

**MINUTES OF THE
STATE COMMISSION OF PUBLIC RECORDS
REGULAR MEETING
March 16, 2010**

The State Commission of Public Records convened at 9:32 a.m. on Tuesday, March 16, 2010 at 1209 Camino Carlos Rey, Santa Fe, and New Mexico 87507.

Members Present

Stanley Hordes, Ph.D.	Chair, Historian
Deborah Moll	Designee for Arturo Jaramillo, Secretary, General Services Department
Honorable Mary Herrera	Secretary of State
Robert Mead	State Law Librarian
Frances Levine, Ph.D.	Director, Museum of New Mexico
Betsy Glenn	Representing Honorable Gary King, State Attorney General
Rita Archuleta	Representing Honorable Hector Balderas, State Auditor

Staff Present

Sandra Jaramillo	State Records Administrator
Judi Hazlett	Deputy State Records Administrator
Antoinette L. Solano	Administrative Assistant
John Martinez	Director, Administrative Law Division
Angela Lucero	Director, Records Management Division (RMD)
Jackie Garcia	Records Management Analyst, RMD
Leo Lucero	Chief, Agency Analysis Bureau, RMD
Jay Rodriguez	Records Management Analyst, RMD
Ruben Rivera	Fiscal Officer
Cliff Serrano	Records Management Analyst, RMD
Tania Maestas	Assistant Attorney General, Honorable State Attorney General

Guests Present

Stephanie Valdez	Workers' Compensation Administration (WCA)
Tom Tanner	WCA
Ron Hedquist	WCA
Justine Andrews	WCA
Leigh Martinez	WCA
Andy Romero	WCA
Dana Chavez	WCA
Christina Chavarria	Human Services Department (HSD), Office of General Counsel (OGC)
Rachelle Klump	HSD-OGC
Art Herrera	HSD

Cont. Guests

Sandra L. Bivens	HSD, Income Support Division
Ron A. Lucero	HSD, Child Support Enforcement Division (CSED)
Melanie Rivas	HSD-CSED
Peggy Jeffers	Aging and Long-Term Care Department
Robert Rivera,	Robert J. Rivera, CPA, PC
Rosemary Leeder	State Racing Commission

CALL TO ORDER

The Chair called the meeting to order at 9:32 a.m.

APPROVAL OF AGENDA

The Chair entertained a motion to approve the agenda. Mr. Robert Mead so moved and Madam Secretary Herrera seconded the motion. The motion carried. The agenda was approved.

APPROVAL OF MINUTES – December 8, 2009

The Chair entertained a motion for approval of the minutes. Ms. Deborah Moll so moved and Dr. Frances Levine seconded the motion. The motion carried. The minutes were approved.

ACCEPTANCE OF AUDIT REPORT - FISCAL YEAR 2009

Ms. Sandra Jaramillo informed the Commission that the FY 2009 financial audit report had been submitted to the State Auditor’s Office by the established deadline. She introduced Mr. Robert Rivera, CPA, to present the Fiscal Year 2009 audit report. Mr. Rivera briefly reviewed how the audit was conducted, noting that all financial statements and numbers as presented were in accord with applicable standards. Mr. Rivera informed the Commission that the exit conference with staff and Dr. Hordes had been held on December 9, 2009 and that the handouts that he distributed to the Commission included the issues that had been discussed.

Mr. Rivera said that the audit opinion was unqualified - meaning that it was a clean audit. He informed the Commission that there was one finding which pertained to the agency's failure to revert unexpended State General Fund appropriations by the established statutory deadline. The agency completed the initial reversion transaction but failed to enter the operating transfer. The finding was a statutory compliance issue. Although the initial SHARE entry had been done, the second required transaction had not been submitted.

He pointed out that although the auditors prepared the financial statements, those statements were the responsibility of the agency. Mr. Rivera stated that the agency did, however have proper financial controls in place. The Chair then recognized Ms. Judi Hazlett, who serves as the agency’s Chief Financial Officer. Ms. Hazlett stated that she would work with the fiscal officer to review monthly reconciliations to guard against further omissions or errors. She thanked Mr. Ruben Rivera and Mr. Scott Sheldon of the Administrative Services Division for their work in preparing for the audit.

On behalf of the Commission, the Chair thanked the staff for a great job. The Chair entertained a motion to approve the FY 2009 financial audit report. Mr. Mead so moved. Ms. Herrera

seconded the motion. The motion passed unanimously, with no abstentions. The Chair asked that the record reflect that the Commission commended the staff.

