"Capstone Officials" and Public Records: Risk, Buy-in, and Archival Selection

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“Capstone officials" and Public Records: Risk, Buy-in, and Archival selection

Society of American Archivists
Session 301
August 6, 2016
#s301; #saa16
Case Studies on appraisal/selection

- Policy or guideline creation
- Regarding permanent retention of “capstone officials” records
- In public institutional archives
- Subject to public records laws and records schedules
- That bridge records management and archival functions and missions

-I’m Ruth Bryan, Director of Technical Services and University Archivist at the University of Kentucky Special Collections Research Center, and I’m the chair of this session as well as a presenter.

-Each of us on the panel today will share case studies of appraisal in real life situations in which records managers and/or archivists...

-As a spring board for our presentations, we’ll be using the National Archives and Records Administration’s recent Capstone Official approach to selecting the e-mail of senior officials for permanent retention
Selection in Public Institutional Archives

Records management required by law:

- For evidence of business activities and transactions
- To ensure transparency and accountability of governments to the public
- To protect individual privacy and identity
- To achieve effective and economical business operations using taxpayer $ appropriately
  - Ease of locating records
  - Storage costs for voluminous records documenting routine transactions
  - Mitigate risks of retaining some records too long and destroying others too soon

-In public institutional context of selecting permanent records for retention, we work within a context of records management required by state or federal law to...
Records schedules classify and identify the disposition of records either by function of the record or by department, agency, or unit. Categories of records are identified for retention for shorter or longer periods of time and then disposed of through destruction or through permanent retention either in the responsible unit and/or in the archives.

Retention and disposition periods try to balance the sometimes competing interests, perceptions of risk, and buy-in to the records management concept held by records creators, the public, legal counsel, records managers, law makers, and archivists.

This balance is easier to strike with routine record types and units—such as Board of Trustees meeting minutes and pro-card statements—the distinction between short-term and long-term value and retention is fairly easy to make and the risk of improper retention and disposition is relatively low, because staff can be easily educated about implementing records management and it is relatively easy to understand.

For other types of records and units, the distinction is more difficult, in part because who the creator and user of the records is has an impact on the content, format,
organization, and type of record. Because of their more powerful and expanded roles in an agency or unit, senior officials’ records are often complex and voluminous and generally have more historical or permanent value. This can make it more difficult for the creator/user and the records manager to appraise using a traditional records schedule.
“Capstone Officials” (NARA GRS 6.1)

- “Senior officials generally responsible for agency and program policy- and mission-related actions.”
- Responds to management challenges:
  - Voluminous records
  - Risks of keeping temporary records too long and inappropriately discarding permanent records
  - Understanding of, training on, and buy-in to records management

-NARA’s Capstone officials approach to managing e-mail as outlined in their new General Records Schedule (Email Managed under a Capstone Approach)

- appears to be a way to allow public agencies to use both a traditional records schedule approach

- combined with a more “personal papers-like” approach based in individual role to navigate the challenge of huge sets of records in analog and electronic format; the risk of keeping temporary records too long and inappropriately discarding permanent records; and the need for ongoing training on, marketing, and support for records management across an institution or agency.
Each case study will

- Define what “capstone official” means for specific situation
- Outline the specific laws, policies, and/or guidelines
- Describe how the capstone officials concept intersects or interacts with existing policies
- Explain the records, resources, and risks involved

-So, the presenters on this panel will take the concept of capstone officials and explore it in their own public institutional setting. They will...

-In addition to the thread of the capstone official concept, these presentations also share another thread, which is that since the concept is new, we are all exploring it. Thus, we share our experiences and ideas in a spirit of openness, looking for positive discussion and brainstorming.
Each presenter will speak for about 12 minutes, then we’ll have between 10-15 minutes for questions and discussion.
Public University Faculty as Capstone Officials
Context: UK Records Management Task Force

Why:
- Follow Kentucky public record law
- Reduce risk of retaining documents too long or destroying documents early
- Save costs associated with preserving documents beyond their retention date.
- Allow the University to conduct its business effectively
- Preserve University permanent records for legal issues, future business reference, and scholarship

Started in September 2014.

