

Records Retention & Disposition

Teri J. Mark, CRM, CPM
State Records Manager
tmark@nevadaculture.org
775-684-3411

Department of Cultural Affairs
Nevada State Library and Archives
Records Management Program
nevadaculture.org

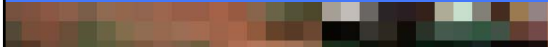




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Why are records needed?

- Business Memory**
 - Provide “memory” of events beyond normal life spans.
- Protect Rights...of Citizens**
 - Entitlement to services and benefits
 - Political Rights
- Protect Rights...of Government**
 - Enforce laws
 - Remain accountable



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NRS Chapter 239

Public Records

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Public Records

NRS 239.010

Public books and public records open to inspection; copyrighted books and records; copies to be provided in medium requested.

1. Except as otherwise provided in subsection 3, all public books and public records of a governmental entity, the contents of which are not otherwise declared by law to be confidential, must be open at all times during office hours to inspection by any person, and may be fully copied or an abstract or memorandum may be prepared from those public books and public records...

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Public Records

NRS 239.010

Public books and public records open to inspection; copyrighted books and records; copies to be provided in medium requested.

3. A governmental entity that has legal custody or control of a public book or record shall not deny a request made pursuant to subsection 1 to inspect or copy a public book or record on the basis that the requested public book or record contains information that is confidential if the governmental entity can redact, delete, conceal or separate the confidential information from the information included in the public book or record that is not otherwise confidential.

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Public Records

NRS 239.0107

Requests for inspection or copying of public books or records: Actions by governmental entities.

1. Not later than the end of the fifth business day after the date on which the person who has legal custody or control of a public book or record of a governmental entity receives a written request from a person to inspect or copy the public book or record, a governmental entity shall do one of the following...

2. The provisions of this section must not be construed to prohibit an oral request to inspect or copy a public book or record.

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Public Records

NRS 239.010

All public books and public records of a governmental entity... Statute does not define public records...

Records are declared confidential in

- NRS & NAC
- Attorney General opinions
- Balancing of interest test

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Confidential Records

Nevada Revised Statutes

- Index <http://leg.state.nv.us/NRSindex/C.html>

CONFIDENTIAL AND PRIVILEGED INFORMATION

Abandoned or unclaimed property, [120A.145](#), [120A.690](#)
 Abatement of taxes for certain businesses, audit reports, [360.755](#)
 Accountancy, Nevada State Board of, [622.310](#), [628.418](#)
 Accountant and client, [49.125-49.205](#)
 Achievement and proficiency examinations (See [SCHOOLS, PUBLIC](#))
 Adoption, [127.007](#), [127.057](#), [127.130](#), [127.140](#)
 Aged persons, [200.5095](#), [200.50982](#), [427A.1236](#)
 Agriculture, Department of, [561.285](#)
 Air pollution control, [445B.570](#)
 Alcohol abuse treatment facilities, [458.280](#)
 Alcohol and drug abuse programs, [458.055](#)
 Alcohol, Drug and Gambling Counselors, Board of Examiners for, [622.310](#), [641C.760](#)
 Animals, diseased, notices to State Quarantine Officer, [571.160](#)
 Appraisers of Real Estate, Commission of, [645C.220](#)
 Arbitration proceedings, orders to protect information, [39.233](#)
 Architecture, Interior Design and Residential Design, State Board of, [622.310](#), [623.131](#)
 Artificial insemination, records concerning, [126.061](#)
 Athletes' agents, information obtained in investigation of, [398.403](#)
 Athletic Trainers, Board of, [622.330](#), [640B.730](#)
 Attorneys, [49.035-49.115](#), [SCR.118](#), [SCR.121](#), [RPC.1.6](#)
 Audiology and Speech Pathology, Board of Examiners for, [622.310](#), [637B.288](#)
 Audits of state agencies, [353A.100](#)
 Banks, [665.075](#), [665.130](#), [665.133](#), [668.085](#)

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Confidential Records

Nevada Administrative Code

- Index <http://leg.state.nv.us/NAC/NAC-index.HTML>

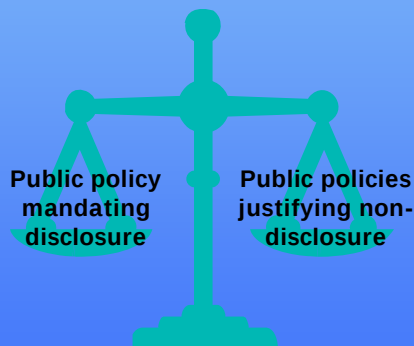
CONFIDENTIAL INFORMATION

Accountants, program to review quality of financial reports, [628.350](#), [628.360](#), [628.420](#)
 Achievement and proficiency examinations, [389.054](#)
 Agricultural loan mediation program, [561.150](#)
 Air pollution, [445B.043](#), [445B.224](#)
 Alcohol, drug and gambling counselors, [641C.425](#), [641C.435](#), [641C.560](#)
 Apprenticeships, complaints concerning equal opportunities, [610.980](#)
 Banks, complaints filed against, [668.010](#)
 Blind Vendors, Nevada Committee for, [426.095](#)
 Cancer registry, [457.060-457.140](#)
 Child care institutions, [452A.460](#)
 Child-placing agencies, [127.200](#)
 Collection agencies, complaints against, [649.310](#)
 Common-interest communities, disclosure of confidential information prohibited, [116.341](#), [116.405](#)
 Court reporters, [656.380](#)
 Credit unions, complaints and related information, [678.220](#)
 Development corporations, complaints filed against licensees, [670.090](#)
 Digital signatures, [720.205](#)
 Disability prescription program, [439.790](#)
 Domestic Violence, Committee on, [228.470](#)
 Domestic violence treatment programs, [228.160](#)
 Drug manufacturers, [585.620](#)
 Economic revitalization and diversification, corporations for, complaints against licensees, [670A.090](#)
 Education, Department of, [395.090](#)

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Confidential Records

The Nevada Supreme Court adopted a
Balancing Test Approach:



If the general public policy mandating disclosure outweighs competing public policies justifying non-disclosure, then the requested information is a “public book” or “public record” within the meaning of the Act.

