

8-5-2016

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

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Repository Citation

Bryan, Ruth E., "'Capstone Officials" and Public Records: Risk, Buy-in, and Archival Selection" (2016).
Library Presentations. 156.
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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...

Selection in Public Institutional Archives

| Records schedules classify and select records for retention and disposition | |
|---|--|
| By: | For: |
| Record function (or format, i.e., correspondence or staff travel request forms) | Temporary, long-term, or permanent retention |
| Unit (agency, office, department, center) | Balance competing interests, perceptions of risk, and buy-in |
| | Routine = easy determination Senior official = more difficult |

-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.

Presenters

- ▶ Arian D. Ravanbakhsh, National Archives and Records Administration
 - ▶ Capstone officials and public records
- ▶ Mike Strom, Wyoming State Archives
 - ▶ Mitigating records schedules inflexibility with the capstone officials approach
- ▶ Jim Cundy, Kentucky Department for Libraries and Archives
 - ▶ Capstone officials and Records Management in Kentucky
- Ruth Bryan, University of Kentucky Special Collections Research Center
 - ▶ University faculty as capstone officials
- ▶ Tamar Chute, The Ohio State University Archives
 - ▶ President's Office artifact appraisal

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

Society of American Archivists

Session 301

August 5, 2016

#s301; #saa16

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

Summary

- ▶ Faculty role in University life = capstone official
- ▶ Capstone official = different appraisal criteria for (permanent) records
- ▶ Different appraisal criteria = impact on Task Force work
- ▶ Two areas to consider: public records and faculty papers

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

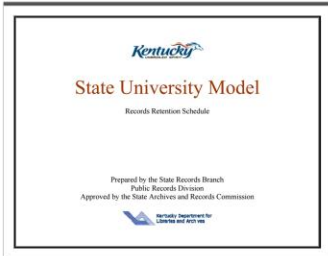
Public record = any item prepared, owned, used, in the possession of, or retained by a public agency (KRS 61.870 (2))

Public records

- ▶ 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 for University (725 KAR 1:010)

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)



STATE ARCHIVES AND RECORDS COMMISSION
Public Records Division
Kentucky Department for Libraries and Archives

Schedule Date: 03/10/2011

**STATE AGENCY RECORDS
RETENTION SCHEDULE**

State University Model
A. General Records

Record Group
Number
7050

| Series and Description | Function and Use |
|--|--|
| U9100 Correspondence - Official (V) | This series documents the major functions of an office and important events in its history. It documents major changes in policy and/or procedures, and admission requirements, standards in curriculum, proposals, etc. |
| Access Restrictions | None |
| Contents | Series contains: Memoranda, letters, reports, activities, event announcements |
| Retention and Disposition | Retain until no longer useful, then transfer to the University Archives for permanent retention. |
| U9101 Correspondence - General | This series documents the general operations of each department within the university. This correspondence is not considered crucial to the preservation of the administrative history of each department. Generally, it is used in response to outside inquiries for catalogs, admission applications, copies of publications, etc. or it is used in the form of memos between departments of the university. |
| Access Restrictions | None |
| Contents | Series contains: Memoranda, correspondence |
| Retention and Disposition | Retain no longer than two (2) years, then destroy. |

Organized by function (21 areas) and then by type of record/series

STATE ARCHIVES AND RECORDS COMMISSION
Public Records Division
Kentucky Department for Libraries and Archives

State University Model
B. Fiscal Records

Record Group
Number
7050

| Series and Description | Function and Use |
|--|--|
| U9200 Budget - University Operating (Updated description) (V) | This series documents the budget under which the University operates for a given biennium. It is passed by the General Assembly and contains projected revenues and expenditures for various administrative units within the university. Responsible and accountable public government requires transparency in the disbursement of public funds. These records provide documentation to support public confidence in the University's financial affairs. |
| Access Restrictions | None |
| Contents | Series may contain: Organizational units; revisions; requested items - next two years; General Fund, regular appropriations, salary equity allotments, projections from tax rates, total General Fund, Federal Funds, Balance Forward, current receipts, total restricted receipts, Total Funds, Expenditures by Class, personnel costs, operating expenses, grants, capital outlay, total expenditures, expenditures by unit, policy statements with divisions, grant totals of finances, summary information created for public consumption. |
| Retention and Disposition | Retain for two (2) years, then transfer one copy to University Archives for permanent retention. Retain other copies until no longer useful, then destroy. |

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.

