



# Shine a Light: Access Restrictions and Government Transparency

Vermont State Archives & Records Administration



# Vermont State Archives & Records Administration (VSARA)

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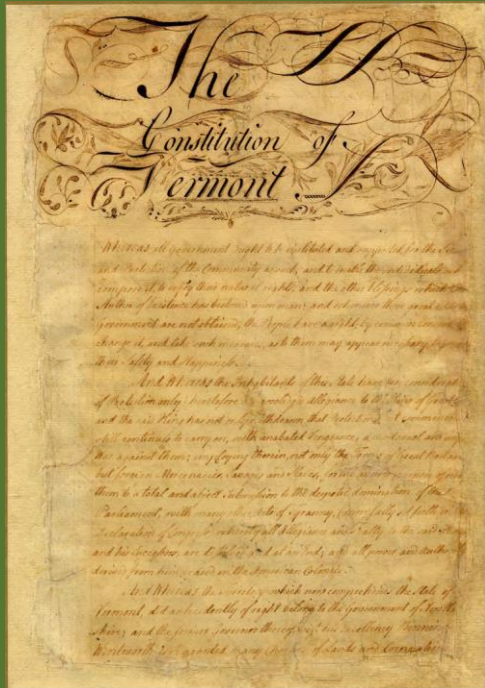
Created in 2008 by Act 96 as a division of the Vermont Office of the Secretary of State

- Advise and guide public agencies in records and information management;
- File, record, and certify legislative acts and resolves administrative rules, state deeds and leases, vital records, oaths and appointments, municipal charters, and similar statutory filings;
- **Appraise and schedule public records** so they are preserved only as long as they have a legal or administrative value;
- Preserve and enhance access to the state government's archival records; and
- Operate a secure record center for inactive agency records.



*Courtesy: Vermont State Archives, A235*

# Primary Statutory Authorities



Courtesy: Vermont State Archives, A-014

VSARA statutory authorities can be found in:

[3 V.S.A. § 117](#) (VSARA enabling statute)

[3 V.S.A. § 218](#) (Agency/Department Records Management Programs)

[1 V.S.A. § 317a](#) (Management of Public Records)

Those statutes support the requirement within Chapter I, Article 6 of the [Vermont Constitution](#) that government officials be accountable to the citizens they serve.

*“That all power being originally inherent in and co[n]sequently derived from the people, therefore, all officers of government, whether legislative or executive, are their trustees and servants; and at all times, in a legal way, accountable to them.”*

# Public Records Act (PRA) 1 V.S.A. §§ 315 - 320

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§ 315 Statement of policy; short title

“(a) It is the policy of this subchapter to provide for **free and open examination of records** consistent with Chapter I, Article 6 of the Vermont Constitution. Officers of government are trustees and servants of the people and it is **in the public interest to enable any person to review and criticize their decisions even though such examination may cause inconvenience or embarrassment.** All people, however, have a right to privacy in their personal and economic pursuits, which ought to be protected unless specific information is needed to review the action of a governmental officer. Consistent with these principles, the General Assembly hereby declares that certain public records shall be made available to any person as hereinafter provided. To that end, the provisions of this subchapter shall be liberally construed to implement this policy, and **the burden of proof shall be on the public agency to sustain its action.**”

# Public Records Act (PRA) 1 V.S.A. §§ 315 - 320

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## § 316. Access to public records and documents

“(a) Any person may inspect or copy any public record of a public agency, as follows:...”

A few highlights include:

- Hours for inspection
- Standard formats

## § 317. Definitions; public agency; public records and documents

“(b) As used in this subchapter, "public record" or "public document" means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired in the course of public agency business. Individual salaries and benefits of and salary schedules relating to elected or appointed officials and employees of public agencies shall not be exempt from public inspection and copying...”

# Public Records Act (PRA) 1

## V.S.A. §§ 315 - 320

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§ 317. Definitions; public agency; public records and documents (cont.)