Charge and conveners: Office of Legal Counsel and the UK Libraries with support of Provost;
Formed to address various concerns and propose solutions to standardized records management practices

Main charge: Development of an administrative regulation encompassing records management retention and destruction requirements for the University of Kentucky
In the course of working on the task force, I’ve gone through several approaches in thinking about appraising faculty papers in relationship to the records series in the existing University Records schedule.

The presentation summary is:...

And I’ll dig into two areas:...
Public records

- University of Kentucky is a public institution (KRS 171.410 (4); KRS 164; UK GR, Part I, Section A)
- Any record created, used, and/or in UK’s possession is a public record (KRS 171.410(1))

UK is a public institution: a body created and funded by the state

Public record = any item prepared, owned, used, in the possession of, or retained by a public agency (KRS 61.870 (2))
University records are subject to reproduction, preservation, and destruction as directed by the State Archives and Records Commission (725 KAR 1:020) in the State University Model Records Retention Schedule (725 KAR 1:030).

Records Custodian, with the local assistance of the Records Officer and the Records Manager for the University, is required to inventory, analyze, schedule, and record the disposition and any required destruction of University records (725 KAR 1:010).
Model schedule serves all public universities in the state. There is an Advisory Committee on University Records that discusses and proposes changes to the schedule, which are then forwarded to the State Archives and Records Commission for final review.

It is organized into 21 functional areas (such as general records, fiscal records, personnel/payroll records, bookstore records). Within functional areas, there are series by record type, such as official and general correspondence in general records and University operating budget in fiscal records.
Individual faculty papers are a public record but they are also created and acquired in a organizational context that includes academic freedom supported by tenure; and shared governance with administrators.
Shared governance/joint effort model

- Delegated from the Board of Trustees (UK GR Part II, section A):
  - President is chief administrative officer
  - Delegates to sub administrative officers
  - University (faculty) senate establishes academic policies
    - Graduate Faculty and faculty of educational units responsible for graduate and unit-specific educational policy

- “…faculty bodies and administrators will reciprocally solicit and utilize the expertise of the other as each makes decisions in their respective areas of policy-making authority.” (UK GR Part I, section E)

Shared governance is outlined at UK through two governing regulations.
Faculty papers acquired to:

- Document the individual faculty person’s scholarship and academic functions.
- Support the subject, time period, format and/or geographic focuses of the archives’ collection development policy.
- **Clarify, expand, and/or fill in gaps in the university’s official records.**

The University’s official and routinely transferred permanent records mainly come from the administrative side of the shared governance model, particularly the Board of Trustees, the President’s Office, and the Executive Vice President for Finance and Administration. Educational policy in summary form is documented through the Faculty senate minutes.

Thus, since faculty are responsible for educational policy and both individually and in groups are often in (productive) tension with administration, their individual papers can be crucial to providing insight into the operations of the university as a whole, including records that would not normally be a part of the official records routinely transferred from administrative units.
In the last few years, I experienced this first-hand with two UK faculty disciplinary and/or grievance actions in the 1960s.

In 1963, UK home economics professor Abby Marlatt (top photo) was removed from her administrative post Director of Home Economics (but kept her faculty position), officially for doing not a good enough job, but also possibly because she had been distributing anti-draft leaflets in front of Lexington churches. Her papers don’t include any personal copies of correspondence, memoranda, etc., relating to the dismissal, so we only have the official record, the press record of the situation, and her oral history recollection of the events.

In 1966, UK Choral Activities Director Sara Holroyd was denied tenure, first with no reason given and then, because she didn’t have a Ph.D., which had not been a requirement in granting tenure in the Dept. of Music up to that point. She instituted a grievance procedure and eventually obtained tenure. Her papers do have her personal copies of correspondence, reports, and memoranda relating to the grievance, allowing us a multiple-sided viewpoint on the actions of various individual faculty and administrators.
As the work of the task force progressed, I began to be more and more interested in and concerned about how we were going to promote and articulate the need for records management to Deans and department chairs when faculty as individuals are intellectually independent (considering their papers as belonging to them as individuals) but yet fiscally and administratively part of the university (their papers are public record).