Ms. Jaramillo stated that before the Commission moved to the next item on the agenda she wished to introduce Mr. Pete Chacon, the agency's new Chief Information Officer. The Chair congratulated Mr. Chacon on his promotion.

ACTION ITEMS

A. Records Retention and Disposition Schedules

1.19.5 NMAC, Local Government Records Retention and Disposition Schedule (LGRRDS), Office of the County Sheriff

Ms. Jaramillo stated that the first item for the Commission's consideration was an amendment to *1.19.5 NMAC, LGRRDS, Office of the County Sheriff*, which Ms. Jackie Garcia would present. Ms. Garcia informed the Commission that two County Sheriff offices had requested the amendment. The amendment adds a new record series *1.19.5.58 NMAC, Court Processes of Service Files*, to the existing schedule. The Chair entertained a motion to accept the amendment. Dr. Levine so moved and Ms. Moll seconded the motion. The motion passed unanimously, with no abstentions.

1.17.210 NMAC, Judicial Records Retention and Disposition Schedule (JRRDS), Judicial Standards Commission

Ms. Jaramillo stated that Mr. Jay Rodriguez would present the repeal and replacement of *1.17.210 NMAC, JRRDS, Judicial Standards Commission*. Mr. Rodriguez stated that the Judicial Standards Commission retention schedule had been reviewed in accord with the State Records Center and Archives (SRCA) five-year review standard. The existing schedule needed significant changes to bring it in line with current records requirements; therefore, its repeal and replacement with a new schedule was proposed. The Chair entertained a motion for approval of the repeal and replacement. Ms. Moll so moved. Ms. Herrera seconded the motion. The motion passed unanimously, with no abstentions.

1.18.469 NMAC, Executive Records Retention and Disposition Schedule (ERRDS), State Racing Commission

Ms. Jaramillo informed the Commission that Mr. Rodriguez would also be presenting the repeal and replacement of *1.18.469 NMAC, ERRDS, State Racing Commission*. Mr. Rodriguez stated that the existing schedule for the State Racing Commission had also been reviewed in accord with the SRCA's five-year review standard. Because the existing schedule needed significant modification, its repeal and replacement with a new schedule was proposed.

Mr. Rodriguez introduced Ms. Rosemary Leeder, a manager with the State Racing Commission. Mr. Mead questioned whether the retention period of six years for *1.18.469.101 NMAC, Investigative Case File* was sufficient. He then asked Ms. Leeder if she was comfortable with the six-year retention period. Ms. Leeder replied that the Racing Commission closes cases within a two-year period. She felt no need to extend the retention. The Chair entertained a

motion for approval of the repeal and replacement. Ms. Moll so moved. Ms. Herrera seconded the motion. The motion passed unanimously, with no abstentions.

1.18.624 NMAC, ERRDS, Aging and Long-Term Services Department

Ms. Jaramillo stated that Ms. Jackie Garcia would be presenting the repeal and replacement of *1.18.624 NMAC, ERRDS, Aging and Long-Term Services Department*. Ms. Garcia informed the Commission that the changes to the schedule were made at the request of the Department. She introduced Ms. Peggy Jeffers, an employee of the Department who was present to answer questions from the Commission. The Chair asked if the retention period of three years for *1.18.624.25 NMAC, Screen-Out Intake Files* was sufficient. (Intake forms are used to collect and assess information on alleged abuse, neglect or exploitation of adults under the care of licensed facilities.)

Ms. Jeffers replied that staff first reviews the files to determine if there is evidence of abuse or neglect. If a clear violation has happened, that particular file would be placed in an investigation file and referred to district court. Ms. Jeffers stated that the retention period was acceptable, according to the ombudsman of the agency. The Chair entertained a motion for approval of the repeal and replacement. Ms. Moll so moved. Ms. Betsy Glenn seconded the motion. The motion passed unanimously, with no abstentions.

1.18.630 NMAC, ERRDS, Human Services Department

Ms. Jaramillo introduced the next item on the agenda as a repeal and replacement for *1.18.630 NMAC, ERRDS, Human Services Department*, which Ms. Jackie Garcia would also present. Ms. Garcia stated that the required five-year review determined that modifications were necessary and that the new schedule reflected the changes.