Faculty papers

- ▶ Public record
- ▶ Academic freedom acquired through tenure
- ▶ Shared governance/joint effort

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.

Abby Marlatt and Sara Holroyd papers

- ▶ Records of disciplinary action and tenure denial in Trustees meeting minutes, *Kentucky Kernel* articles and editorials, oral histories
- ▶ But, no other personal copies
- ▶ Yes, personal copies



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.

Issue: Faculty papers & the Records Schedule

- ▶ Intellectually independent but administratively dependent
- ▶ Mix of different record series that could be appraised differently

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.

| Some records not in schedule | Some records in schedule, permanent retention | Some records in schedule, temporary retention |
|------------------------------|--|---|
| "Scholarly products" | Official correspondence (U0100) | Research data (U0120) |
| | Minutes (U0104) | Class schedules (U0411) |
| | Photographs (U0107) | Course syllabi and curriculum and instruction files (U0415, U0418)x |
| | Reports of unit activities and of research projects (U0112-U0113, U0115) | Student-faculty course evaluations (U0643) |
| | Speeches/papers/presentations (official business not scholarly work) (U0116) | Individuals' grievance and litigation files (U0644, U2000) |
| | Theses and dissertations (U0118) | |
| | Policies and procedures (U0124) | |
| | | |

Scholarly products include articles and reviews, works of art, and course materials

Approach 1: Property ownership

- ▶ Concepts based in existing Intellectual Property AR 7:6:
- ▶ University owns and controls intellectual property
- ▶ That is produced by faculty, staff, or students of the University of Kentucky using University resources.
- ▶ “Traditional products of scholarly activity” excepted

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”

Property ownership concept

| Official records | Shadow records | Personal records | Products of scholarship |
|----------------------------------|--|--|--|
| Held in responsible unit | Held by individuals or non-responsible units | Held by individuals | Held by individuals |
| All series in schedule | Including: <ul style="list-style-type: none"> • Student records/files • Personnel/payroll records • Medical/patient records | Including: <ul style="list-style-type: none"> • Research data • Course syllabi, curriculum and instruction files • Individuals' grievance and litigation files • Medical/patient records used for research | Including: <ul style="list-style-type: none"> • Journal articles, textbooks, reviews • Works of art • Course materials and laboratory manuals |
| University-owned | University-owned | Joint faculty/University-owned | Faculty-owned |
| Follow retention and disposition | Follow retention and disposition | Can be retained longer than minimum period | Retention and disposition is not applicable |

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.

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

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 3: Mandatory disposition?

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

While the Task Force was considering the Capstone Official idea, we realized we had a major unanswered question, which was...

Disposition is not mandatory

- ▶ Records must be retained for retention period
- ▶ Allows faculty to be treated as capstone officials
- ▶ More buy-in from faculty to records management generally

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.

Where we are now

- ▶ Draft records management Administrative Regulation
- ▶ Articulates retention requirement but not disposition requirement

- ▶ More confident in appraising faculty papers for permanent retention
 - ▶ To keep
 - ▶ To discard
 - ▶ But, needs more review by Legal Counsel and others

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

"1940 Statement of Principles on Academic Freedom and Tenure with 1970 Interpretive Comments" and "Statement on Government of Colleges and Universities." *AAUP Policy Documents and Reports*. 10th Ed. Washington, DC: American Association of University Professors, 2006.

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