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Opinion No. 09-03

Records Officer under Tenn. Code Ann. § 10-7-304

QUESTION

Under Tenn. Code Ann. § 10-7-304, the head of a state agency must designate a “records officer, systems analyst, or records analyst, etc., who shall be an employee at the administrative level and who shall be instructed to cooperate with the staff of the records management division and the public records commission in carrying out the purposes of this chapter.” Under Tenn. Code Ann. § 10-7-301(11), “[r]ecords officer” means “an individual designated by an agency head to assume responsibility for implementation of the agency’s records management program[.]” Does the phrase “employee at the administrative level” in Tenn. Code Ann. § 10-7-304 require a records officer, systems analyst, or records analyst to be an employee having managerial responsibility in the agency?

OPINION

The phrase “employee at the administrative level” does not require managerial responsibility so long as the records officer has the authority to carry out the duties of the position as set forth in the statute and regulations of the Public Records Commission. The records officer is charged with acting as primary facilitator between the agency, the Records Management Division of the Department of General Services, and the Public Records Commission; implementing the agency’s records management program; and presenting requests for the disposition of records to the Public Records Commission. The agency should designate an individual whose job description would include these duties.

ANALYSIS

This opinion addresses the status of a “records officer, systems analyst, or records analyst, etc.” under Tenn. Code Ann. § 10-7-304. Tenn. Code Ann. §§ 10-7-301, *et seq.*, establish a system for the control and disposition of state records. Tenn. Code Ann. § 10-7-302 creates a Public Records Commission, the members of which are the State Treasurer, the Comptroller of the Treasury, the Secretary of State, the Director of Legal Services for the General Assembly, and the Commissioner of General Services. The same statute outlines the duties of this commission:

It is the duty of the commission to determine and order proper disposition of state records. The commission shall direct the department of general services to initiate, through the records management division, by regulation or otherwise, any

action it may consider necessary to accomplish more efficient control and regulation of records holdings and management in any agency. Such rules and regulations may authorize centralized microfilming for all departments, etc., or provide for other methods of reproduction for the more efficient disposition of state records.

Tenn. Code Ann. § 10-7-302. The act also provides:

- (a) The records management division of the department of general services shall be the primary records management agency for state government, and as such shall direct the disposition of all records, including electronic processed records and computer output microfilm records.
- (b) The division shall cooperate with other agencies in the creation of records, forms, etc., which will eventually be subject to retention and/or disposition scheduling.

Tenn. Code Ann. § 10-7-303. Subsection (c) of this statute sets forth a process for disposing of state records:

Whenever the head of any state department, commission, board or other agency has certified that records created by such person's department, either permanent, temporary or working papers, as defined in § 10-7-301, have reached the end of the retention period established prior to the generation of such records, the public records commission shall then approve or disapprove, by a majority vote, the disposition of such records in a manner specified in the rules and regulations of the commission, and any disposition schedule already in effect may be voided or amended by a majority vote at any time by the commission, upon recommendation of a member of the commission or the head of the appropriate department, commission, board or other agency, in consultation with the staff of the division.

Tenn. Code Ann. § 10-7-304 provides:

The head of each department, commission, board or agency shall designate a records officer, systems analyst, or records analyst, etc., who shall be an employee at the administrative level and who shall be instructed to cooperate with the staff of the records management division and the public records commission in carrying out the purposes of this chapter. ***It is the duty of the records officer to appear before the public records commission for the purpose of presenting on behalf of such record officer's department, commission, board or agency requests for disposition of records.***

(Emphasis added). Thus, the records officer of each department, commission, board, or agency must present that agency's request for a disposition of records to the Public Records Commission. Tenn. Code Ann. § 10-7-301(11) provides:

“Records officer” means an individual designated by an agency head to assume responsibility for implementation of the agency’s records management program[.]

The request asks whether the phrase “employee at the administrative level” in Tenn. Code Ann. § 10-7-304 requires a records officer, systems analyst, or records analyst to be an employee having managerial responsibility in the agency. The statute does not define the term “employee at the administrative level.” We have found no statute or case law suggesting that the term implies a particular level of management responsibility or authority. Thus, the phrase “employee at the administrative level” does not imply any particular level of managerial responsibility or authority within the agency that a records officer must have to carry out these duties.

Tenn. Code Ann. § 10-7-301(11) defines the term “records officer.” But the statute does not define the terms “systems analyst” or “records analyst.” Rules promulgated by the Public Records Commission provide:

Records Officer. The head of each department, commission, board or agency shall designate a Records Officer, who shall be an employee at the administrative level, and inform the Commission Chairman in writing of such designation. The Records Officer shall be the primary facilitator between the agency, the Records Management Division and the Public Records Commission.

Tenn. Rules and Regulations, Chapter 1210-1-1(7). Thus, rules of the Public Records Commission require each agency or board to designate a records officer to be the primary facilitator between the agency, the Records Management Division, and the Public Records Commission. The records officer must be authorized to carry out the duties of that position as stated in the statutes and rules: 1) to act as primary facilitator between the agency, the Records Management Division, and the Public Records Commission, Rule 1210-1-1(7); 2) to implement the designating agency’s records management program, Tenn. Code Ann. § 10-7-301(11); and, 3) to present requests for the disposition of records to the Public Records Commission, Tenn. Code Ann. § 10-7-304. The agency should designate as records officer an individual whose job description includes these duties.

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