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Local Government

NRS 239.125

Local governmental records: Program for management; regulations of state library and archives administrator.

1. A local governmental entity may establish a program for the management of records, including the adoption of schedules for the retention of records and procedures for microfilming, which must be approved by the governing body and comply with the applicable provisions of this chapter and any regulations adopted pursuant thereto.

2. *The state library and archives administrator shall adopt regulations to carry out a program to establish and approve minimum periods of retention for records of local governments.* The proposed regulations or any amendment thereto must be submitted to the local government advisory committee, established pursuant to NRS 354.594, for its advice and recommendations.

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Information is
only as
valuable
as it is
accessible!



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Records Management

Records contain information about and evidence of functions, policies, decisions, procedures, operations and other activities of your agency.

A Records Management program manages organizational information so that it is timely, accurate, complete, cost-effective, accessible and person at the right time at the lowest possible cost.

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Why do YOU keep records?

- Required To Do My Job
- My Boss Said Keep Them
- JIC (Just in Case)
- CYA (Cover Your Assets)
- I'm Very Busy
- I love my files!
- *They're MINE!*



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Reasons for Keeping Records

- Support Decisions
- Perform Job Duties and Tasks
- Meet Legal & Governmental Requirements
- Safeguard Vital and Essential Information
- Preserve Organizational Memory

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Common Problems



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Common Problems: *Space*

- Lack of Space
- Too many Records
- Unexpected Growth



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Common Problems: *Retrieval & Access*

- Slow search times
- Difficulty Finding/Accessing
- Critical records lost in non essential
- Untimely Distribution

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Common Problems:
File Security

- Confidential Records Not Protected
- Vital Records Not identified
- Records not Adequately Protected
- Lack of Procedures & Training

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Common Problems:
Excessive Duplication

- Unnecessary Multiple Copies
- Excessive & Uncontrolled Volumes
- Legal Liability

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Common Problems: *Costs*

- Employee Time
- Equipment & Supplies
- Space

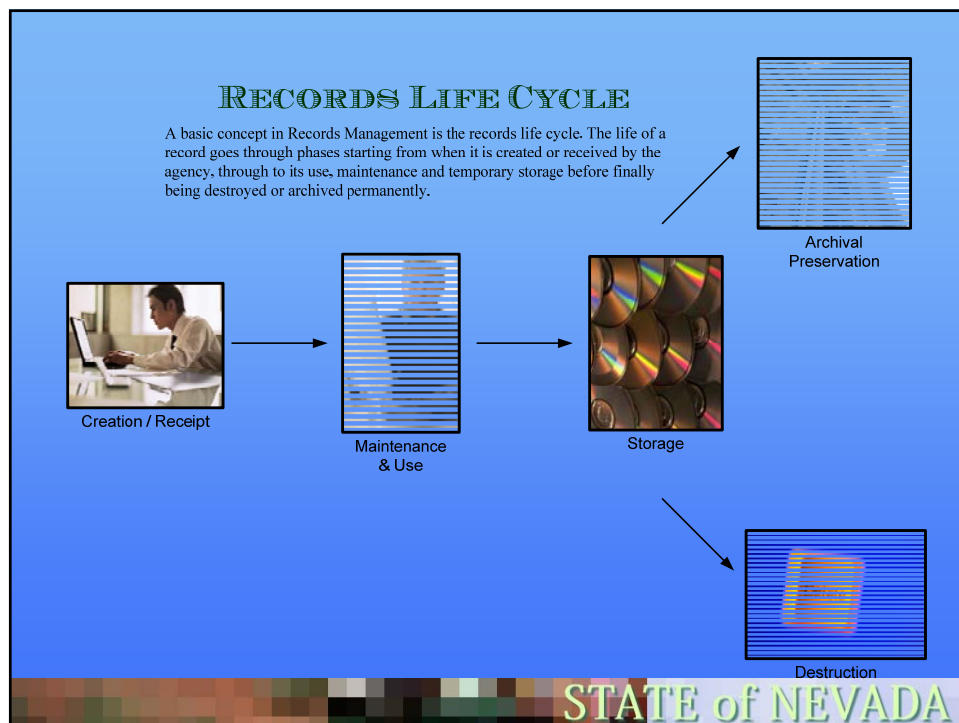
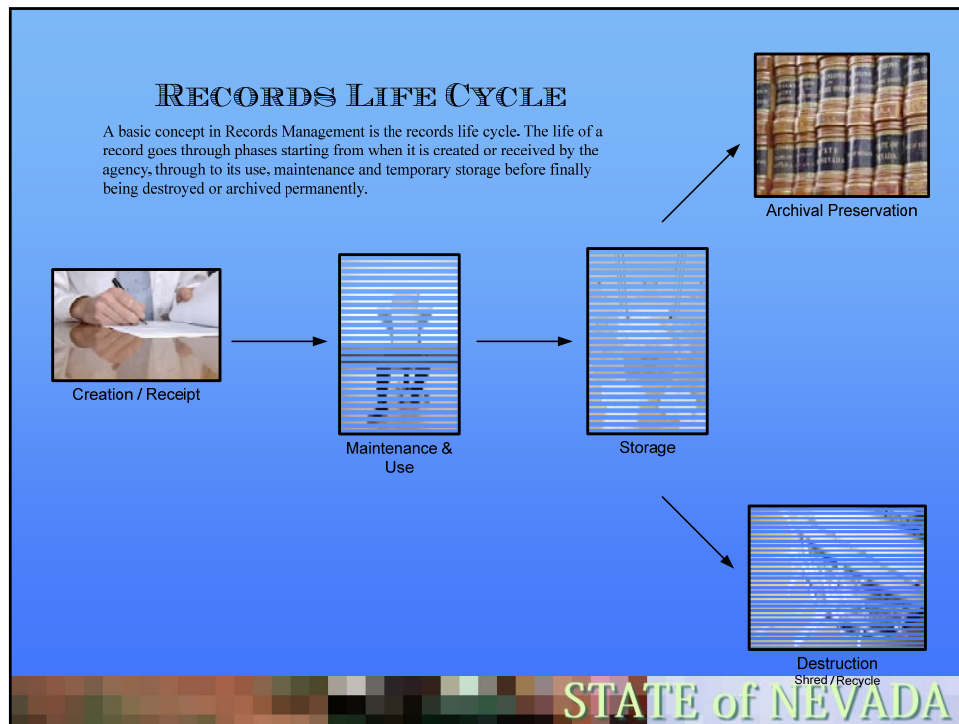


