



Website & Social Media Archiving:

A Compliance Guide For K-12 Schools

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Websites and social media are considered public records that fall under the Open Records laws set out for government agencies including K-12 public school districts. As a result of these laws, schools must take the time to understand key regulations and take necessary steps to meet associated recordkeeping requirements.

In addition, since schools have such a broad scope of interaction with their students and community online, they can easily become exposed to frivolous and vexatious litigation. The past decade has seen a steady flow of litigation in the world education. Major cases involving schools have been seen on court dockets throughout the US, Canada, and Europe. Students have taken action against schools, teachers have taken action against their employers, copyright and trademark violations have been filed, and the list goes on and on. Now, presented with the volatile and unruly nature of social media content, many schools are looking at ways to manage the risks associated with websites, blogs, and social media channels.

This whitepaper covers key government regulations and risks concerning K-12 schools and was prepared to help schools understand the best ways to comply with these laws by identifying, preserving and reproducing valuable web content when needed.

The following pages will help K-12 schools:

- Understand why website and social media archiving are crucial
- Address the recordkeeping challenges associated with school use of social media
- Recognize the legal requirements for online public records
- Avoid common mistakes in preserving online records
- Understand the process and value of web archiving
- Identify the components of an ideal archiving solution

We hope this document serves to inform and empower your school to communicate on the web and through social media with confidence.

AN INTRODUCTION TO ONLINE GOVERNMENT CONTENT

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DIGITAL COMMUNICATIONS HAVE HELPED GOVERNMENT AGENCIES AND SCHOOLS CONNECT WITH CITIZENS AND APPLY “OPEN GOVERNMENT” PRINCIPLES... BUT THEY HAVE ALSO CAUSED A MASSIVE INCREASE IN ELECTRONIC PUBLIC RECORDS.



Now more than ever, the business of government is online. School board meeting agendas and minutes can be downloaded from the website; some districts even broadcast them on YouTube, news is delivered via RSS feeds, transportation schedules are published to online calendars, opinion polls are taken in forums, codes and bylaws can be viewed in online databases, the police blotter appears on Twitter ... and that’s just for starters. Every day, government agencies and schools at every level and across the globe are communicating through website and social media technologies.

requests, audits, or investigations. Agencies are starting to understand the responsibilities inherent in their online activities. They’re starting to ask questions about the best ways to preserve digital records.

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“How do agencies handle social media and FOIA? What constitutes a public record? How are agencies storing information and have information ready if they need to release it?”
- Pat Fiorenza, Research Analyst, GovLoop
.....

Government websites and social media content -- just like any traditional public records -- are subject to e-discovery proceedings, lawsuits, Open Records/FOIA

OPEN GOVERNMENT AND RECORDS RETENTION

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“OPEN GOVERNMENT” AND “OPEN DATA” HAVE BECOME BUZZWORDS OVER THE PAST FEW YEARS, BUT THEY BRING REAL LIFE CHALLENGES TO THE AGENCIES THAT SEEK TO IMPLEMENT THEM.

Beginning with President Obama’s call for open government in 2009, hundreds of agencies have been using web and social media tools to achieve the goals of “transparent, participatory, collaborative” Government.

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“Agencies should proactively use modern technology to disseminate useful information.” - President’s Open Government Directive, 2009
.....

The gist was that agencies should not sit around waiting for Open Records requests -- they should be publishing government information online while keeping their web presence interactive, accessible and current. This included the publishing of datasets for the private sector to view and use, but also expanded to include the publishing of “the everyday business of government” -- from social services to sanitation and beyond.

The benefits of using web technologies to connect with citizens are manifold -- they make the sharing of information faster and less expensive, allow for greater interaction and collaboration with the public, and enhance a government’s image in the eyes of the people who use website and mobile tools for

all their daily activities. Even small agencies are growing their online presence, as an affordable way to “do more with less.” Open data is filtering down to every level and size of government.