“(c) The following public records are exempt from public inspection and copying:

- (1) Records which by law are designated confidential or by a similar term.
- (2) Records which by law may only be disclosed to specifically designated persons.
- (3) Records which, if made public pursuant to this subchapter, would cause the custodian to violate duly adopted standards of ethics or conduct for any profession regulated by the State.
- (4) Records which, if made public pursuant to this subchapter, would cause the custodian to violate any statutory or common law privilege other than the common law deliberative process privilege as it applies to the General Assembly and the Executive Branch agencies of the State of Vermont...”

(c) (5) Outlines 42 major categories of exempt\* public records

\* Additional exemptions to public inspection are outlined elsewhere in Vermont Statute

# Public Records Act (PRA) 1 V.S.A. §§ 315 - 320

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## § 318. Procedure

“(a) Upon request, the custodian of a public record shall promptly produce the record for inspection, except...”

(1) Record is in active use  
(Custodian must provide date and time when record will be available)

2) Record is exempt (Custodian must **provide basis for denial** within three business days, right to appeal)

(3) If appealed, Agency head has five business days to uphold or revoke decision (this can be appealed to the Superior Court)

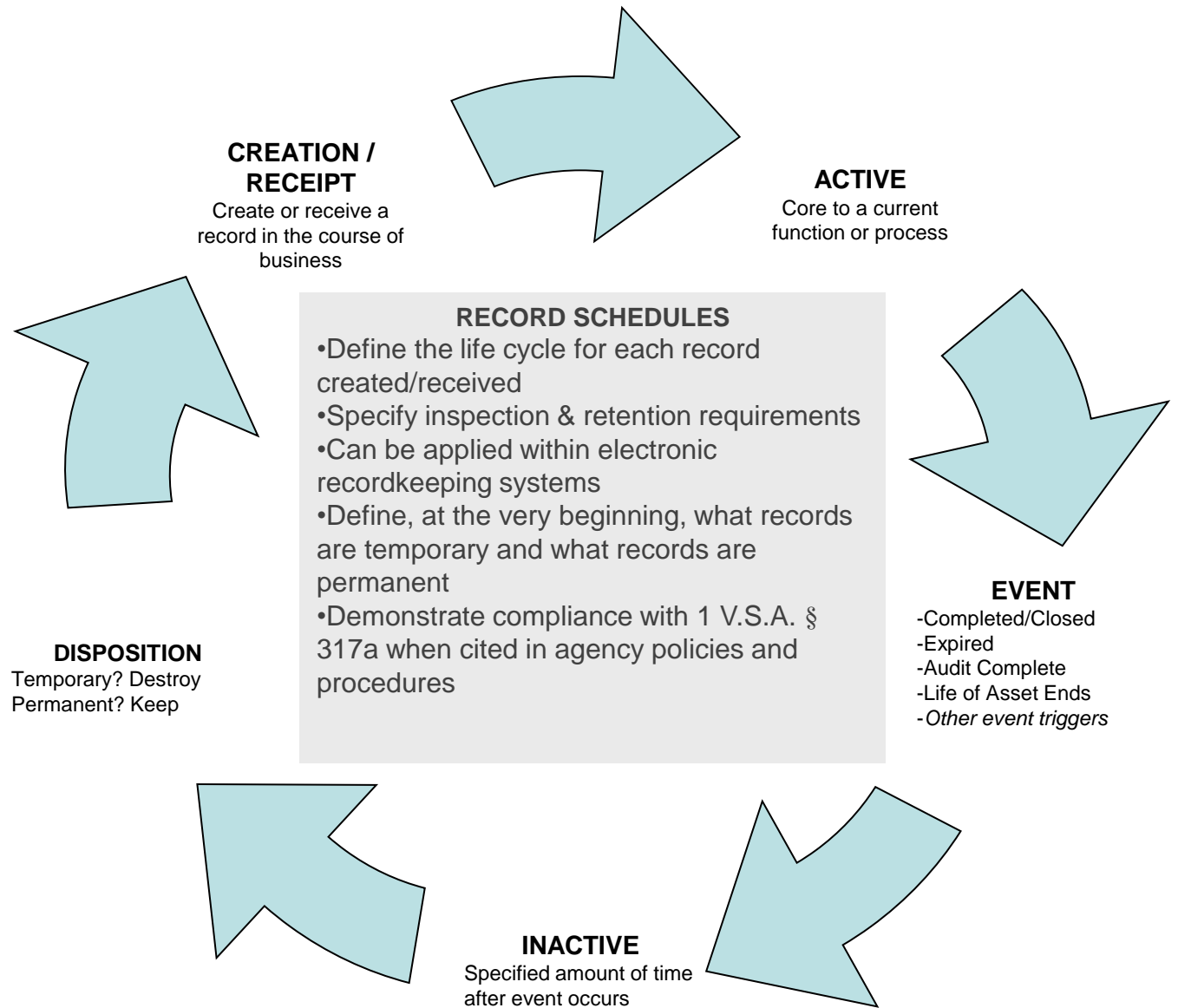
(4) Record does not exist!