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Solution:
End the Information Bulge



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Records Retention Schedules



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Records Retention

- Review & Analysis
- Define Record Series
- Identify Value

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Records Review & Analysis

- ✓ Describes *what* the record is used for.
- ✓ Describes *what* information or documents are included.
- ✓ Describes *how* the record is used.
- ✓ Describes *how much* volume there is.
- ✓ Describes *how and where* the records are kept.
- ✓ Describes *how long* the office references the records.

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Records Series

- A collection of data, forms, a single or several different documents, that are stored together because of common usage or because they relate to one another.

October 19, 2002
BID 2002-007
Armored Car
Security Bid

The State of Nevada is now
Accepting bids for the
Purchase of 50 armored cars.

Bid Documents

January 2, 2003
Award Notice for
Bid 2002-007

The State of Nevada
awards this contract to
Euro Systems, Inc.

Award Notice

Contract 2002-007
January 15, 2003

The State of Nevada
Purchasing Division
And
Euro Systems Inc.
Bonn Germany

Contract

January 16, 2003
Contract 2002-007
Amendment 001

The Euro Systems Inc.
Will be allowed to paint
The armored cars pink.

Amendments

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Identify Value

- Records are considered to have value for as long as they are useful or are needed.
- When the information is valuable, we place it in a format that we hope will last until the value diminishes.

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The Value of Records

- We find ourselves paying for the storage of records we no longer use and are too cautious to destroy.
- The basic issues we face are: space limitations, cost of storage, and potential liability issues.

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The Value of Records

- ↳ Operational Value
- ↳ Legal Value
- ↳ Fiscal Value
- ↳ Historical Value

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The Value of Records

Operational Value.

These records are necessary for the day-to-day business operations of your office.

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The Value of Records

Fiscal Value.

Document financial actions - document the expenditure of public funds or the fulfillment of financial obligations.

Retention periods are most often determined by audit requirements.

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The Value of Records

Legal Value.

- Document and protect the rights and interests of an individual or organization
- Provide for defense in litigation
- Demonstrate compliance with laws and regulations
- Other legal needs

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The Value of Records

Historical Value

Documents the history of the government - only a small percentage of the total volume.

- Items valuable because of their age or rarity, such as records of the 19th century
- Significant information about persons, places, events, organizations, etc.
- Records that contain authentic evidence of an agency's organization, function, policies, decisions, procedures, operations, or other activities have historical value. These records usually show an agency's origin, its administrative development, and its organizational structure.

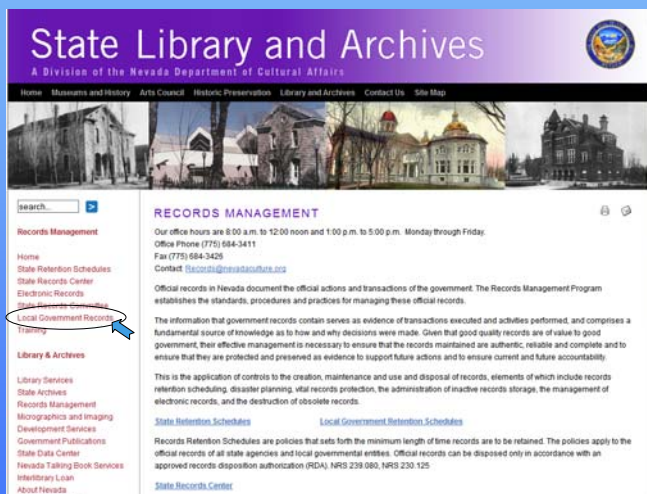
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NSLA