Digital government records must be maintained if agencies are to remain truly open to the public. As your agency updates its web pages, are the older versions lost? As conversations slide past on Twitter, is there a record of what has been said? How quickly can your agency respond to an Open Records request if the records are buried in a confusing online database?

.....
“The Government cannot be open and accountable if it does not preserve -- and cannot find -- its records.” - David S. Ferriero, Archivist of the United States
.....

Accessibility is a central tenet of open government. Citizens should be able to access any content that was published by their agency -- even if it was published online, months or years ago. Of course, this applies to datasets, court records, service information and so forth, but the trend of online communication between citizens and their

governments has increased the expectation that even conversations will be saved -- comments on blogs, discussions in forums and tweets on Twitter.

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“[There’s a] public expectation that all web content is both permanently valuable and accessible.” - NARA, Guidance on Managing Records in Web 2.0/Social Media Platforms

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In the end, open government is inextricably tied to responsible records retention. Agencies and schools must implement systems to ensure that their web content is preserved securely, and that they can locate specific files or pages when needed.

SOCIAL MEDIA CHALLENGES

PUBLIC SCHOOLS MUST RECOGNIZE THE REGULATORY RISK INVOLVED WITH SOCIAL MEDIA IN THE ABSENCE OF PROPER RECORDS MANAGEMENT POLICIES.

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As school districts have realized the value of real-time communication with citizens, many have become active on some type of social network, often without establishing policies for managing the information that is published by the agency. A recent report released by IBM's Center for the Business of Government concludes that, in general, governments have shown a "lack of standards for records management" within social media.

According to the report, 22 out of 24 major agencies are utilizing social media tools. The most popular are RSS feeds, microblogs, social networking sites (like Twitter and Facebook), blogs and video sharing. These platforms hold vast potential for connecting citizens with their governments, but agencies must recognize the regulatory risk involved with social media in the absence of proper records management policies.

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"New media brings with it new challenges especially for records managers struggling to apply existing records management laws and regulations . . . in a social media world."
Patricia C. Franks, Associate Professor, School of Library and Information Science, San Jose State University, CA
.....

Recent guidance prepared by the National Archives and Records Administration (NARA) identified several reasons why social media is so troublesome for records managers:

- Public expectations that all web content is both permanently valuable and accessible
- Content located in multiple places
- Recordkeeping in a collaborative environment
- Ownership and control of data that resides with a third party
- Interactive content management
- Identification of record series

- Implementation of records disposition schedules, including the ability to transfer/delete records
- Capture of frequently updated records
- Handling of records containing personally identifiable information

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All of these issues serve to remind us that as web technologies have advanced, new strategies and tools for preserving online content will be necessary.

The guidance from NARA included several recommendations for dealing with records created through social media. Agencies are advised to communicate with employees and the public to declare how social media records will be handled, include records management guidelines in their social media policies, evaluate their social media use to determine which aspects constitute a public record, and apply appropriate retention and disposition schedules to all electronic records.

“The ongoing, collaborative, and interactive nature of social media requires careful exercise of agencies’ statutory responsibilities regarding records management.” - NARA, Guidance on Managing Records in Web 2.0/Social Media Platforms

It is clear that social media will continue to grow as a means of communication for government agencies -- and equally clear that the preservation of social media records is a responsibility that agencies must not ignore.

CONSEQUENCES OF NONCOMPLIANCE

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Government agencies and schools have really begun to understand the importance of online records retention. Below are a number of recent cases and resulting consequences reflecting the absolute need to archive online content:

Spokane Public Schools - Charged for Failing to Deliver Requested Promotional Materials

Spokane Public Schools are about to pay a Spokane woman \$130,000 after failing to comply with a 2009 public records request. She had filed a request for website content of all “promotional materials on the 2006 and 2009 bonds and levies.” The district failed to fulfill her request for records when it took a narrow definition of her inquiry and made missteps.

