

The background of the slide is a photograph of a large stone sign for The University of North Carolina at Charlotte. The sign features a brick tower on the left with the text "Founded 1946" and a larger brick tower on the right. The main sign reads "The University of North Carolina at Charlotte". The entire image has a dark teal overlay.

From Chaos to Control: Taming the Wild World of High Education Records with a Dash of Public Records and FERPA

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Agenda

Records Management

- The 5 W's
- Legal requirement and Compliance
- Public Records Overview and Basics
- FERPA Overview and Basics
- Best Practices
 - What is process?
 - Who is responsible for archiving?
 - Where do I start?

Records Management Scenarios



The 5W's of Retention Schedule?

Who: Any agent of NC Government

What: "...all records created or received in the course of University business, in whatever format"

Why: NCGS Chapter 132 ([Public Records](#)) and 121 ([Archives](#))

When: Refer to Record Schedule

Where: Your unit or University Archives



What is the “University Records Retention Schedule?”

- Schedule is an agreement between the UNC System and Department of Cultural Resource (DCR)
- A tool for faculty and staff in the University System to use when managing the records in their offices or units.
 - Lists types of records commonly found in offices
 - Provides disposition of records (when and if the records should be destroyed)



Why do we have a Records Retention Schedule?

- Security and Compliance
 - ✓ Provide security features (e.g. access controls, audit trails, protects sensitive information)
 - ✓ Ensures regulatory requirements are met
- Disaster Recovery
 - ✓ Electronic document storage provides easy backups and recovery
 - ✓ Protects valuable information from disasters (e.g. floods or fires)
- Environmental Impact
 - ✓ Reduction of paper provides environmental sustainability (less paper = reduces waste)
- Collaboration
 - ✓ Software systems allows multiple users to access work on projects simultaneously (working hybrid or remotely)



Example of Record Retention Schedule



- Description of the record
- Retention period and trigger
- Disposal

1. ADMINISTRATIVE RECORDS			
Series #	Records Series Title and Description	Disposition Instructions	Citation
1.39	<p>SPEECHES, STATEMENTS, AND ADDRESSES Records documenting speeches, statements, addresses, and presentation written and delivered by University faculty and staff in connection with University business. Includes final copies, audio and video recordings, and working papers.</p>	<p>a) Transfer recordings and final copies to University Archives after 5 years. b) Destroy in office remaining records when reference value ends. ± University Policy: Destroy after _____</p>	
1.40	<p>STAFF AND FACULTY MEETING RECORDS Records documenting staff and faculty meetings. Includes agendas, minutes, reports, and other related records.</p> <p><i>See also: Faculty Governance Records (page 7, item 1.19)</i></p>	Transfer to University Archives after 5 years.	
1.41	<p>STRATEGIC PLANS Records documenting systematic planning for the University. Includes business plans, goals and mission statements, and strategic plans.</p> <p><i>See also: Policies and Procedures (page 9, item 1.25)</i></p>	<p>a) Transfer goals, mission statements, and strategic plans to University Archives when superseded or obsolete for appraisal and final disposition. b) Destroy in office business plans 2 years after execution of plan.</p>	



What are “Public Records”?

ALL DOCUMENTS OF ANY TYPE “REGARDLESS OF PHYSICAL FORM OR CHARACTERISTICS...MADE OR RECEIVED IN THE CONNECTION WITH THE TRANSACTION OF PUBLIC BUSINESS BY ANY AGENCY OF NORTH CAROLINA”. (NCGS §132-1 (A)).

NOTE: UNC CHARLOTTE IS CONSIDERED A STATE AGENCY

DISPOSITION OF RECORDS ARE GOVERNED BY NCGS §121 (ARCHIVES & HISTORY) AND (PUBLIC RECORDS ACT)



Types of Records



Correspondence



Maps



Sound Records



Photographs



**What about records on my computer at home?
Are they public?**

Yes...remember “regardless of physical form or format”. Any record generated in the conduct of university business is considered a public record.



How do I know if I have any “public records”?



- Yes, almost all University records are public property and constitute a record of public acts.
 - ✓ Nearly all positions generate, receive or use records.
 - ✓ Computer files, including drafts and emails, are public records.
 - ✓ Not all records have historical, legal or fiscal value – regardless all records **MUST** be destroyed or archived in accordance with our records retention schedule and provisions of NCGS 121-5(b).



What about electronic records?



Scanning documents does not automatically permit units to destroy the original hardcopies. You should not destroy documents until an imaging policy is in place



All University employees are responsible for ensuring that they comply with applicable University Policies, including UP 605.3 (Retention, Disposition, and Security of University Records)



State law requires that we have an imaging policy to address issues, such as:

- security of scanned files,
- period quality control audits
- efficient and organized indexing
- other criteria may be required



*Contact Public Records Officer or University Archivist



What about emails?

