

950 CMR: OFFICE OF THE SECRETARY OF THE COMMONWEALTH

950 CMR 38.00: ACCESS TO FRAGILE RECORDS

Section

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38.01: Authority

950 CMR 38.00 is hereby issued by the Archivist of the Commonwealth under the authority of M.G.L. c. 9, § 2, and St. 1987, c. 457, as most recently amended.

38.02: Scope and Applicability

950 CMR 38.00 shall be construed to apply to all records in the custody of the Archives of the Commonwealth and all requests for access regardless of source.

38.03: Definitions

As used in 950 CMR 38.00:

Archives means the Archives of the Commonwealth.

Archivist means the Archivist of the Commonwealth.

Fragile means the condition where ordinary use would result in a loss of discrete information or artifactual integrity.

Ordinary use means the application of a record in the manner for which it was created.

Preservation means the processes and activities used to enhance the longevity and utility of records.

Records means all documentary materials, data, or objects, regardless of source, vintage, physical form or characteristics.

Reformat means the process of duplicating a record in another medium to maximize the accessibility of the information and the preservation of the original record in which it is contained.

Reformatted copy means the duplicate that results from the reformatting of an original record.

Restoration means the process by which records are returned to a condition where they can undergo ordinary use without loss of discrete information or artifactual integrity.

38.04: Obligations of the Archivist as Custodian

Custodial Obligations. The Archivist shall balance the dual statutory requirements of preservation and access in managing records in the custody of the Archives. The Archivist shall meet the obligation to:

- (a) Preserve Records. The Archivist shall preserve the records in the custody of the Archives. Such preservation activities shall include, but not be limited to, the provision of secure storage to preserve records from fire, theft, and other hazards, the prevention of mutilation of records, the establishment of a plan for disaster preparedness and recovery, and an ongoing program to enhance the longevity and utility of records.

38.04: continued

(b) Provide Access to Records. The Archivist shall permit the inspection and copying of records in the custody of the Archives, subject to the limitations expressed in 950 CMR 32.00, 950 CMR 38.05, and 950 CMR 38.06.

38.05: Preferential Use

(1) Use of Records. To preserve original records, the Archivist shall require access to reformatted copies wherever they exist in preference to original records.

(2) Exceptions. Original records may be used even where reformatted copies are available under the following circumstances:

- (a) the type of research undertaken by the requester encompasses the study of the record format and the reformatted copy does not adequately reproduce the original format for the purposes of the research;
- (b) the intrinsic value of the record cannot be duplicated in a reformatted copy.

38.06: Restrictions on Access to Fragile Records

(1) Denial of Access. The Archivist shall deny access to fragile records. In denying access, the Archivist shall inform the requester of the reasons for denial and shall make an effort to assist the requester to locate alternate sources of records or information.

(2) Remedy. If access to a fragile record is denied, the Archivist shall establish a plan to:

- (a) determine the restoration needs of the record, which may include reformatting;
- (b) identify the process by which those needs shall be met;
- (c) set a time line for the accomplishment of the restoration activities and the opening of access to the original record or to the reformatted copy.

(3) Inform requester. The Archivist shall inform the requester of the details of the plan.

REGULATORY AUTHORITY

950 CMR 38.00: M.G.L. c. 9, § 2; St. 1987, c. 457.