



Electronic Record Retention Issues for Schools

Paul Taylor
TASB Risk Management Services
Division Director
Risk Management Legal & Regulatory Affairs



Important Background Information


- The Public Information Act
 - Controls access to governmental information
- Records Retention Schedules
 - Control retention and destruction of governmental records
- Electronic Records
 - Retained and released based on content



Page 1


E Discovery Rules under the FRCP

- Preserve documents related to potential claims
- Spoliation penalties for failing to preserve documents
- Safe Harbor if:
 - routine destruction
 - in good faith
- Adopt and follow litigation hold procedures



Retention of Electronic Records


- State Library and Archive Retention Schedules
 - E record retention based on content
 - Official copy vs. convenience copy
 - E records may include records created on:
 - Home computers
 - Other personal communication devices



Pages 3 - 4

E-mail Retention Procedures


- Option 1: Keep all records
- Option 2: Adopt the State Agency model
 - » Sort, Save, and Delete
- Option 3: Develop a Local Procedure
 - » Sort Some, Save Some



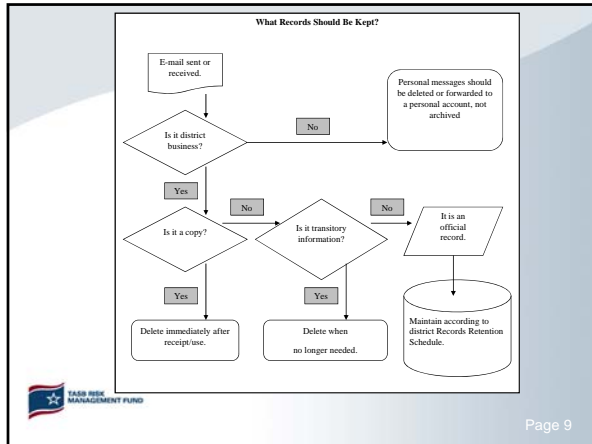
Pages 5 - 9

Implementing the State Agencies' Model Plan

- Individual Responsibility
 - Sort record e-mails into folders
 - Delete transitory e-mails
- Sender sorts internal e-mails
- Receiver sorts external e-mails
- Personal e-mail should be forwarded or deleted



Pages 5 - 9



- ### Penalties
- Penal Code: Unauthorized destruction of a record
 - Class A misdemeanor: Destruction of records outside of the retention schedule
 - PIA offense: Failure to give access to public information
- The TASB Risk Management Fund logo is in the bottom left, and 'Page 10' is in the bottom right.

- ### Other Sticky Situations
- Texting
 - Voicemails
 - Instant Messages
 - Record Retention specialists are currently developing standards for when and how to archive these records
- The TASB Risk Management Fund logo is in the bottom left.