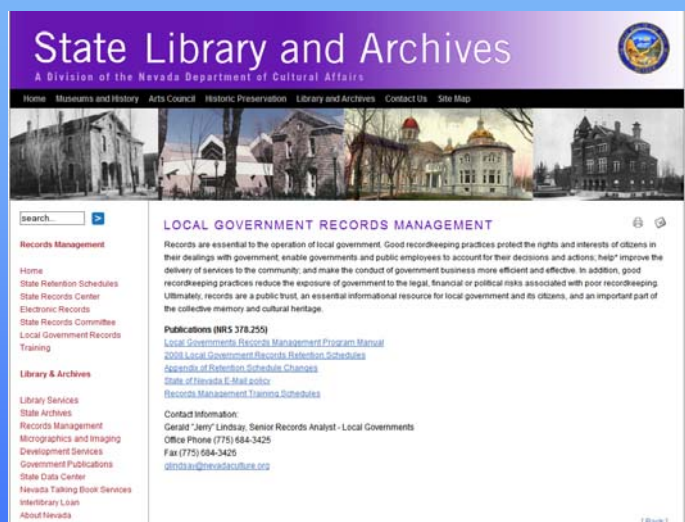


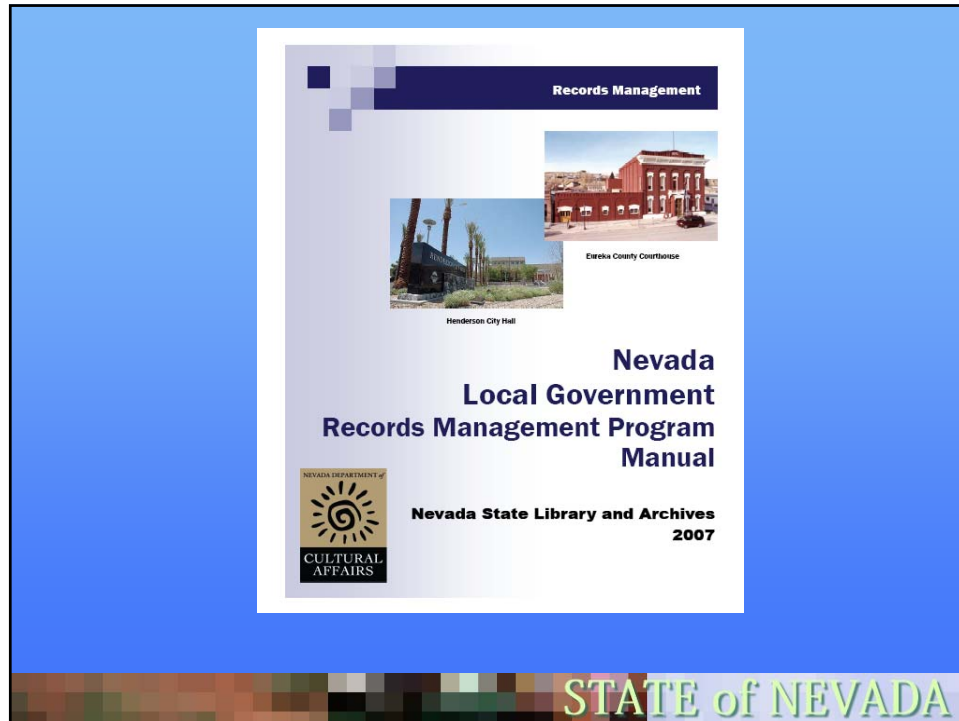
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Records Management



Local Government Schedules





Records Retention Schedules

Local Government

✓ General

Records Retention Schedules

Local Government

General Records Retention Schedules

- A series of records retention and disposition schedules, approved by the Administrator of the State Library and Archives and valid for all local governments. These schedules describe record series that are common throughout local governments.

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Continuing Education Files					LRDA Number 2007-1660
Description	Minimum Retention Period	Legal Citations	Legal Note	Note	
This record series documents continuing education and/or training that may be required for renewal of a professional license or certificate. The files may include, but are not limited to, educational transcripts, attendance rolls, course/workshop documentation, continuing education credit slips, continuing education training forms, related correspondence and similar documentation.	Three (3) calendar years from the end of the renewal period.	42 USC section 405 (c)(2)(C)(viii) NRS 205.4617, NRS 239B.030, NRS 11.190(3)(d), NAC 239.165 (1)(2)	This record series may contain confidential or sensitive information and should be destroyed in a secure manner that will prevent reconstruction of the information, such as by shredding, degaussing, etc. (See NAC 239.165 (1)(2)).	Address public-access issues with your records manager, records management officer, records management review committee, or other custodian of records [NRS 239.121(1)].	
Deferred Compensation Plans - Participant Records					LRDA Number 2007-0306
Description	Minimum Retention Period	Legal Citations	Legal Note	Note	
This record series documents the voluntary participation of individuals in Deferred Compensation Plans. Records may include, but are not limited to, plan selection and application forms, enrollment records, payroll contribution and deduction summaries, personal data records, authorizations, beneficiary information, living trust records, hardship records, change requests, payout estimates, year-end balance reports, distribution reports, correspondence, and related documents.	Six (6) calendar years from the close of the participants account or accounts.	26 USC section 401(a), 26 USC section 457, 26 CFR 1.457, NRS 287.381 to 287.480, NRS 11.190 (1)(b), NRS 11.190 (3)(d), NAC 239.165 (1)(2)	This record series may contain confidential or sensitive information and should be destroyed in a secure manner that will prevent reconstruction of the information, such as by shredding, degaussing, etc. (See NAC 239.165 (1)(2)).	Address public-access issues with your records manager, records management officer, records management review committee, or other custodian of records [NRS 239.121(1)].	
Deferred Compensation Plans - Plan Details					LRDA Number 2007-1285

Administration Section Number C-1001

Board and Commission Volunteer Interest Forms LRDA Number 2007-1553

Description	Minimum Retention Period	Legal Citations	Legal Note	Note
This record series documents requests to be a volunteer on a local government board or commission. Forms often contain name, address, contact information, title of the board or commission, category of interest, conflict of interest statement, related correspondence and similar information.	One (1) calendar year after the year that interest is no longer expressed or contact can no longer be made.	NAC 239.165 (1)(2)	This record series may contain confidential or sensitive information and should be destroyed in a secure manner that will prevent reconstruction of the information, such as by shredding, degaussing, etc. (See NAC 239.165 (1)(2)).	Address public-access issues with your records manager, records management officer, records management review committee, or other custodian of records [NRS 239.121(1)].

