

SUNSHINE ADVISORY

A Bulletin on Iowa Open Meetings and Public Records Laws
By Attorney General Tom Miller – February 2004

Toss, Delete or Save? When should public bodies retain records?

Public officials at all levels of government in Iowa face the daily task of deciding which records they need to save and store, and which records they can toss, delete or shred. With the expanding use of e-mail and other forms of electronic records, the issue is more complex than ever of what records governmental officials should retain. **What paper or electronic records can public officials toss or delete? What records should public officials preserve?**

Record retention policies for most state agencies are guided by the State Records Commission, a state agency specially formed to help agencies manage, archive and preserve their records. The Commission publishes a Records Management Manual for state agencies that establishes retention policies for different types of records. State law does not specify retention policies for counties, cities or other local governmental bodies; however, the Commission can provide advice and counsel.

Guidelines for public officials on whether to toss, delete or save a record:

- *Decide how best to classify the record.* For example: Is the record an agency's official policy statement on matters of historical significance -- or just a message to return a telephone call? The former should be archived permanently, but the latter has only fleeting importance.
- *Don't be swayed based on the form of the record.* For example, if an agency's official policy statement on matters of historical significance is contained in e-mail, it should be subject to the same treatment and preserved as if it were created as a paper record.
- *Dispose of a record only as authorized.* State law prohibits records from being "mutilated, destroyed, transferred, removed, or otherwise damaged or disposed of . . . except as provided by law or by rule." (Iowa Code sec. 305.13) Compliance assures that archived records are accessible to the public.

Sound records management policies are critical to good government. Public officials should assure that all employees are familiar with record retention policies to preserve important records for future generations.

Citizens who have inquiries or complaints about public records or open meetings may call the Iowa Citizens' Aide/Ombudsman Office – toll-free at 888-IA-OMBUD (888-426-6283.) "Sunshine Advisory" bulletins provide information on Iowa's public records and open meetings laws – our "Sunshine Laws." The bulletins are a resource for public officials and citizens. Local officials should obtain legal advice from their counsel, such as the city or county attorney.