Developing a Records & Information Retention & Disposition Program:

IT'S BIGGER THAN JUST A POLICY!!!

Benefits: It's About Stewardship

- Ensure compliance with applicable laws and regulations

- Promote operational efficiency and effectiveness

- Manage institutional risk by specifying requirements and standards for consistent management of records across the organization

- Identify and effectively communicate mandatory and desired practices with appropriate monitoring for compliance

Results = Systematic! Consistent! Effective!

Retention & Disposition: A Living Program

▶ Technology gives people multiple options on how they want to work and create a record to document the work product…and some of them are "off the grid"

▶ In general, people are not educated on how to tag data so that it can be managed

▶ There can be multiple stakeholders that use a common "slice" of data, but stakeholders may not be aligned on requirements

▶ The ease of copying electronic records makes consistent disposition difficult to enforce

▶ Rules and regulations that define records, privacy rules, response to privacy breaches, and items subject to discovery are constantly changing how we are required to do business.

Federal Rules of Civil Procedure Rule 34(a)(1)(a)

…A party may serve on any other party a request with the scope of Rule 26(b): to produce and permit the requesting party or its representative to inspect, copy, test, or sample the following items in the responding party's possession, custody or control: any designated documents or electronically stored information – including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations – stored in any medium from which information can be obtained either directly or, if necessary, after translation by the responding party into a reasonably usable form…
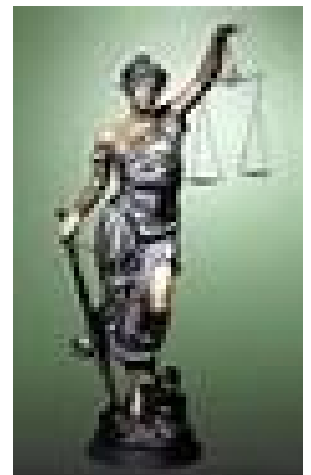
What is a Record?

▶ A record is information created, received and maintained by an organization or person that is evidence of its activities or operations, and has value requiring its retention for specific period of time

▶ Records can be used in pursuance of legal, financial, regulatory, or historical business obligations

▶ Records can be just about anything that tells a story of the events that took place