Boards, Commissions, Councils, and Standing Committee Records LRDA Number 2007-1533

Description	Minimum Retention Period	Legal Citations	Legal Note	Note
This record series documents the governmental administration, activities, and history of boards, commissions, councils, and committees established by state law, local ordinance, or administrative procedure in the State of Nevada. The records may be used to fulfill zoning, licensing, educational, regulatory, planning, operating, administering, budgeting, and other functions. This series may contain, but is not limited to, original minutes of public and closed meetings, agendas, transcripts, attachments and exhibits, correspondence related to the meetings, announcements, proof of postings, proof of certified mailings, and similar material.	Retain this record series Permanently; or retain for a minimum period of five (5) calendar years from the date of the meeting and transfer the records to one of the facilities described in NAC 239.850 (1)(b), for continued public access and archival preservation.	NRS 241.010 to 241.035, NAC 239.850	The minutes of closed meetings may contain confidential information. See NRS 241.035 (2)(a)(b)(c) for details.	For archival preservation and continued public access, and in accordance with NRS 241.035 (2) and NAC 239.850 (1)(b), the minutes of a public body, including agendas, exhibits and other related records, may be transferred to: The Nevada Historical Society;

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County Recorder Section Number S-1014

Recorded Documents LRDA Number 2007-0517

Amended August 28, 2008

Description	Minimum Retention Period	Legal Citations	Legal Note	Note
This record series documents all records recorded by the County Recorders office and may include, but is not limited to, Deeds, Trust deeds, Mortgages, Maps and plats, Certificates of marriage and marriage contracts, Mining records, Military records, Wills admitted to probate, Official bonds, Notice of mechanics' liens, Transcripts of judgments, Certificates of delinquency, Affidavits of labor (patented mines), Notices of attachment upon real estate, Notices of the pendency of an action affecting real estate (such as title or possession), Redemption certificates, Instruments describing or relating to the separate property of married persons, Notice of preemption claims, Certificates of sale, Judgments or decrees, Declarations of homestead, Appointments and Oaths of Deputy Sheriffs, and all other documents required or permitted by law to be recorded. This series also includes all indexes to this record series.	Permanent.	NRS 247.110 to 247.150, NRS 375.060, NRS 375.120 to 375.200, NRS 239B.030	This record series may contain confidential, restricted, or sensitive information. Address public-access issues with your records manager, records management officer, records management review committee, or other "custodian of records" [NRS 239.121(1)].	None

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Records Retention Schedules

Establish controls to ensure that retention schedules are followed.

- Do not cherry-pick records to keep or to destroy.
- Follow standard routines.
- Periodically audit records to ensure compliance with retention schedules.

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Records Retention Schedules

Periodic Review and Update of Retention Schedules

- Keep retention schedules up to date.
- Check RDA number for year created.
- Review at least every 5 years.

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Extra Copies of Records

Don't Fall into a Trap!



Discovery

Although destruction authorization is not legally required, it is *advisable* to:

- o Destroy extra copies immediately in accordance with the schedule.
- o Maintain only those copies that are current and necessary.

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In an office that doesn't have a records retention program, typically...

- 30% of the records can be transferred to the Records Center.
- 30% can be destroyed.



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Active & Inactive Files



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Active & Inactive Files

- Active files should be kept separate from inactive files.
- When a file becomes inactive, physically remove it from the rest of the active files.

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Active & Inactive Files

File Break

- The event date where existing file folders are closed and new file folders are opened.
- Also known as *Cut-Off*.

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Active & Inactive Files

File Break

- Fiscal records are cut off at the end of the fiscal year. A new file is set up for the new fiscal year.
- Calendar folders are cut off at the end of the year, e.g., new correspondence file is created at the beginning of each year.
- Contracts are cut off when the contract is terminated.

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Active & Inactive Files

File Break

- Investigative types of case files are cut off when an administrative decision is made to transfer the case to litigation or administrative action, or it is no longer justified to continue action.
- Program case files are cut off when the individual or group fails to reinstate, is suspended, or otherwise is disqualified.
- Personnel files are cut off by termination date.

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Records Destruction



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Records Destruction

Disposition Holds

- Audit.
- Investigation.
- Litigation.



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FELONY

A public officer or employee guilty of destroying public records without lawful authority may be imprisoned for up to five years, and levied a fine of up to \$10,000*.

NRS 239.300-320

*A category C felony NRS 193.130

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Records Destruction



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Records Destruction

Confidential Records

Local Government NAC 239.165 (1)

To protect the confidentiality of records of local governments that are declared by law to be confidential, such records must be destroyed in accordance with the applicable schedule:

- By shredding in a manner that ensures the information cannot be reconstructed;
- By burning if allowed by federal, state and local regulations; or
- As required by the laws, regulations, established standards, policies and procedures of the State or Federal Government.

