“Where We’ve Been, Where We’re Going: Understanding the Rules of Information Access”
Outline

• NC Public Records Act
  - Why do we care?
  - Records requests
  - Illustrative examples
• Other Access Laws/Rules
• FERPA
  - Requirements
  - Exceptions
• Personnel Files
  - Who can view
  - Public access to some?
• Medical Records
  - Does HIPPA apply? If so, how?
  - What about FERPA?
• Digital Information
• Records Retention/Destruction
• Conclusion
What is a “Public Record”?

• “All documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records…”

• Regardless of physical form or characteristics

• Transaction of public business by any agency
Why do we care?

- Public Records = State Property
- Right of access
- Penalties possible for access violations
- Very valuable
- Higher quantities
- More accessible, more transferrable
- Increased scrutiny/focus on state government
Examples of Public Records

- Fiscal records
- **Business emails**
- My slides
- Public contracts
- Pictures of IBM 360-75
- Any other document that doesn’t fall within a specific exception

IBM 360-75 (1968)
What isn’t a public record?

- Student records
- Personnel file information
- Medical information
- Criminal investigations records
- Confidential information
- Research data
- Certain library records
- SSNs
- Closed session minutes of public body
Other applicable laws, rules or regulations

- UNC Asheville Public Records Request Policy
  - https://administration.unca.edu/policies/3008
- Rules of Civil/Criminal Procedure
- Clery Act
- Title IX
- Social Services child safety review
- Public Health surveillance
- Many others

Magna Carta (1297)
Responding to Public Records Requests

- Refer requester to OGC
- OGC will:
  - Conduct all communication with requester
  - Work with you/others to collect records
FERPA

• Protects “education records” maintained by schools
• Grants parents and students rights of access
• Grants parents and students some control over internal and external release
• Provides mechanism to correct records errors
• Numerous exceptions apply
  - Directory information
  - Health and safety
Personnel files

- “Employment-related or personal information gathered by an employer…includes information related to an individual's:
  - application
  - selection
  - promotion, demotion
  - transfer
  - leave
  - salary, benefits,…
  - performance evaluation, disciplinary actions, and termination.”

- Confidential (with exceptions)
- Some information publicly available
- Can be maintained in multiple places
Medical Records

• Protected or confidential information
• What laws/rules apply:
  - Usually not HIPAA
  - Not FERPA if maintained for treatment purposes
  - FERPA if maintained/shared for administrative purposes
• Usually located in one or two locations on campus
Digital Information

- Public records can be digital
- Increased ability to quickly transfer data
- Increased storage capacity
- Increased likelihood of inadvertent release/dissemination
- Increased likelihood of unauthorized access ("hacking")
- Balance risks vs. business benefits for using/creating digital records
Records Retention and Disposition

- Records destruction is regulated!
- Records Retention and Disposition Schedule
- Agreement between UNC Asheville and Department of Cultural Resources
- Roles – University Archivist

6.9. System Users Access Records

Description: Records documenting and/or used to monitor individual access to a system and its data. Items include but are not limited to user account records, access requests, authorizations, correspondence, and related documentation.

Confidentiality: Comply with applicable provisions of G.S. 132-6.1(c) regarding confidentiality of computer-related records and security features of computer or other information technology systems.

Office of Record: Information Technology Services

Disposition Instructions: Destroy in office 1 year after user is withdrawn from system, if no litigation, claim, audit, or other official action has been initiated. If official action has been initiated, destroy in office after completion of action and resolution of issues involved.
Conclusion and Review

- OGC provides legal advice; is not management
- Information access laws/rules are complex
- Not alone! SMEs and attorneys to assist
- Refer records requests to OGC
- Consider benefits vs. risks associated with digital information
- Records destruction is regulated!
  - Call University Archivist before you toss it
Questions?