Spokane County - Charged for Failing to Deliver Requested Website Article

A second time, Spokane woman unhappy with an increase in her property taxes won a \$26,325 judgment against Spokane County, which failed to provide a public record she sought as part of a series of requests. She sued the county in for failing to comply with the state Public Records Act after she had sought documents on policies and procedures. The record in question was an old website article on how to improve chances of winning a tax appeal. The county provided thousands of other documents in response to a series of public records requests and contends the failure was an oversight that was complicated by turnover in the assessor’s office.

Honolulu Police Department - Charged for Deleting Facebook Comments & Failing to Provide Archives

After two years of litigation, a Honolulu Federal Court has ordered the Honolulu Police Department to pay \$31,000 in attorney fees to Second Amendment activists. The department was sued for First Amendment violations after the HPD allegedly removed plaintiff’s Facebook comments from an HPD Facebook page and failed to provide copies when requested.

[Read more Open Records cases related to website and social media here](#)

DIGITAL EVIDENCE IN COURT

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If your school or agency already employs a retention strategy, it's important to recognize that not all electronic records are created equal. Suppose your agency did find itself facing legal action or e-discovery proceedings. How would your web records hold up in court? It is critical for organizations to understand how digital evidence is treated by law. Your website and social media pages are transient by nature. The Federal Rules of Evidence require proof that the data presented is authentic, and has not been manipulated, altered, or misrepresented.

Without a defensible archive of a web page, those requirements are very difficult to meet. For digital records to be accepted in court, you must be able to prove their authenticity and integrity. Data authenticity verifies that the presented web content was indeed from your website and was online at a specified date. Data integrity verifies that the presented web content is an exact representation of the

original and has not been changed over time. If you can't prove the verifiability of your digital evidence, it may be thrown out, resulting in higher litigation costs for your agency.

The standards for this burden of proof can be met by utilizing three key components: a certified atomic clock to establish a legally accepted time, a digital signature to establish data integrity, and a digital timestamp to establish data authenticity. How can Alaska agencies ensure that these components are present for all their online activity? Through comprehensive, systematic archiving of their websites and social media pages.

COMMON MISTAKES IN PRESERVING ONLINE RECORDS

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THE WORST MISTAKE AGENCIES MAKE IN ELECTRONIC RECORDS RETENTION IS IGNORING THE ISSUE.

Some agencies are concerned about the cost, implementation, or effectiveness of archiving solutions. Others have not realized the legal and civic obligations that require the preservation of web records. Whatever their reasons, governments must delay no longer. They must keep records of the content they publish online . . . but not all preservation systems are created equal. Avoid these common mistakes in preserving your web content:

PRINTING AND FILING

Some agencies are taking screenshots of their web pages, printing them, and filing them away. This antiquated method of preserving web records is prohibitively expensive and inconvenient, in addition to taking up excessive space and manpower. The resulting records are not an accurate representation of the original content because they are static and non-interactive; they do not fulfill requirements for evidence in legal situations or FOIA requests. If an agency is using social media, printing and filing becomes virtually impossible.

SERVER BACK-UP

Some agencies believe their server backup policy is providing them with sufficient protection. However, the web is built on rapidly evolving technologies, making it increasingly difficult to maintain a comprehensive record of web history using back-up alone. In fact, for

historical web pages to be valid, organizations must continually back-up any databases (in addition to the other website components) because the databases influence the site's content, and are constantly changing. In addition, server back-ups are cumbersome (a continual manual process), expensive (because of excessive storage demands), and inefficient (since they cannot be indexed or searched). Above all, most server back-ups simply do not meet the standards for data integrity and authenticity that are required by courts. And they certainly can't address the issue of social media archiving.

CMS REVISION CONTROL

What about Content Management Systems (CMS)? Many of these systems have "revision control" of web page content built into the application, enabling users to view versions of web pages from the past. But this technology isn't powerful enough to restore the pages in a comprehensive, defensible form. Modern online content is dynamic and complex, often pulling data (such as Flash or AJAX content) from outside the CMS's database. A web page reproduced through CMS revision history will not be truly admissible unless the reproduced page bears a digital timestamp and signature. Further, social media content is constantly changing and cannot be sufficiently captured by CMS revision control.