- First look at the Records Retention and Disposition Schedule
- Content determines record series
 - Permanent (lasting historical value such as creation of policy or provide guidance)
 - Long-term (significant value but not permanent in nature)
 - Short-term (junk mail, unsolicited emails, confirmations)

Note: Author or creator of email is responsible for maintaining the “record” copy UNLESS message was altered by recipient or coming from outside the agency.



What about Confidential University Records?

- Not all records are open for inspection
- University must protect confidential and sensitive information from:
 - Accidental or unauthorized access, modifications, disclosures or destruction
- Types of confidential and secured records:
 - Personnel records (University Policy 311)
 - Student records (University Policy 402)
 - Data and Information Security (University Policy 311)
 - Privacy and Confidential of Individually Identifiable Health Care Information under HIPAA (University Policy 605.2)



What about drafts...Guidance from Schedule?

Still considered public records...however, drafts and working documents that may be destroyed after final approval that include:

- Drafts and working papers for internal and external policies
- Drafts and working papers for internal administrative reports, such as daily and monthly activity reports;
- Drafts and working papers for internal, non-policy-level documents, such as informal workflows and manuals; and
- Drafts and working papers for presentations, workshops, and other explanations of agency policy that is already formally documented.”



What are some exclusions from Public Records Act?

- Individual Faculty and Postdoctoral Fellow Papers
 - Considered property of the faculty member or postdoctoral fellow
 - Personal research, participation in a professional organization or consultant work
 - ****Syllabi******
- Associated Entity Records
 - Defined by North Carolina Board of Governors (600.2.5.2)
 - Considered “private organizations”
- Other Records
 - Criminal investigations
 - Certain sensitive public security information
 - Containing specific details of public security plans/drawings
 - Certain attorney-client communications
 - Trade secrets



What if there is a “Legal Hold”?

“Litigation holds” are issued and enforced due to certain circumstances, usually when there is a pending or threatened litigation



You are required to suspend normal and routine destruction of records regardless of the established record retention and disposition schedule



Upon notice you are required to:

Immediately suspend deletion of relevant records

Preserve any electronic records generated OR received after receipt

Preserve hard copies of documents under your control

Receipt MUST acknowledge receipt

You MUST continue to monitor compliance



Violation of Legal Holds

- It is against the law to destroy, alter, withhold, or obscure “evidence” once a legal hold has been initiated
- This is called “spoliation”



Student Records – “FERPA Records”

- Family Educational Rights and Privacy Act (FERPA) rights belong to a University student (even if under 18)
 - Including early college high school students who are enrolled in University classes
- University Policy 402, Student Records – explains how FERPA applies on our campus
 - <http://legal.uncc.edu/policies/up-402>



What is an Education Record?

- Information that is **directly related** to the student and **maintained** by the University
- Format does not matter (handwritings, electronic data/email, film, audio tapes, photographs, grades, papers, etc.)



What is an Education Record?

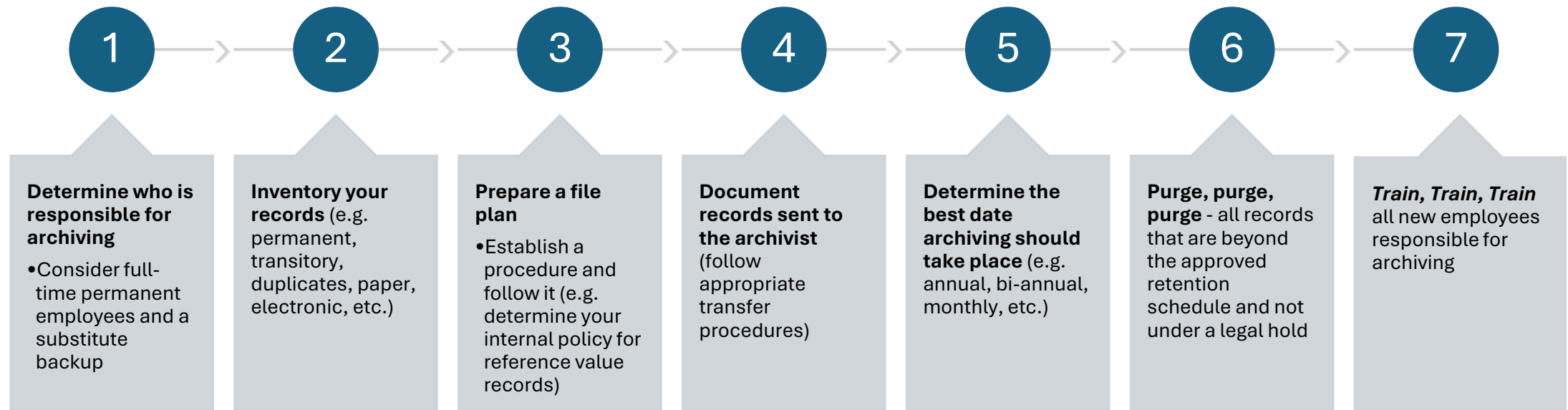
- Examples include:
 - Student's Name
 - Grades, schedules, disability status, etc.
 - Home address, social security number, etc.
 - Student ID number
 - Emails, text messages, or other communications with students (or about students)
 - Notes you take about a student
 - Anything in your possession that relates to the student!



