

TITLE 67
HOOPA TRIBAL DISCLOSURE ACT

HOOPA VALLEY TRIBE
HOOPA, CALIFORNIA

ORDINANCE NO: 02-03

DATE APPROVED: February 6, 2003

SUBJECT: TO ESTABLISH PROCEDURES FOR THE DISCLOSURE AND PROTECTION OF VARIOUS TYPES OF INFORMATION CONTROLLED BY THE HOOPA VALLEY TRIBE

WHEREAS: The Hoopa Valley Tribe did on June 20, 1972, adopt a Constitution and Bylaws which was approved by the Commissioner of Indian Affairs on August 18, 1972, and Article IX, Sections 1(a), (k) and (l) of this Constitution authorized the Hoopa Valley Tribal Council to administer tribal property, adopt ordinances, and safeguard the general welfare of the Tribe, and

WHEREAS: Efficient operation of tribal government requires a systematic and consistent procedure for the release of information controlled by the Tribal Council, its departments and entities, and

WHEREAS: In the interest of establishing a fair and non-political procedure for the release of certain information and for establishing a process to safeguard certain other information, the Tribal Council has directed that a procedure for access to public records is necessary;

NOW, THEREFORE, BE IT RESOLVED: That the Hoopa Valley Tribal Council hereby enacts this ordinance as Title 67 of the Hoopa Valley Tribal Code.

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SECTION 1. SHORT TITLE

The short title of this enactment shall be the Hoopa Tribal Disclosure Act.

SECTION 2. PURPOSES

The purposes of this Act are to establish procedures for disclosure of records that is in the public interest because of its contribution to the memberships understanding of the operations and activities of the Tribe, while at the same time, safeguarding individuals against invasions of personal privacy and protecting the political and legal status of the Hoopa Valley Tribe. Nothing in this Act shall be interpreted to prevent the lawful enforcement of other Tribal laws or to authorize the withholding of information from the Tribal Council.

SECTION 3. ACCESS TO TRIBAL RECORDS

3.1 Application

This Act shall apply to all operations and activities of the Hoopa Valley Tribe, including, without limitation, all entities and associations established by charter or otherwise authorized under the Constitution and Bylaws of the Hoopa Valley Tribe.

3.2 Tribal Records and Disclosure

3.2.1 As used in this ordinance "Tribal Records includes all books, papers, maps, photographs, machine-readable materials, electronic mail, or other documentary materials, regardless of physical form or characteristics, made or received by the Hoopa Valley Tribe or its entities under law or in connection with the transaction of tribal business and preserved or appropriate for preservation by the entity as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the Hoopa Valley Tribe or because of the informational value of data in them. Records in the possession of the Hoopa Valley Tribe or its entities where a non-tribal government or agency retains control over the records, or where the records are the personal materials of tribal employees are not included.

3.2.2 Except for previously provided copies of tribal records which the secretary or an authorized representative demonstrates are clearly required to be maintained as part of the Department of the Interior's record keeping system, tribal records shall not be deemed federal records, and shall not be subject to the Privacy Act, 5 U.S.C. Section 552a, or Freedom of Information Act, 5 U.S.C. 552.

3.2.3 The Tribe shall maintain a record keeping system and provide reasonable access to records to the Secretary or an authorized representative, which permits the Department of the Interior to meet its minimal legal record keeping program requirements under the Federal Records Act, 44 U.S.C. Section 3101, et seq., and which allow for retrocession of the Compact in whole or in part pursuant to Section 13 of Article II of the Compact. Such minimal record keeping shall not require more stringent standards than those established by Federal law and under the Code of Federal Regulations for each program,

activity, function or service compacted by the Tribe for which the United States retains trust responsibility.

3.2.4 The Tribe, in accordance with its published procedures, shall make available for inspection and copying Tribal records in any form, including:

- (a) final opinions made in the adjudication of cases;
- (b) those resolutions, enactments and statements of policy and final actions which have been adopted by the Tribe;
- (c) administrative tribal manuals that affect a member of the public;

3.2.5 The Tribe shall release litigation support records to non-party litigants only to further the interests of the Tribe, and only upon the signature of the Chairman, with approval by the Tribal Council. Such records include documents that have been or will be used by the Tribe as support in litigation. Except as specifically authorized, no such records shall be released to any person who is, or is likely to become, a party adverse to the Tribe in any present or future litigation.