Ms. Garcia introduced Mr. Art Herrera, a manager with the HSD who commended Ms. Garcia for her guidance and assistance throughout the record survey and scheduling process. Mr. Mead asked if the agency would be willing to add ten more years to the one hundred-year retention for *1.18.630.43 NMAC Medicaid Management Information System (MMIS)* given increasing life spans. Ms. Garcia stated she would make the change if the agency had no objection.

The Chair and Ms. Moll both questioned the retention period for *1.18.630.23 NMAC, Fleeing Felon Files*; the concern was that the retention period of ten years was not sufficient. Ms. Garcia explained that the information in the files concerning investigations of benefit recipients classified as fleeing felons was entered into the National Crime Information Center (NCIC) database. The NCIC maintains the information permanently. The Chair entertained a motion to repeal and replace *1.18.630 NMAC, ERRDS Human Services Department* with the amendment of the retention period for *1.18.630.43 NMAC Medicaid Management Information System (MMIS)* from one hundred years to one hundred ten years, subject to the agency's concurrence. Mr. Mead so moved. Dr. Levine seconded the motion. The motion passed unanimously, with no abstentions.

1.18.632 NMAC, ERRDS, Workers' Compensation Administration

Ms. Jaramillo stated that Mr. Rodriguez would present the repeal and replacement of *1.18.632 NMAC, ERRDS, Workers' Compensation Administration (WCA)*. Mr. Rodriguez informed the

Commission that the existing schedule had been reviewed in line with the SRCA's five-year review standard and that the changes necessary to reflect current record series and practices were sufficient to support a repeal of the existing schedule and its replacement with a new one. Mr. Rodriguez then introduced the WCA staff members in attendance.

The Chair entertained a motion to accept the repeal and replacement of *1.18.632 NMAC, ERRDS, Workers' Compensation Administration*. Dr. Levine so moved. Ms. Glenn seconded the motion. The motion passed unanimously, with no abstentions.

B. 1.25.10 NMAC, Publications: Filing, Distribution, Format and Style

Ms. Jaramillo indicated that Mr. John Martinez Administrative Law Division Director would provide the Commission with an overview of *1.25.10 NMAC, Publications, Filing, Distribution, Format and Style*. Mr. Martinez explained that the rule established the standards and procedures for filing, preserving and providing access to state publications. Mr. Martinez stated that the rule was presented to the Commission for information, not for Commission approval – that it was still in draft form and open to comment. He noted that it was a joint rule and would be issued by both the SRCA and the State Library as a replacement for the current joint rule. The State Library distributed the draft rule to state agencies for comment and Ms. Jaramillo forwarded a copy to the Governor's general counsel for comment. State law requires agencies to file five copies of publications with the SRCA, which then must transfer three of those to the State Library. The State Library also has requirements for the filing of publications. The proposed rule, as well as the existing rule, both of which are supported by an extant memorandum of understanding between the SRCA and the Library, offers a simplified filing process with a single filing point. Copies are filed with the State Library and it then provides the SRCA with the five copies required by law.

The principal change in the replacement rule is the recognition of the role of technology in the publishing process. While the existing rule addresses paper copies, the replacement incorporates provisions for filing both paper and electronic copies and for web publications.

Mr. Martinez then introduced Ms. Suzanne Caro, a State Publications Librarian with the State Library. Ms. Rita Archuleta, with the State Auditor's Office, inquired about the number of copies the Library has to maintain in paper form. Ms. Caro explained that of the 28 copies required by the rule most were distributed to other public libraries throughout the state.

Dr. Levine asked if the Cultural Affairs Department was subject to this rule. Ms. Jaramillo stated that the Department was subject to it and would have to comply with the proposed procedures. Ms. Caro stated that the Department was doing fine with adhering to the rule. The Chair thanked Mr. Martinez for his presentation.

OLD BUSINESS

A. Building Issues

1. Feasibility Study

Ms. Jaramillo reported that Architectural Research Consultants Inc. (ARC) the firm under contract with Property Control Division of the General Services Department had completed the assessment of storage conditions and the needs of the Santa Fe and Albuquerque Records

Centers. She informed the Commission that ARC was preparing a final feasibility study report and that upon its completion she would distribute it to the Commission. Ms. Jaramillo stated that the findings in the draft report indicated that the Albuquerque Records Center is at full capacity and that the Santa Fe Records Center will be at full capacity within the next five to six years. She informed the Commission that ARC would be invited to present its findings and recommendations at the next Commission meeting.