Often, their papers contain a mix of different record series, including some which, as University Archivist, I would select for permanent retention to fill in gaps in the official record, but which, according to the schedule, should be discarded as non-permanent.
<table>
<thead>
<tr>
<th>Some records not in schedule</th>
<th>Some records in schedule, permanent retention</th>
<th>Some records in schedule, temporary retention</th>
</tr>
</thead>
<tbody>
<tr>
<td>“Scholarly products”</td>
<td>Official correspondence (U0100)</td>
<td>Research data (U0120)</td>
</tr>
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<td></td>
<td>Minutes (U0104)</td>
<td>Class schedules (U0411)</td>
</tr>
<tr>
<td>Photographs (U0107)</td>
<td>Course syllabi and curriculum and instruction files (U0415, U0418)</td>
<td></td>
</tr>
<tr>
<td>Reports of unit activities and of research projects (U0112-U0113, U0115)</td>
<td>Student-faculty course evaluations (U0643)</td>
<td></td>
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<tr>
<td>Speeches/papers/presentations (official business not scholarly work) (U0116)</td>
<td>Individuals’ grievance and litigation files (U0644, U2000)</td>
<td></td>
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<tr>
<td>Theses and dissertations (U0118)</td>
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<td>Policies and procedures (U0124)</td>
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</table>
Within the definition of a public record (all materials prepared, owned, used, in the possession of, or retained by a public agency), might there be the option to identify certain record types owned or held by individuals as personal copies and thus not subject to the disposition requirements of the schedule?

The concept was based in an existing University AR which defines intellectual property and articulates the position that the University owns and controls all intellectual property, but also disclaims the University’s ownership rights to “traditional scholarly output”
In this approach, there would four categories of ownership: official records and shadow records held by responsible units and individuals or non-responsible units, respectively, owned by the University, and subject to retention and disposition as outlined in the schedule;

Personal records held by individuals, jointly owned by faculty and the University, and retained longer than the retention period in the schedule;

And products of scholarship held by individuals and faculty owned and not covered by the schedule.
At SAA’s 2015 Records Management Roundtable, I heard Arian’s capstone officials lighting talk and thought that faculty could be considered senior officials, because they are responsible for educational and academic policy within the University. This would allow for varying and/or permanent retention of individual faculty papers by role rather than by record function.

**Approach 2: Capstone official**

- Faculty are “Senior officials” responsible for agency and program policy- and mission-related actions
  - Set educational policy within individual departments and units
  - University (faculty) senate as a group establishes academic policies
- Allows for varying/permanent retention by individual’s role rather than by unit or record function
While the Task Force was considering the Capstone Official idea, we realized we had a major unanswered question, which was...

### Approach 3: Mandatory disposition?

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<th>Then</th>
<th>Or</th>
<th>Or</th>
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<tbody>
<tr>
<td>Disposition is mandatory</td>
<td>Disposition per series in the schedule will need to be revised for faculty/scholarly retention</td>
<td>“Personal copies” or “faculty” record series will need to be added to the schedule</td>
<td>The University will need to create its own, agency-specific schedule</td>
</tr>
<tr>
<td>Disposition is optional</td>
<td>Faculty papers can be scheduled individually/case-by-case</td>
<td></td>
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</tbody>
</table>

While the Task Force was considering the Capstone Official idea, we realized we had a major unanswered question, which was...
Memo to and response from the Advisory Committee on University Records to the State Archives and Records Commission. Records must be retained for the retention period outlined in the schedule, but disposition isn’t mandatory. There are no legal penalties (but, of course, there are other risks) for not destroying records.
Regulation is in review

Keep: syllabi and other course materials; the individual’s grievance and litigation files; research data
Discard: Other’s grievance and litigations files; other’s personnel/evaluation files; student records with personally identifying information and/or grades
Sources: faculty


Sources: capstone officials