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Records Destruction

Confidential Records

Local Government NAC 239.165 (2)

An electronic record must be destroyed in accordance with:

- The applicable schedule in a manner which ensures that the information cannot be retrieved or reconstructed, including, without limitation, overwriting, degaussing and the physical destruction of the storage media; and
- The established standards, policies and procedures of the Information Technology Strategic Planning Committee or its successor.

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Records Destruction

Confidential Records

Local Government NAC 239.165 (3)

All copies of a record must be destroyed at the same time without regard to the type of media used for the physical storage of such record.

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Records Destruction

If the records are not confidential, restricted or sensitive, you may toss or recycle.

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Video



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Electronic Mail



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Electronic Mail

Challenges

- An e-mail system is a communication system, not a recordkeeping system

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Electronic Mail

Challenges

- Using un-secure e-mail accounts to send and receive sensitive information
- Thinking that an erased e-mail is gone forever
- Not recognizing “phishing” attacks in e-mail content
- Failing to encrypt important e-mails
- Forgetting the telephone option
- Not using the Blind Carbon Copy (BCC) option
- Being trigger happy with the "Reply All" button

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Electronic Mail

Is this e-mail an Official Record?

- ✓ Decision making
- ✓ Financial and business analysis, forecasting and reporting
- ✓ Customer service
- ✓ Human resources management
- ✓ Compliance with federal and state laws and regulation
- ✓ Protection of the agency's legal interest.

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Electronic Mail

Non-Record E-mails

- Information-only copies of memoranda or attachments
- Notes of a transient nature having short-term value, such as meeting notices
- Drafts or copies of documents
- Social notices, such as invitations
- Personal messages
- E-mails that do not document official business

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Electronic Mail

Clearly defined policy and procedures

- Require a clear policy on managing e-mail
- Supported by administration
- Address issues and more,
 - e.g. appropriate/inappropriate e-mail messages, responsibility for records etc.

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Electronic Mail

E-Mail Retention Management Policy Considerations

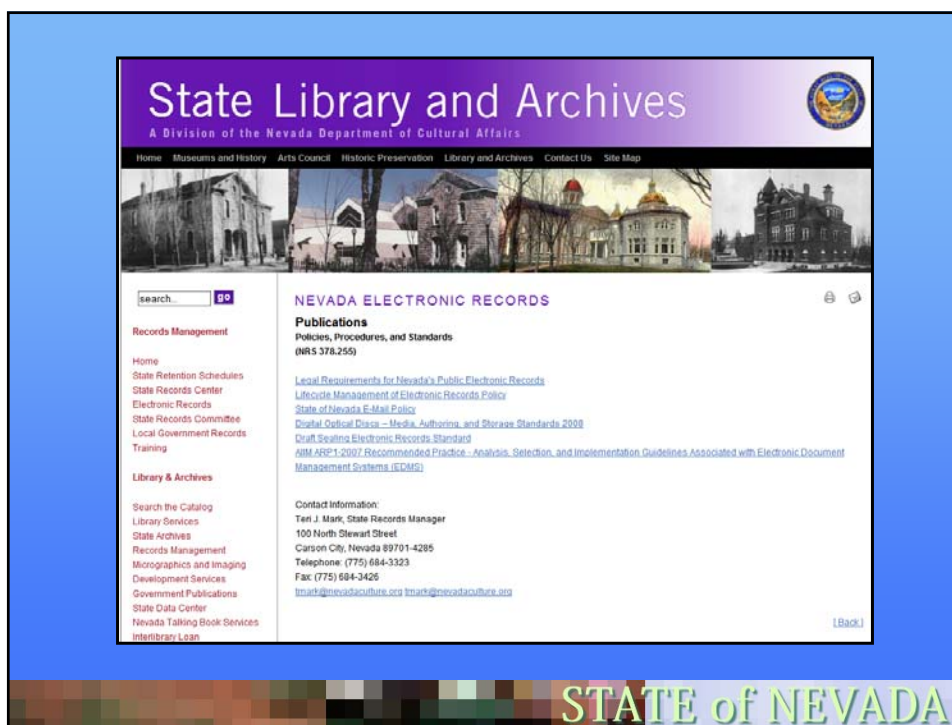
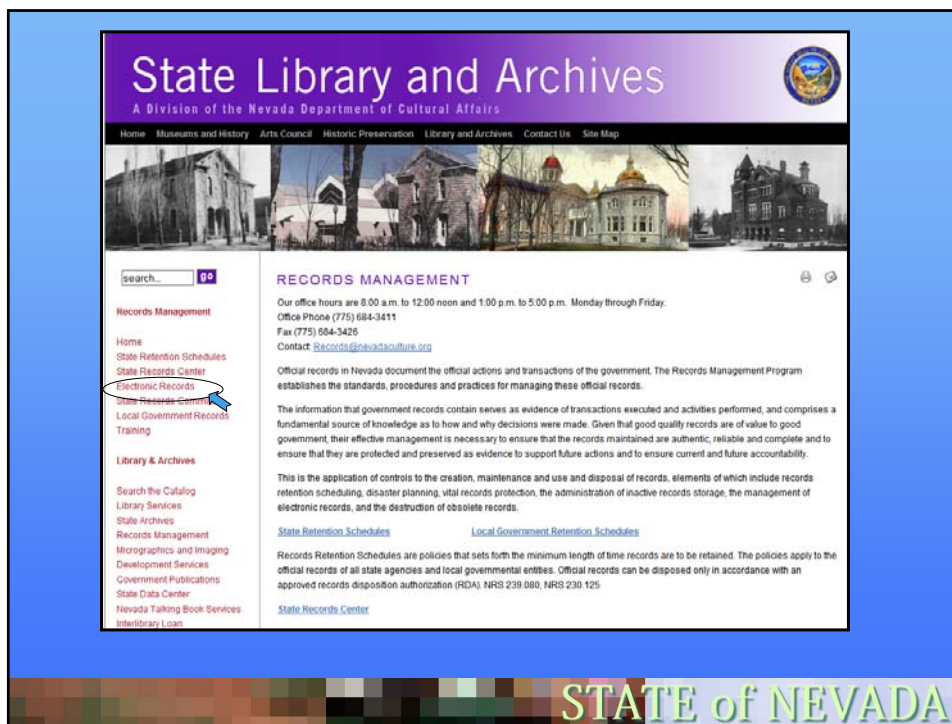
- Retention of e-mail is based on content
- E-mail should not be retained unless there is a reason to do so
- E-mail records should be retained outside the messaging system
- E-mail retention should follow established records retention policies and procedures to determine retention periods for e-mail records
- E-mail management should be part of an employee's regular work routine