(5) Time extension may be allowed in unusual circumstances (such as stored offsite, large request, another agency involved)

# VSARA Appraisal Services

VSARA is formally charged with performing formal appraisals of public records and issuing record schedules accordingly (3 V.S.A. § 117).

During requirements gathering for the formal appraisal Records and Information Management (RIM) Specialists identify public inspection and exemption requirements







Source: ARMA International

# General Accepted Recordkeeping Principles®

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VSARA utilizes the Principles framework to assist state agencies in consistent, standards based, management of Vermont's public records.

Accountability

Compliance

Transparency

Availability

Integrity

Retention

Protection

Disposition

# A TIP CARD: Leveraging the Principles to ensure State Government Transparency

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<u>A</u> ccountability	Senior executive responsible for providing ready access to vital information
<u>T</u> ransparency	Documentation is available to interested parties
<u>I</u> ntegrity	Public records are managed to ensure a reasonable guarantee of authenticity and reliability
<u>P</u> rotection	Public records with inspection exemptions are protected from accidental disclosure
<u>C</u> ompliance	Access requirements are clearly identified to ensure compliance with laws and other binding authorities
<u>A</u> vailability	Inspection exemptions are identified in a manner that assures timely, efficient, and accurate response
<u>R</u> etention	Management & retention requirements are appropriate based on legal, business, and informational value
<u>D</u> isposition	Public records are disposed of appropriately to maintain exemptions to public inspection as stated in a record schedule

CORPORATION/BUSINESS SERVICES PROFESSIONAL REGULATION ARCHIVES & RECORDS ELECTIONS MUNICIPAL SECRETARY'S DESK

» Home » Archives & Records » Records Management » State Records Officers

**State Records Officers**

**VERMONT STATE ARCHIVES & RECORDS ADMINISTRATION**

ABOUT US  
VHRAB  
STATE ARCHIVES  
RECORDS MANAGEMENT  
Handbook  
Records Retention  
Legal Requirements  
Standards & Best Practices  
Public Records Request System  
State Records Officers

Pursuant to 3 V.S.A. § 218(d), the head of each State agency or department "shall designate a member of his or her staff as the records officer for his or her agency or department, and shall notify the Vermont State Archives and Records Administration in writing of the name and title of the person designated, and shall post the name and contact information of the person on the agency or department website, if one exists."

Although 3 V.S.A. § 218 applies specifically to executive agencies and departments in state government, constitutional officers and legislative and judicial bodies also designate records officers as a best practice.

Link to: [Active State Records Officers List\\*](#)

**Agency/Department Records Management Programs**

**RELATED PROCEDURES & FORMS**  
Designating Records Officers (Procedure VSARA0004)  
Records Officer Designation Form (VSARA-01)  
Records Management Handbook


# Accountability, Transparency & Integrity

A senior official is designated as the State agency's Records Officer. Among other duties, this individual is responsible for ensuring ready access to public records, and has training on how to use Record Schedules.

Record schedules incorporate public inspection and exemption requirements throughout, providing direct citations to relevant Vermont law, including the Chapter 1, Article 6 of the Vermont Constitution.

Record schedules predefine types of records expected to be created or received as part of an activity, predisposing State agencies to guarantee public records are managed and appropriately available from the beginning of each record's lifecycle.