3.2.6 To the extent required to prevent a clearly unwarranted invasion of personal privacy, the Tribe may delete identifying details when it makes available or publishes any record.

3.2.7 Each division or entity, upon a written request for records which describes the requested records with reasonably specific manner and upon compliance of the requestor with Sections 4.3-4.5 (concerning the fees and established procedure), shall make the records available to any tribal member.

3.2.8 The Tribe, division or entity, upon receipt of a request for records that satisfies section 3.2.7 shall:

- (a) issue a determination within ten (10) working days (excluding Saturdays, Sundays and all tribal holidays) after the receipt of any request for records, whether to comply with such request in whole or in part, and shall immediately notify the person making such request of such determination, the reasons therefore, and of the right to appeal to the Tribal Council any determination not to provide the requested records. Any Appeal shall be made within 10 working days of receipt of the determination on the records request by delivering to the Executive Secretary a Request for Appeal including all supporting documentation to be considered on the appeal by the Tribal Council;
- (b) issue a determination by the Tribal Council with respect to any appeal within twenty (20) days (excluding Saturdays, Sundays and all legal holidays) after the receipt of a written appeal. If on appeal, the denial of information is upheld, the Tribal Council shall notify the person making the request of the provisions for judicial review of that determination under section 3.2.9.
- (c) In unusual circumstances, the Tribe may extend the time limits proscribed in clauses (a) and (b) with notice to the person making the request, setting forth the

reasons for such extension and the date on which a determination is expected to be dispatched. As used in this subparagraph, unusual circumstances means-

- (1) the need to search for and collect the requested records from facilities or other establishments that are separate from the office processing the request;
- (2) the need to search for, collect and appropriately examine a voluminous amount of records which are demanded in a single request; or
- (3) the need for consultation among two or more components of the Tribe having a substantial interest in the determination of the request.

3.2.9 On complaint, by a requester, division or entity the tribal court shall have jurisdiction to decide the lawfulness of withholding a properly requested record and to order the production of any record improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of the record in camera to determine whether such record shall be withheld under any of the exemptions set forth in this Ordinance.

3.3 Exemptions from disclosure

Section 3 of this Act does not direct disclosure of or apply to records that are:

- 3.3.1 related solely to internal rules and practices of the Tribe and tribal divisions;
- 3.3.2 trade secrets of the tribe, including active business documents, financial statements and bid packages, which could jeopardize the competitive position of the Tribe;
- 3.3.3 would be privileged at common law;
- 3.3.4 records of investigations compiled for law enforcement purposes, except to the extent that non-disclosure of such information would deprive a person of a fair trial;
- 3.3.5 personnel, medical, enrollment, and any other similar records, which would constitute a clearly unwarranted invasion of personal privacy; or
- 3.3.6 intertribal memos, internal records, letters or draft materials not yet final and not approved for public release.
- 3.3.7 disclosed to only those officers, employees and agents of the Tribe who have a need for the record in the performance of their duties;
- 3.3.8 disclosed pursuant to a valid court order.

SECTION 4. REQUEST PROCEDURES

4.1 Establishment of Record Keeping System

It is the goal of the Tribal Council that a filing and record keeping system be established and maintained, and that such a system shall include procedures for confidentiality, retrieval and updating such records. The Tribal Archivist is authorized to prepare and present records management policies and procedures necessary for implementation of this Ordinance which shall become binding and enforceable upon Tribal Council approval. The Tribal Archivist shall insure that adopted policies and procedures are maintained, updated and adhered to and shall immediately report to the Tribal Chairman and the Tribal Council any activities which place records in jeopardy of loss or destruction along with a recommendation for immediate corrective action to preserve or protect the records. The system shall include all records and information of the Tribe, its Council, its departments and its entities.