What are the Four Main Values of a Record?



Records Management Flow Chart



The Role of a Records Officer/University Archivist



Oversees records management for the institution



Identify, collect, preserve, and make available the permanently valuable and historical records of the University



Implement the retention, disposition, and security of university records



Promote guidelines and procedures for handling university records



Provide record center services for some university offices



Okay, so where do I start?



Categorize records?

What type of record is it? (personnel, policy, curriculum, student information, financial, etc.)



Who created the record? Who is responsible for it?

Records not created by your office may not need to be kept



What is the retention and disposition? Review your records against schedule



Does it go to the Archives?

Determine whether permanent or transitory



Auditing Records

Implement your plan

Check-in on the plan—is it still working for your office? Modify if needed!

Review annually

Review for legal holds and archival/permanent records

Purge redundant, obsolete, and transitory records (ROT)

Transfer permanent records to University Archives



Example of Classifying Records



Record Series	Description	Disposition
1.3	Administrative Records (internal bulletins, memos, holiday invites, etc.)	Destroy in office when superseded or obsolete.
1.40	Staff Meeting Minutes	Transfer to University Archivist after 5 years.
1.46	Travel Requests	Destroy in office after 3 closed fiscal years.
10.39	Recruitment Records (ads, notices, employee listings)	Destroy in office after 1 year
LEGAL HOLDS	CASE NAME/SUBJECT	DO NOT DESTROY UNTIL RELEASED



Example of Destruction Log



Destructions Log

Agency			
Division	Section	Branch	
Location(s) of Records			

Records Series	Required Retention	Date Range	Volume (file drawers or MB)	Media (Paper, Electronic)		Date of Destruction	Method of Destruction	Authorization for Destruction
				P	E			

Definitions

Transitory record – records that have little or no documentary or evidential value and do not need to be set aside for the future (meeting invites, routing slips, transmittal sheets, etc.)

Reference value – a record held by an office for its own reference and not the official record for the University that hold limited value, typically documenting routine operations within the office (templates, instruction manuals, newsletters, etc.)

Record series – a group of records that are related (personnel files, student files, contracts, business correspondence, financial statements, etc.)

Retention period – length of time a record should be kept before disposing (ex.: transfer to university archivist after 5 years)

Disposition – what happens to a record when it is no longer needed for current University business (3 steps: review, archive, destroy)



Scenarios



Scenario #1

The office is transitioning to a new contact center for their phone system which allows for recorded calls. Their previous phone system is set to expire today. They have phone recordings with their former vendor that date back up to 3 years. They asked the vendor if they can retain the recordings to comply with the university record retention policy. The vendor said that it would be an unrealistic cost for the them to retain. What questions should be considered before responding?

1. What are some potential issues if they cannot retain these records?
2. Are these considered voicemail messages?
3. Would these records be considered transitory?

Scenario #1- Discussion

It depends...these records may fall under two categories:

Series 7.20 applies to voicemail records – may not be the exact record.

7.20	VOICE OVER INTERNET PROTOCOL (VoIP) RECORDS Records documenting VoIP services provided at the University. Includes line registrations, call logs, and voicemail records.	a) Destroy in office line registrations when superseded or obsolete. b) Destroy in office call logs after 1 year. c) Destroy in office voicemail records after 30 days.
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Series 12.2 deals with correspondence related to academic services.

12.2	ACADEMIC SERVICES REQUESTS Records documenting requests for information received and/or processed by the Registrar's office. Includes student transcript requests, enrollment certifications, and degree verifications.	Destroy in office 1 year after date received.
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If the office is concerned, then a one (1) year retention seems appropriate in this case.

** When in doubt, please consult with your university archivist.




Scenario #2

Joe is clearing out his file cabinets. He came across old research misconduct investigation files. The records include faculty notes and final committee letters. The records date back 8 or 9 years. Before Joe begins shredding them, he thought he should check to see if there are any reasons to keep these documents. What questions should be considered before responding?