Dr. Hordes stated that he was extremely concerned about the future of the Centers and the capacity constraints and that he thought a resolution to the problem needs to be a high priority for the Commission during the 2011 legislative session.

Dr. Levine inquired if there was a fee for storage. Ms. Jaramillo replied that the SRCA is able to charge a monthly fee for storage of records that have met their legal retention period and that are eligible for destruction and which the custodial agency has declined to destroy. Dr. Levine noted that she had the opportunity to tour the Santa Fe Records Center at the last Commission meeting and that it had been helpful and informative to see the day-to-day operations of the agency. She added that the Commission needed to make more of an aggressive effort to bring the spacing issues and budget problems that are facing both record centers to the forefront at the next legislative session.

2. Class Room Remodel

Ms. Jaramillo reported that the remodeling of the IT offices and work room had been completed. The classroom which was serving as office space had been reconfigured to accommodate four staff members and the original storage area had been redesigned to provide a set-up and work area. She noted that she was pleased with the remodel.

3. Security Upgrade

Ms. Jaramillo advised the Commission that the conversion of the sliding glass doors at the main entrance from the current manual locking procedure to an automated locking mechanism had been delayed until the doors could be repaired. She noted that the change to the automated lock was part of the overall security system upgrade underway and that all the upgrades to the security and alarm systems should be completed by the next Commission meeting.

B. 2010 Legislative update

Ms. Jaramillo reported that the agency was facing a tight budget in FY 2010; however, the situation was grimmer for FY 2011. The FY 2011 general fund appropriation is extremely limited, especially in the "Other" and "Contractual Services" categories where the appropriated amounts are less than half of the current-year amounts.

The Chair recognized Ms. Hazlett who noted that the reduction in "Contractual Services" meant the suspension of General Fund support for the Office of the State Historian intern and scholars programs and that the severe restriction in the "Other" category compromised the agency's ability to meet basic operational costs. In order to meet those operational demands, expenses will have to be shifted to the revolving fund. As for any outside agency training or travel for FY 2011, they will be limited at best. The agency will have to find other ways of providing services, such as the agency's online training program. Ms. Jaramillo stated that the number of retention

schedules produced would be minimal, due to staffing issues. Ms. Jaramillo emphasized, however, that agency management believed the agency could avoid any furloughs or reductions in force, unless further budgetary reductions are made; however, the four positions that had been vacant since the fall of 2008 would remain vacant. Dr. Hordes commended Ms. Jaramillo and the staff of the agency for their diligence in this very difficult time. Mr. Mead along with all the other Commissioners thanked the staff members for all their hard work.

NEW BUSINESS

On Line Training, John Martinez, Administrative Law Division

Mr. Martinez explained that the on-line NMAC training course was initiated in October of 2009, and that over eighty registrants had participated in the program to date. Mr. Martinez demonstrated the training module to the Commission and explained the objective of each of the training units. He informed the Commission that at the conclusion of the course, each participant receives a certificate of completion.

DIRECTOR'S REPORT

Ms. Jaramillo reported that work on the last part of Phase I of the Centralized Electronic Records Repository – the implementation of a new records location and inventory management application to replace the existing Image 2000 application- was well underway and was scheduled for completion before the end of the fiscal year. She noted that included in her report was a listing of the number of records boxes by agency that have been approved for destruction thus far in the fiscal year as well as a listing of the number of records boxes transferred to Archives from the Records Center or directly from agencies. In addition, the agency's key performance measures were included in her report. Ms. Jaramillo briefly discussed the agency's participation in a multi-state digital preservation research project (PeDALS) and thanked Ms. Angela Lucero, Mr. Pete Chacon and Mr. Martinez and other staff for their work on this project. She concluded her report by announcing that Rick Hendricks, Ph.D., from New Mexico State University had accepted the position of State Historian, and would assume his duties March 22, 2010. The Chair stated that he was very pleased with the choice of Dr. Hendricks for the position.

SCHEDULING OF NEXT MEETING

The Chair asked Commission members to check their calendars and see if everyone was in agreement with the date of Tuesday, June 15, 2010 at 9:30 am. The Commissioners concurred, and the June meeting date was scheduled for that date.

ADJOURNMENT

The Chair entertained a motion for adjournment. Mr. Mead so moved. Ms Moll seconded the motion. The motion carried. The meeting adjourned at 11.23 a.m.