recommended putting the phrase “for juvenile records, retain 10 years after last contact or until 21st birthday, whichever is later, then destroy” in parentheses. Finally, he suggested that the parentheses used in the Remarks section on the Child Care series be removed and that language added to the Comments section. There was some discussion and clarification on the Child Care series pertaining to records containing reports of suspected abuse and the reports compiled from actual abuse cases that are sent to the Kansas Department of Health and Environment. It was suggested that “suspected” be changed to “confirmed” in the description for Child Care Facility Complaints and Reports of Investigation files. Mr. Sowers moved that the schedules be approved with changes. Mr. Veatch seconded the motion. The schedule was approved with changes

County Election Offices

Mr. Leonard said there was a request involving the voting records of Governor Sebelius. Dr. Michaelis pointed out the discrepancy between the Board-approved schedule and the statute in regards to two series: Abstracts of Election Returns and Registration Votes/Lists. Although the board decided in 2000 to keep all registration lists in years where there is a presidential election, Mr. Leonard contacted the Secretary of State’s Office and was told that the abstracts are historical records, and should be kept permanently for all elections, but didn’t see the need to keep registration lists permanently even for presidential election years. Mr. Leonard then drafted a revision to clarify the recommendation of the SOS office and brought it to the board. Mr. Veatch told the board that based on that recommendation, KSHS staff intended to recommend permanent retention for the Abstracts. Mr. Friend said the state is already keeping records under different retention records. Mr. Veatch questioned whether the board had the authority to require local governments to retain records longer than the law dictates. Mr. Friend said he believed the records might provide good historical analysis but agreed that that information simply became too voluminous too quickly. Mr. Veatch said that in the past historians had used the records, applying the statistics to voting behavior, for example, but that was when the records were not so voluminous. He also said there are now other ways to access that information. Mr. Smith said the board can’t require local governments to retain records longer than the law dictates, but can recommend those records be retained. He said the board just can’t require entities to retain records for a shorter retention period than the law mandates. Based on Mr. Smith’s interpretation, the rest of the Board was convinced of its authority to exceed the KSA’s requirements. Accordingly, it was decided that Abstracts of Election Returns be left unchanged (that is, be permanently retained, though such terms exceed the 20 years KSA 25-2709 calls for). The Registration Books/Lists would have a retention period of 5 years, then be destroyed. Comments, too, would be removed from the Registration Books/Lists schedule. Dr. Michaelis moved that

the schedule be approved as amended. Mr. Sowers seconded the motion. The schedule was approved.

Other Business

Dr. Michaelis asked if the board was required to do an annual report or could it instead supply a summary of activities for the year to be reviewed at the October meeting. Mr. Friend commented that the annual report does provide accountability and proof of the board's existence and activities. Dr. Michaelis said that the report could be placed on the website and emailed to individuals. Mr. Veatch said the narrative may not be as useful to many people, and is reflected in the KSHS annual report. Mr. Smith suggested KSHS staff come back in October with a revised version. Dr. Michaelis asked Mr. Leonard to check the statute, but that requirement could still be met using the website. Mr. Friend said that the annual report had been used in the past, to have something for the press, for example. Mr. Veatch said it might be worthwhile to discuss why we are doing the annual report and what should be included. Dr. Michaelis agreed that the board needed to determine what parts of the report are critical. She said staff would come back with a revised version.

Mr. Leonard pointed out that it was Ms. Johnson's last board meeting because she'd accepted a new position at another institution. The board acknowledged her contribution and said she would be missed. Mr. Friend thanked her for her dedication and service.

The board decided to check calendars before deciding on a definite date for the October meeting. Mr. Smith suggested that every board member contact Mr. Leonard by email and then determine the date. The meeting was adjourned.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Matthew B. Veatch". The signature is written in a cursive, flowing style.

Matthew B. Veatch,
State Archivist and Secretary,
State Records Board