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Electronic Mail

Policy on Defining Information Transmitted via E-mail as a Public Record

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Electronic Mail

Retention Recommendations

- Non- record material
- Retain E- Mail “official records”
 - Assign RDA code plus retention period and store in electronic filing system, or
 - Print and store in paper file

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Electronic Records



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Electronic Records

Issues

- Electronic formats are replacing paper as the medium for communication and transactions
- Records that are indispensable for documenting citizens' rights, the actions of government officials, and the state's history will be lost without effective technology for preserving and providing access to them.
- Electronic records, no less than those in traditional forms, are critical for the effective functioning of government

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Electronic Records

Electronic Record Formats

- Text Format
- Database Format
- Electronic Mail Format
- Voice Mail Format
- Electronic Publications Format
- Graphics Format

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Electronic Records

New Security issues

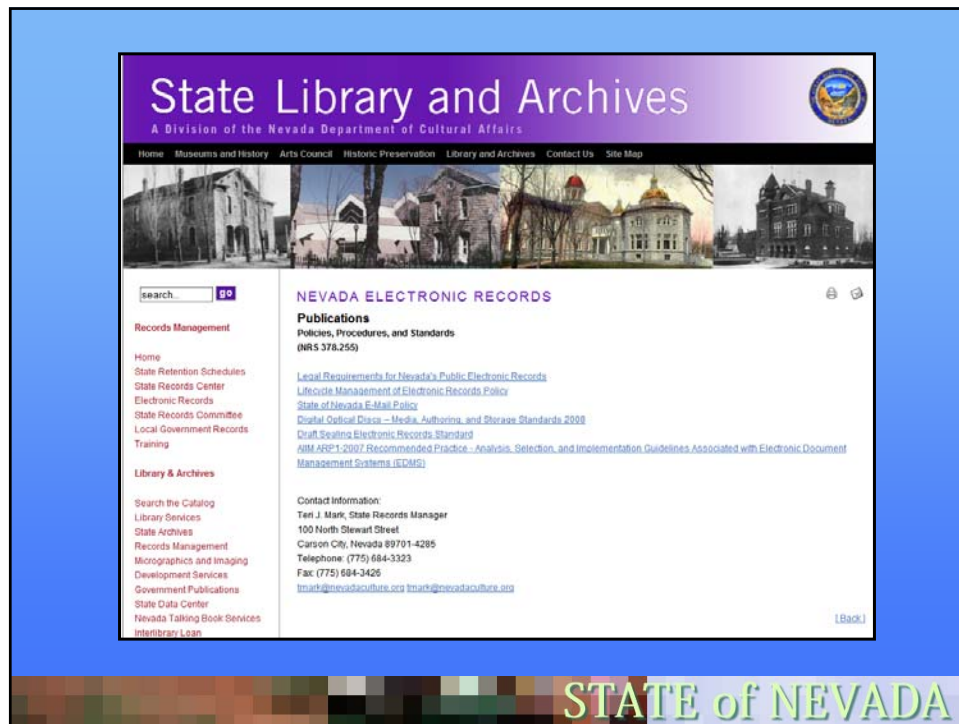
- Desktops
- PDAs
- Blackberries
- Personal laptops
- Cell phones

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Electronic Records

Legal Requirements for Nevada's Public
Electronic Records 2005

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New Records Management Technologies

A good records management program provides an organization with the capability to adapt new technologies. Investments in electronic records won't solve filing problems unless the current system is analyzed and, if necessary, overhauled.



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Electronic Records

Long-Term Retention

- Media migration
- Software / Format migration
- Technology migration
 - Active: electronic
 - Inactive: microfilm

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The Leader in Records & Information Management