Record?
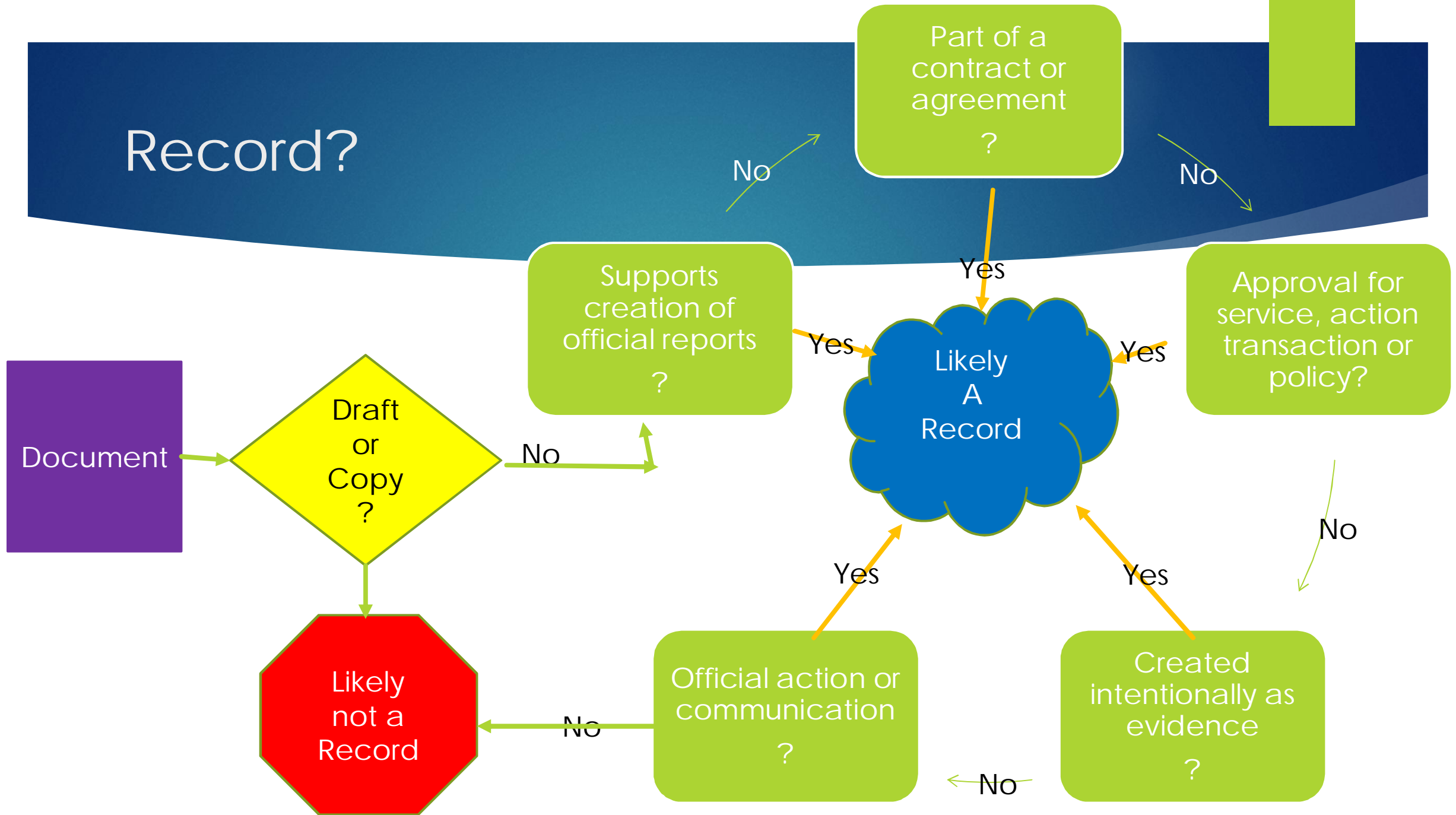
Questions: Custodianship

- Who are the primary data owners or stewards?

- Is there anyone is charge of records and information management retention?

- Do you have any business associates or third parties that "host" or have custody of your records? Is custodianship defined in the agreement?

- Who holds the official record or system of record once the record has been declared?

- Do you know who the primary records custodian or records manager is?

- Is there a committee that evaluates record retention?

Questions: Stakeholders

- Has education been provided about records retention in your area?
- Is your legal counsel and tax department aware of your records retention policies?
- Do you need technology to support retention and disposition activities?
- Are you destroying any information and is that being done consistently? How is that information being disposed of?
- Do you know where your employees are keeping information and the media that it is stored on?
- Are you aware of who is sharing your information internally and externally?

Questions: Storage Devices

- What records are created or received and when do they become records?

- Where are the records stored? Are tools such as SharePoint or One Drive permitted for use as record repositories? If so, how are those repositories managed?

- Does your department allow the use of portable devices and are they encrypted? Includes tablets, flash drives, cd's, phones, collaboration sites.

- Are personal devices permitted to host company records?

- Is everything backed up and what media is used? How often are backups performed?

- Is there a plan for how to restore data in the event that restoration from a backup is required?

- What metadata is stored with each type of document?

Questions: Email

- Is email used as part of the business process and is there a plan for filing that information as part of the business record?

- Are employees permitted to forward business information to personal email accounts and home computers?

- Are emails encrypted when information is passed outside of the organization is another transmission method required when confidential information is transferred?

- Are employees permitted to store official business records in .pst folders?

Questions: Classification and Security

- Is there a method for determining which records require additional considerations because of personally identifiable information or personal health information?

- Is access to information restricted on a need to know basis or is information generally available?

- Is there a safe method of disposal of physical and electronic data and has this been communicated to everyone in the work area?

- Are access rights to information reviewed and updated regularly?

Retention Program Development

- Allocate project resources (management support, funding, and subject matter expertise)
- Conduct a contextual functional analyses to understand the needs and practices of your stakeholders and determine a records management strategy
- Compile a records inventory that clearly defines the meaning of records, transitory information, data, and other key elements
- Identify requirements (federal and state regulatory requirements, business stakeholder requirements, security, vital records protection, and historical preservation considerations)
- Develop a records retention schedule
- Document supporting materials
- Establish a training program to be repeated at regular intervals
- Establish a monitoring program and perform periodic audits with corrective action recommendations

Resources

- National Archives and Records Administration
- Generally Accepted Recordkeeping Principles
- Association of Records Managers and Administrators
- American Health Information Management Association
- National Conference of State Legislatures

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