



State of New York

DEC 14 2010

Department of State  
Secretary of State

State of New York  
Executive Chamber

STATE OF NEW YORK  
DEPARTMENT OF STATE  
FILED

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MISCELLANEOUS  
& STATE RECORDS

No. 42

EXECUTIVE ORDER

**ESTABLISHING AN EXECUTIVE CHAMBER RECORDS MANAGEMENT POLICY**

WHEREAS, there is great historic and educational value in many records and communications of the Executive Chamber; and

WHEREAS, historians, journalists, educators and the general public can gain a greater understanding of the manner in which New York State is governed by having access to gubernatorial records, so long as such access is consistent with the protection of applicable privileges and privacy concerns, and does not unduly burden the Office of the Governor; and

WHEREAS, governors and their staff would benefit from having critical records of prior administrations available to them upon taking office; and

WHEREAS, electronic and digital technologies are rapidly transforming government records management, and must be taken into account in the process for preserving records in an orderly, comprehensive manner; and

WHEREAS, the process and standards by which the records of the Executive Chamber are preserved should be open and transparent to the public, and consistent with the practices that are observed by other state agencies; and

WHEREAS, it is appropriate that the Executive Chamber comply with the objectives of §57.05 of the Arts and Cultural Affairs Law, which provides for state agencies to compile a retention schedule and preserve records in accordance with that schedule; and

WHEREAS, the purposes of §57.05 of the Arts and Cultural Affairs Law can be achieved either through providing records of historical value to the State Archives or to another appropriate and publicly accessible archiving facility;

NOW, THEREFORE, I, David A. Paterson, Governor of the State of New York, by virtue of the authority vested in me by the Constitution and the Laws of the State of New York do hereby order as follows, with respect to records of my administration:

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1. The Executive Chamber shall develop and implement a records management policy, which shall include a retention schedule (the "Retention Schedule"), and shall periodically review and revise such Retention Schedule consistent with this Order. For purposes of this order, the term "Archive" shall mean an institution that archives records, and provides a means for public access and review of such records, including a research university, that is selected by the Governor for record retention in accordance with this Order.
2. A member of the Executive Chamber Counsel's Office shall be designated the Records Retention Officer. The Records Retention Officer shall:
  - a. Coordinate Executive Chamber staff's record retention activities;
  - b. Answer staff inquiries on record retention; and
  - c. Review the Retention Schedule to determine if changes are necessary as new series of documents are located.
3. All staff members of the Executive Chamber, prior to the termination of their employment with the Chamber, but in all events before the commencement of a new administration, shall categorize records in their possession and control into types of records in accordance with the Retention Schedule. Such records will be retained for a period set forth in the Retention Schedule, and will be disposed of in accordance with the disposition set forth in that Schedule.
4. A staff member of each unit of the Executive Chamber, including the Offices of the Secretary, Governor's Counsel, Intergovernmental Affairs, Press and Appointments shall be designated to oversee the categorization, segregation and collection of records, and shall assist staff in complying with the terms of this Order and with the Retention Schedule.
5. The Counsel to the Governor shall consult with the Archive with respect to the retention schedule, and, in good faith, shall negotiate a memorandum of understanding with said Archive. Such memorandum shall contain a protocol with respect to the maintenance of all legal privileges of the Governor, e.g. attorney/client privilege. Such memorandum also shall specify the schedule when records preserved by the Executive Chamber shall be provided to the Archive, and the process for making such records available to the public, when appropriate. Should the Chamber amend the Retention Schedule as a result of such discussions, or otherwise during the process of records collection, it shall post the revised Schedule on the Governor's website.
6. Counsel to the Governor shall provide such assistance as is necessary to the staff of the Executive Chamber in complying with this Order, and in identifying (a) records subject to legally recognized privileges; and (b) records relevant to litigation, in order to ensure the preservation of the appropriate documents.
7. The Office of Information Technology in the Executive Chamber shall propose and develop a protocol for the preservation of electronic records which shall include:
  - a. A process by which senders and recipients of electronic mail can categorize such mail into records that will be retained, and those that will be subject to procedures for regular disposition of such records in the ordinary course of business;
  - b. The delineation of such other standards or procedures which will assist in the identification and preservation of electronic records; and
  - c. The identification of software and other technological aids that would facilitate records preservation and review, and which may be purchased within available resources.
8. Nothing in this order shall bar:
  - a. Any employee from destroying or otherwise disposing of records that are duplicative, non-record material, not deemed to be of historical value, or subject to a recognized privilege and whose preservation is not required by law, ongoing or anticipated litigation, pending Freedom of Information Law request or other grounds.
  - b. Any employee from maintaining a record slated for destruction under the Retention Schedule, or from providing such record to a gubernatorial agency, if such record is relevant to an ongoing matter, and such disclosure would not violate any privilege or confidentiality interest.
  - c. The continuation of any policy or practice for the regular timed deletion of electronic mail.

- d. The maintenance of specific records in the Executive Chamber that are relevant to ongoing matters, or the provision of such records to executive agencies or public benefit corporations to the extent they will be helpful with ongoing matters.

G I V E N under my hand and the Privy Seal of the  
State in the City of Albany this  
thirteenth day of December in the year  
two thousand ten.

BY THE GOVERNOR

*David A. Paterson*

*Lawrence Schwartz*  
Secretary to the Governor

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