1. Are these research misconduct files related to faculty members' alleged misconduct? Or student research violations?
2. Are these grant-funded research misconduct records?
3. What record series would apply?

Scenario #2- Discussion

If they are employee complaints, they may fall under 10.1 (unless it related to violations of terms of a grant)

10. PERSONNEL RECORDS			
Series #	Records Series Title and Description	Disposition Instructions	Citation
10.1 	<p>ADMINISTRATIVE INVESTIGATIONS Records related to investigations of conduct problems among agency personnel. Includes complaints, investigation reports, disciplinary actions, and other related records.</p> <p><i>See also: Personnel File (page 63, item 10.35)</i></p>	<p>a) Destroy in office complaints lodged against personnel that are resolved without an internal investigation 3 years after resolution.*</p> <p>b) Destroy in office complaints lodged against personnel that are exonerated 5 years after final disposition.*</p> <p>c) Destroy in office complaints lodged against personnel that are settled out-of-court 5 years after final disposition or expiration of relevant statute of limitations.*</p> <p>d) Destroy in office records of sexual harassment investigations after 7 years.</p> <p>e) Transfer internal affairs case records to individual Personnel File when complete.</p>	Retention: 34 CFR 106.45(b)(10)


If they are student misconduct, they may fall under 12.14

12.14 	<p>DISCIPLINARY RECORDS (ACADEMIC) Records concerning disciplinary actions brought against students for academic infractions. Includes charges, evidence, transcripts, recordings, summaries, appeals, correspondence, and other related records.</p> <p><i>See also: Disciplinary Records (Non-Academic) (page 93, item 17.2)</i></p>	<p>a) Destroy in office documents from expulsion cases 75 years after final action.</p> <p>b) Destroy in office 8 years after settlement/hearing documents from non-expulsion cases.</p>	Confidentiality: 20 USC 1232g (FERPA)
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Scenario #2- Discussion

After consulting with the public records officer and university archivist, it was determined that these records related to grant-funded research misconduct records:

Series 6.3


6. GRANTS AND RESEARCH RECORDS			
Series #	Records Series Title and Description	Disposition Instructions	Citation
6.3 	COMPLAINTS, DEVIATIONS, AND VIOLATIONS Records documenting complaints related to a specific study or principal investigator under review by the Office of Human Research Ethics (OHRE). Includes complaints, correspondence,	Destroy in office 3 years after conclusion of study or resolution of complaint, whichever is longer.*	Confidentiality: G.S. 126-22 20 USC 1232g

Scenario #3

Terri is the secretary of the Faculty Council. She has meeting minutes dating back to January 2019. She's running out of space on the shared drive. What record series do these fall under?

Scenario #4

3 years ago, Tom chaired a search committee for an executive assistant position. Tom is now going through his files and came across this search committee folder. He wrote down the record series on the folder with a note “10.42 Record Series”.


<p>10.42</p> 	<p>SEARCH COMMITTEE RECORDS Records pertaining to the evaluation of candidates for a position. Includes forms, interview notes, policies, reports, charges, rosters, minutes, ballots, correspondence, and other related records.</p> <p><i>See also: Applications for Employment, page 55, item 10.4.</i></p>	<p>after separation and/or withdrawal from the plan.</p> <ul style="list-style-type: none"> a) Transfer pertinent materials of successful candidates to individual Personnel File immediately after official offer of employment is accepted. b) Destroy in office remaining records pertaining to successful candidates 3 years after the position is filled. c) Destroy in office application materials of unsuccessful candidates and all remaining records 3 years after the position is filled.*
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Scenario #4

There were 4 unsuccessful applicants. The search committee folder contains their interview notes, resumés, and cover letters. What can Tom do with these records? Note: These records date back to 3 years ago.

- a. Transfer the records to the University Archivist
- b. Send the records back to the unsuccessful applicant
- c. Shred the records and add to your destruction log
- d. None of the above



<p>10.42</p> 	<p>SEARCH COMMITTEE RECORDS Records pertaining to the evaluation of candidates for a position. Includes forms, interview notes, policies, reports, charges, rosters, minutes, ballots, correspondence, and other related records.</p> <p><i>See also: Applications for Employment, page 55, item 10.4.</i></p>	<p>a) Transfer pertinent materials of successful candidates to individual Personnel File immediately after official offer of employment is accepted.</p> <p>b) Destroy in office remaining records pertaining to successful candidates 3 years after the position is filled.</p> <p>c) Destroy in office application materials of unsuccessful candidates and all remaining records 3 years after the position is filled.*</p>
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Questions?