BENEFITS OF WEB AND SOCIAL MEDIA ARCHIVING

ARCHIVING IS THE EMERGING SOLUTION TO THE PROBLEM OF MAINTAINING PERFECT WEB AND SOCIAL MEDIA RECORDS.

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An enduring web archive is created by capturing a digital snapshot of the web content, independent of specific databases or technologies. That means the web page can always be viewed in its original form and deliver the same user experience, meeting regulatory requirements for authentic copies. Archiving guarantees your agency's ability to exactly reproduce past online content, and to locate specific pages using search technologies for FOIA requests or e-discovery cases.

SAVING MONEY

When agencies archive their web pages, the information stays "in the cloud" until it's actually needed, reducing printed paperwork and expensive filing systems. Legal and e-discovery cases are made smoother and faster when archives are in place, reducing the cost of legal processes and fees. FOIA requests also become less expensive with

web archiving, as the records are easier to locate and produce.

SAVING TIME

Web archiving allows your data to be captured and stored automatically, eliminating the need for manual retention tasks. Also, employees can unlock archived information faster using search functions, so time is not wasted when producing records for FOIA or e-discovery.

PEACE OF MIND

It's better to comply with guidance and recommendations from government regulators and forward-thinking agencies, rather than always wonder if your current retention system is good enough. Once your records are being securely captured and stored on a regular basis, you can reap the benefits of online communication without worrying about compliance.

INSTITUTION CHECKLIST

HOW WILL YOU KNOW WHICH ARCHIVING SOLUTION MEETS YOUR INSTITUTION'S NEEDS? HERE ARE SEVERAL KEY COMPONENTS TO CONSIDER.

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POWERFUL CONTENT CAPTURE METHOD

Make sure your chosen solution can archive complex or hard-to-reach content (like Flash or AJAX). It's best to make sure your agency is covered even in a wide range of circumstances and site / page designs.

PERFECT REPRESENTATIONS

Once the archives are captured, you need to ensure they can be re-produced and re-played in their original format. This is particularly important within a legal context.

ELIMINATES DEPENDENCY

The preservation and storage of digital content is best approached using the SaaS (software as a service) model -- everything happens online, independent of specific technologies or databases. If you need to keep your records in-house, look for a service that supports both options.

POWERFUL SEARCH

Tagging records with metadata is one of the most time-consuming retention tasks. Employing an archiving solution that allows for keyword searches, filtering commands and other organizational aids can eliminate the necessity of tagging archives, or digging through online files in search of a particular record.

SECURE ARCHIVE STORAGE

Responsible handling of your agency's sensitive data is of vital importance. Make sure your archives will be stored securely in accordance with rigorous auditing standards (SSAE 16, etc.) Archives should also be stored in more than one location for an added precaution.

CUSTOM OPTIONS

With archival crawlers browsing your website and social media pages, capturing everything within a defined scope, it's important to limit the amount of data stored. You should be able to define specific URL paths, archive individual pages and otherwise tailor the archives, keeping them relevant to your agency's needs.

DEFENSIBLE DIGITAL RECORDS

Remember that your archives should be re-playable in their original form (as required for legal use). They should also be marked with a digital timestamp and signature to prove data integrity and authenticity.

LITIGATION HOLD

Your archiving solution should provide prompt exports of archived content when needed for legal or e-discovery proceedings. Regular data export is also a valuable function, if you require local copies of your records for any reason.

CONTACT PAGEFREEZER

OETC MEMBERS CAN BENEFIT FROM A VOLUME PRICE AGREEMENT WITH PAGEFREEZER. VISIT [OETC.ORG/PAGEFREEZER](https://oetc.org/pagefreezer) FOR MORE INFORMATION.

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WE HOPE THIS DOCUMENT HAS BEEN HELPFUL IN CREATING A DISCUSSION AROUND THE PRESSING ISSUE OF ONLINE RECORDS RETENTION FOR GOVERNMENT AGENCIES.

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