STATE OF VERMONT GENERAL RECORD SCHEDULE  
Issued to: All Agencies  
Last Revised: 10/11/2016



Vermont State Archives and Records Administration  
Vermont Office of the Secretary of State

**GENERAL RECORD SCHEDULES: INFRASTRUCTURE**

**Authority:** A custodian of public records shall not destroy, give away, sell, discard, or damage any record or records in his or her charge, unless specifically authorized by law or under a record schedule approved by the state archivist pursuant to subdivision 117(a)(5) of Title 3. (1 V.S.A. § 317a)

**Scope:** This general record schedule applies to any agency, board, department, commission, committee, branch, instrumentality, or authority of the state or any agency, board, committee, department, branch, instrumentality, commission, or authority of any political subdivision of the state that produces or acquires the records listed on this record schedule in the course of public agency business. Record means any written or recorded information, regardless of physical form or characteristics, and includes electronic or digital records and data. (1 V.S.A. § 317)

**Use:** State agencies MUST have a Notice of Adoption (VSARA-11) acknowledged by the Vermont State Archivist and on file with the Vermont State Archives and Records Administration (VSARA) prior to using any general record schedule. Use of a General Record Schedule (GRS) to destroy records without proper notification is not permitted. In addition, internal policies must be established to assure that the requirements outlined in any GRS are being applied across the agency. General Record Schedule (GRS) numbers shall be cited in all internal policies to demonstrate compliance with 1 V.S.A. § 317a. Local public agencies do not have to submit a Notice of Adoption; however, internal policies should clearly cite any general schedules that have been adopted and associated GRS numbers. If a GRS does not meet an agency's legal or administrative needs, the agency should continue to use any applicable disposition orders that have been issued for its records or seek agency specific record schedules through VSARA's Targeted Assistance Program (TAP).

**Exemptions:** It is the policy of Title 1, Chapter 5, Subchapter 3 of Vermont Statutes Annotated to provide for free and open examination of records consistent with Chapter 1, Article 6 of the Vermont Constitution. All people, however, have a right to privacy in their personal and economic pursuits, which ought to be protected unless specific information is needed to review the action of a governmental officer. Some records listed this record schedule may be exempt from public inspection and copying for this reason. Security measures to protect records and information from unauthorized access, use, and disclosure are necessary if the records are exempt pursuant to 1 V.S.A. §§ 316-320. Please see Appendix B for Access Requirements and Appendix E for related legal references regarding exemptions from public inspection and copying.

**Retention:** This schedule reflects the retention and disposition requirements for the following records regardless of their media, format, or mode of transmission. Duplicate records within the same agency that are used for specific legal, fiscal, or administrative purposes may be either retained using the retention requirement listed in this schedule or in accordance to an internal policy. Any copies of records made only for convenience of reference or informational purposes may be discarded when no longer needed unless otherwise directed through an internal policy. Duplicates or copies of records shall not be retained longer than the original records.

# Protection, Compliance & Availability

Access requirements are concisely stated for the overarching schedule and at the record type level to identify records that need a higher degree of protection.

Specific citations to Vermont Statutes or applicable federal requirements provided in appendix E ensures records without exemptions may be provided consistently across all agencies of Vermont State government in compliance with laws.

STATE OF VERMONT GENERAL RECORD SCHEDULE

**GRS-1601.1119: Infrastructure Construction Records**

GRS-1601.1119: This schedule is reserved for recorded evidence of activities and transaction construction of public and private buildings, roads, and public works, including public and private bridges; sidewalks and other traffic enhancements; culverts; private roads; public and private cemeteries, and public parks and fields. For records related to the planning or development of (Infrastructure Planning Records) or GRS-1601.1153 (Infrastructure Development Records).

**Retention:** With the exception of legal notices and registers, retain records related to the construction life of the asset ends or any right or interest therein is relinquished to an entity other than the State of Vermont unless the infrastructure itself is considered major or significant. For major criteria of major or significant in "Vermont Archival Records" and retain permanently.

