

Introduction

You routinely create, use, and manage information electronically in your daily work as you use computers to send e-mail, create spreadsheets, publish web pages, manage databases, and create other electronic materials. Because you work for a government agency, Wyoming and federal laws mandate that you treat that information as official government records.

You probably already have a strategy to manage your paper records. With the growing pervasiveness and importance of electronic records, you should also develop a strategy to manage electronic records. The Wyoming State Archives (WSA) is available to work with you in developing your agency's strategy.

Common Questions

As you begin the process of developing an electronic records management strategy, you will find yourself asking many questions, including:

- Which Wyoming laws apply to electronic records?
- How do we use electronic records to help ensure public accountability and accessibility while ensuring that restricted records are protected?
- Who is responsible for developing our electronic records management strategy?
- How do we dispose of electronic records?
- Should we manage our electronic records differently from our paper records?
- How do we know what information is an electronic record?
- Is an electronic copy of a record an acceptable substitute for the original?
- Does an electronic record have the same legal significance as a paper record?

Legal Framework

The Wyoming laws governing records management address these questions. Therefore, an understanding of existing Wyoming statutes is important as you begin to develop your electronic records management strategy.

Electronic records, just like paper records, are subject to specific Wyoming statutes that you must understand and comply with, including general records laws and electronic records laws.

General records laws include:

- Wyoming Public Records Act – WPRA (Wyoming Statutes 16-4-201 through 16-4-205) (available at: <http://legisweb.state.wy.us/statutes/titles/title16/c04a02.htm>)
- Wyoming Statutes 9-2-401 through 9-2-419 (available at: <http://legisweb.state.wy.us/statutes/titles/title09/c02a04.htm>)

Electronic records laws and executive orders include:

- Uniform Electronic Transactions Act (UETA) (Wyoming Statutes, 40-21-101 through 40-21-119) (available at: <http://legisweb.state.wy.us/statutes/titles/title40/CHAPTER21.htm>)
- Computer Crimes (Wyoming Statutes, 6-3-501 through 6-3-505) (available at: <http://legisweb.state.wy.us/statutes/titles/title06/c03a05.htm>)
- Executive Branch Electronic Mail Policy (Executive Department, Executive Order - 1999-4) (available at: http://www.state.wy.us/governor/press_releases/execorder/1999/pre1999-4.html)
- Executive Branch Digital Imaging (Executive Department, Executive Order – 1993-2)
- Electronic Signatures in Global and National Commerce (E-Sign), a federal law. (available at: <http://thomas.loc.gov/cgi-bin/query/z?c106:S.761:>)

WPRA and Wyoming Statutes 9-2-401 through 9-2-419

The WPRA establishes what constitutes an official record and the public’s right to access these records including those records created in electronic format. Since government spends public money on public services, government agencies must be accountable and accessible to citizens, government administrators, courts, the legislature, financial auditors, and to history—that is, to future generations. Under Wyoming Statute 9-2-409 your agency’s director is responsible to “designate a records officer who shall supervise the departmental records program” which includes electronic records. These statutes also allow you to copy records to another format or storage medium and still preserve the authenticity, reliability, and legal admissibility of the record, as long as the copies are made in a trustworthy process.

Creating comprehensive records and preserving them forever would be an impossibly expensive burden. The WPRA and Wyoming Statutes 9-2-401 through 9-2-419 create a mechanism for the orderly and accountable disposition of records. These Statutes also makes the Wyoming State Archives (WSA) responsible for overseeing the records management process, under the direction/authority of the Department of State Parks and Cultural Resources.

State Records Committee

The State Records Committee includes the:

- Attorney General or designee, for expertise on the legal value of records

- Director of the Wyoming Department of State Parks and Cultural Resources or designee, for expertise on the historical value of records
- State Department of Audit or designee, for expertise on the fiscal value of records

The committee established under Wyoming Statute 9-2-411 reviews, evaluates, and then approves, modifies, or denies requests to establish records retention schedules. Fundamentally, the committee provides oversight, but does not initiate any actions. You must work with the WSA Records Management Unit to develop all records retention schedules for committee's review and approval.

Wyoming Statute 16-4-202

Wyoming Statute 16-4-202 requires that government records (including electronic records) shall be accessible to the public. Citizens have a right know what the government is doing, and the government must be accountable to the public. However, government agencies create some records that are confidential or sensitive, such as child protection records and adoption records. So, while generally all records are presumed to be publicly accessible, many exceptions exist. Only the Wyoming state legislature and Federal restrictions define these exceptions. Any organization, public or private, that improperly releases data covered by the act could suffer significant penalties.

Uniform Electronic Transactions Act and Electronic Signatures in Global and National Commerce

E-Sign was enacted in 2000, and UETA was enacted in 2001. Both laws intend to facilitate the use of information technology in government and business by addressing the legal obstacles that exist in a system that is oriented towards paper records and signatures.

The primary message of these laws is that a court may not determine that an electronic record or signature is untrustworthy simply because it is in an electronic format. A court can, though, reject electronic records and signatures because a government agency is creating, using, or managing them in an untrustworthy system or manner. One indicator of untrustworthiness would be an agency's failure to comply with the laws governing records.

Guidelines

Because these laws set forth general principles that do not always translate easily into specific technological terms, the WSA has developed a series of guidelines on basic electronic records management topics within the context of these laws.

Purpose of the Guidelines

These guidelines should serve as a starting point and a guide as you review your electronic records management practices and develop an electronic records management strategy. Each set of guidelines provides an overview of key concepts within the applicable legal framework, a section containing questions to spark discussion, and an annotated list of resources to use for more detailed research. We recommend that you begin by reading the chapter *Electronic Records Management Strategy* guidelines for a general introduction to key concepts.