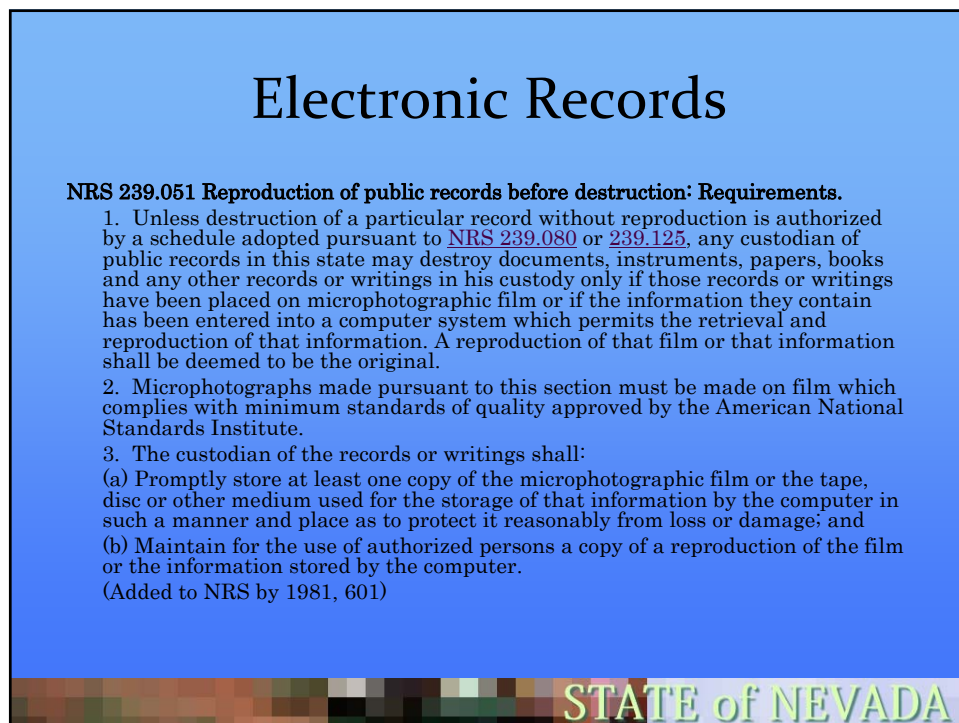
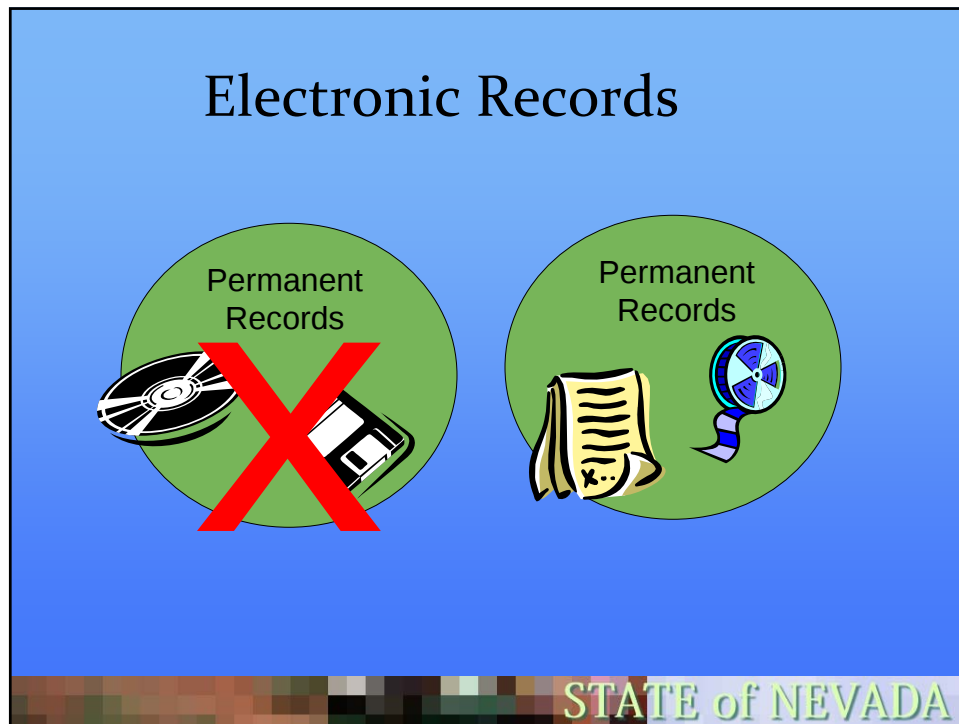
Backup vs. Digital Archiving At A Glance

	Backup <i>Recent Copies of Data</i>	Digital Archiving <i>Official Semi-active or Inactive Records</i>
Purpose	Designed for recovery of lost data and systems, disaster recovery.	Designed to preserve information as reference records or evidentiary quality records.
Risk management	Mitigate risk of system crash or data corruption, including loss of entire data center, etc.	Mitigate risk of litigation; ensure regulatory compliance.
Storage Architecture	Off-line (e.g., tape), and off site.	Combination of online, nearline and offline.
Access	Variable frequency, highly urgent and unpredictable. Access at the system or application level.	Frequent for recent archives. Infrequent for non-urgent and unpredictable for older records. Access requirements can span years or decades. Access at the file or record level.
Security	Mixed (best will have security at the backup set level). Access for servers, mid-range computers and mainframes by systems administrators or IT personnel. Access for PCs by individual users.	Archive-level security (use login/password) and record-class-level security. Access by departmental or functional personnel.
Indexing	Indexing at the system/backup date level to help restore, not at the record level.	Indexing at the record level to help retrieval.
Audit & Compliance	Compliance requirements for disaster recovery. Document backup, rotation (if tape is used) and recovery processes.	Compliance requirements for archiving. Capture history of access and use.
Retention	Copies can and should be destroyed when superseded. Designed for short-term retention.	Needs to be kept for required retention. Utilizes retention management tools. Designed for long-term retention.

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<http://www.ironmountain.com/dataprotection/resources/backup.pdf>

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Conclusion

- Provide written policies that address retention.
- Train employees on policies.
- Ensure that staff use the retention schedule and that the management of public records is systematic & routine.
- Continually monitor for compliance to the policies.

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Records Management

775-684-3411

Department of Cultural Affairs
Nevada State Library and Archives
nevadaculture.org



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