Registers or systems that provide for the systematic and regular recording of infrastructure records is superseded and then appraised by the Vermont State Archives and Records Administration.

All other records shall be retained as specified in this schedule with the exception of records that are not part of the infrastructure construction process may be weeded as appropriate in accordance with the State Archives and Records Administration.

Public Access: Review

**MINIMUM RECORDKEEPING REQUIREMENTS for Infrastructure Construction Records**

Record Category/Type	Applicability/Use:
GRS-1601.1119.133 Decisions Public Access: Review	Use for written evidence of final decisions, including engineering and project manager approvals, acceptances and changes. Includes substantive correspondence and relevant supporting material. For contract related records, use GRS-1000.1126 (Contract Files).
GRS-1601.1119.32 Declarations	Use for official statements that certify a condition has been met related to the construction of infrastructure.



STATE OF VERMONT GENERAL RECORD SCHEDULE

**Appendix E: Legal References**

**GRS-1601.1119: Infrastructure Construction Records**

Statute	Description	Review for Exemption?
1 V.S.A. § 315	Statement of policy [related to free and open examination of records]	
1 V.S.A. § 316	Access to public records and documents	No
1 V.S.A. § 317	Definitions; public agency; public records and documents	Yes
1 V.S.A. § 317a	Disposition of public records	No
1 V.S.A. § 318	Procedure [related to producing records for inspection]	No
1 V.S.A. § 319	Enforcement [related to the denial of a request for public records]	No
1 V.S.A. § 320	Penalties [related to court orders for the production of any public agency records]	No
10 V.S.A. § 1422	Definitions [related to protection of navigable waters and shorelands]	No
10 V.S.A. § 1685	Public water system capacity	No
10 V.S.A. § 303	Definitions [related to Vermont housing and conservation trust fund]	No
10 V.S.A. § 444	Responsibilities of the agency of natural resources	No
10 V.S.A. § 490	Types and arrangement of signs [related to tourist information services]	No

Review for Exemption?

# Retention & Disposition

The full records lifecycle is articulated for each record type within the record schedule. Agencies and departments are provided with immediate management guidance.

When records have exceeded their appraised value, they are eligible for disposition. Depending on appraised value the records may have different dispositions to protect exempt information.

	Appraised Value:	Minimum Retention/Disposition:
by lining the orting	Temporary (Legal)	RETAIN UNTIL: Expired PLUS: 6 Year(s) THEN: Destroy (General)
1, and lated to seived	Temporary (Legal)	RETAIN UNTIL: Expired PLUS: 6 Year(s) THEN: Destroy (General)

# Implementation at the State Archives

Records entering the State Archives covered by Record Schedules:

- Archival series with exempt records are tagged in an internal database
- Redaction is applied to copies based on the applicable record schedule at the time of the request
- Fully exempt materials are held back based on the applicable record schedule at the time of the request
- All exemption citations are provided to the patron

Records entering the State Archives without record schedules through a transfer agreement:

- Exemptions listed as appendix in transfer agreement
- Redaction is applied to copies based on the applicable record schedule at the time of the request
- Fully exempt materials held back based on the applicable record schedule at the time of the request
- All exemptions are provided to the patron



*Courtesy: Vermont State Archives, Series A-044*

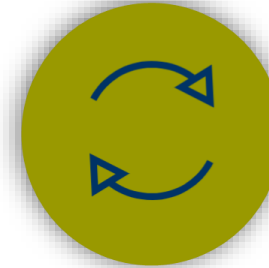
# Take-aways:

The appraisal process provides the tools and resources to increase transparency and ready access to vital information, and promotes the efficient and economical operation of government.

VSARA's appraisal service identifies, prior to creation or receipt, which public records have public inspection or access exemptions. Agencies are supplied with the guidance necessary to respond to Public Record Requests, and a network of agency Records Officers are ultimately responsible for ensuring appropriate access in compliance with Vermont statute.



Agency Records Officers are designated and trained in managing public records



Lifecycle management identified & described



Public inspection requirements gathered



Record schedules support public agency compliance

Vermont State Archives & Records Administration

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