

OPINION NO. 71-084

Syllabus:

The advisability of retention of particular documents in the files of a State agency, and the manner of such retention, should be submitted to the State Records Commission in accordance with the provisions of Sections 149.32 to 149.44, inclusive, of the Revised Code.

To: Charles B. Sloan, Exec. Sec. State Board of Registration for Professional Engineers and Surveyors, Columbus, Ohio
By: William J. Brown, Attorney General, December 3, 1971

Your request for my opinion reads as follows:

"The Board of Registration for Professional Engineers and Surveyors requests guidance in the matter of the necessary retention time of our files on deceased registrants.

"The question is one of storage space. Individual files include the registrant's original notarized application, with documentation of educational background, his engineering work experience (usually only up to the time of registration), grade letter, copies of correspondence with the registrant, date of application, examination and date of registration.

"How much of this material and/or information is it advisable to keep?

"May certain pertinent information be transferred to a card file, allowing for the destruction of all other file items?"

Chapter 4733, Revised Code, requires your Board to maintain a record of its proceedings and a record of all applications for registration. Section 4733.09, Revised Code, provides, in pertinent part, as follows:

"The state board of registration for professional engineers and surveyors shall keep a record of its proceedings and a record of all applications for registration.

"The registration record shall show:

"(A) The name, age, and residence of each applicant;

"(B) The date of the application;

"(C) The place of business of such applicant;

"(D) His educational and other qualifications;

"(E) Whether or not an examination was required;

"(F) Whether the applicant was rejected;

"(G) Whether a certificate of registration was granted;

"(H) The date of the action of the board;

"(I) Such other information as may be deemed necessary by the board.

"The records of the board shall be prima-facie

evidence of its proceedings and a transcript thereof, duly certified by the secretary under seal, shall be admissible in evidence as if the original were produced.

" * * * * * * * * * * * * * * *"

I could render an opinion as to the legal status of any specific record or specific class of records in your files. For instance, in Opinion No. 71-053, Opinions of the Attorney General for 1971, I gave my opinion that the case files of specific investigations made by the State Highway Patrol were not open to inspection as "public records" under Section 149.43, Revised Code. But your questions concern the advisability of retaining various documents in the files of the Board and the manner in which they shall be retained. These are matters which the General Assembly has committed to the State Records Commission, which was created in order to formulate uniform procedures for the making and keeping of records in all agencies of the State, for the preservation of such records as are necessary, and for the destruction of those that are superfluous. Sections 149.32 to 149.44, inclusive, of the Revised Code; Opinion No. 1054, Opinions of the Attorney General for 1957.

The State Records Commission is established by Section 149.32, supra, which provides, in pertinent part, as follows:

"There is hereby created a 'state records commission,' * * *. The commission shall elect a chairman from its members and prescribe procedures for the compiling and submitting to the state records administrator of lists and schedules of records proposed for retention and disposal, procedures for the disposal of records authorized for disposal, and standards for the reproduction of records by photographic or microphotographic processes with a view to the disposal of the original records.

"The functions of said commission shall be to review all applications for records disposal or transfer and all schedules of records retention and destruction as submitted by the state records administrator. The decision of the commission to approve, reject, or modify the applications or schedules shall be based upon the continuing administrative, legal, fiscal, or historical value of the records to the state or to its citizens.

" * * * * * * * * * * * * * * *"

"The commission may revise, alter, approve, or reject any schedule and application or portion thereof and may designate transfer and disposal dates and methods of disposal of records when such are not specifically provided for by law. No records shall be retained, destroyed, or otherwise transferred in violation of any records schedule or application approved as provided in this section.

" * * * * * * * * * * * * * * *"

The State Records Administrator is created by Section 149.33, Revised Code, which provides as follows:

"The director of finance or his appointed representative is hereby designated the 'state records administrator' and shall establish and administer a records management program as approved by the state records commission which will apply efficient and economical management methods to the creation, utilization, maintenance, retention, preservation, and disposition of state records."

And the duties of the Administrator are enumerated in Section 149.331, Revised Code, which provides, in pertinent part, as follows:

"The state records administrator shall, with due regard for the functions of the departments, offices, and institutions concerned:

" * * * * *

"(D) Submit to the state records commission applications for records disposal and schedules of record retention and destruction initiated by the said administrator or by any department, office, and institution;

" * * * * *"

Finally, Section 149.37, Revised Code, permits the destruction of documents when satisfactory copies are available. I conclude, therefore, that your questions should be taken up in detail with the Administrator who will, in turn, submit recommendations to the Commission.

In specific answer to your questions it is my opinion, and you are so advised, that the advisability of retention of particular documents in the files of a State agency, and the manner of such retention, should be submitted to the State Records Commission in accordance with the provisions of Sections 149.32 to 149.44, inclusive, of the Revised Code.