4.2 Addressing Requests for Information

Requests for records shall be directed to the tribal officer in charge of the division maintaining the requested records; a copy of the request shall also be sent to the Tribal Chairman.

4.3 Availability of Information --inspection, copying, and exceptions

- 4.3.1 When a request has been approved, the member may make an appointment to inspect and copy the records so approved at the tribal offices during regular business hours or may pay to have copies sent to him or her;
- 4.3.2 The Tribal Chairman, acting in his discretion (except where otherwise directed by the Tribal Council), may determine that a record which is exempt from disclosure under Section 3 shall be made available under terms and conditions as he may set.
- 4.3.3 After 30 days advance notice, the Tribe shall provide the Secretary of Interior with reasonable access to such records maintained by the Tribe as required by Federal law in order to meet minimum legal record keeping requirements under Sections 3101 through 3106 of Title 44 of the United States Code.

4.4 Charges for Search and Production

4.4.1 Definitions

- (a) the term "direct costs" means expenditures that the Tribe actually incurs in searching for and duplicating documents to respond to a request. Direct costs include, for example, the salary of the employee performing the work and the cost of operating duplicating machinery
- (b) the term "search" includes all time spent looking for material that is responsive to a request, including a line-by-line or page-by-page identification of material within documents;

- (c) the term "duplication" refers to the process of making a copy of the document necessary to respond to a request;
- (d) the term "review" refers to the process of examining documents located in response to a request to determine whether any portion of any document located is permitted to be withheld.
- (e) the term "tribal member" shall mean any Indian Person enrolled or eligible for enrollment in the Hoopa Valley Tribe.
- (f) the term "non-member Indian" shall mean any Indian person who is not enrolled and not eligible for enrollment in the Hoopa Valley Tribe, but is a direct descendent of a tribal member.
- (g) the term "non-member" shall mean any person who is not enrolled and not eligible for enrollment in the Hoopa Valley Tribe.
- (h) the term "non-tribal" shall mean any agency, organization or office other than the Hoopa Valley Tribe.

4.4.2 Fees to be charged -- The Tribe will charge fees that recoup the full allowable direct costs it incurs in responding to a non-member or non-tribal request, unless otherwise provided by the Tribal Council or Tribal Council approved regulations. Such fees may be as follows:

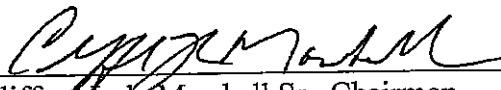
- (a) Manual search for records. The Tribe will charge at the salary rate of the employee(s) making the search;
- (b) Computer search for records. The Tribe will charge the actual direct cost of providing the service;
- (c) Review of records. The Tribe will charge at the salary rate of the employee(s) conducting the review of records to determine if any of the records may be withheld;
- (d) Duplication of records. The Tribe will charge for duplication of records per page at a rate set annually by the Tribal Chairman; provided, that minimal duplication charges may be waived upon a showing of good cause.

HOOPA TRIBAL DISCLOSURE ACT

CERTIFICATION

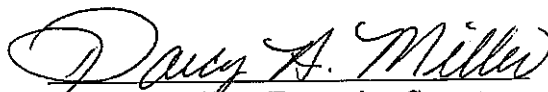
I, the undersigned, as Chairman of the Hoopa Valley Tribal Council, do hereby certify that the Hoopa Valley Tribal Council is composed of eight members of which eight (8) were present, constituting a quorum, at a regular meeting thereof, duly and regularly called, noticed, convened and held this sixth (6th) day of February, 2003; and that this Ordinance was adopted by a vote of seven (7) FOR and zero (0) AGAINST, and that said Ordinance has not been rescinded or amended in any way.

Dated this sixth (6th) day of February, 2003.



Clifford Lyle Marshall Sr., Chairman
Hoopa Valley Tribal Council

ATTEST:



Darcy A. Miller, Executive Secretary
Hoopa Valley Tribal Council

Hoopla Tribal Records Policy



Hoopla Valley Tribal Council

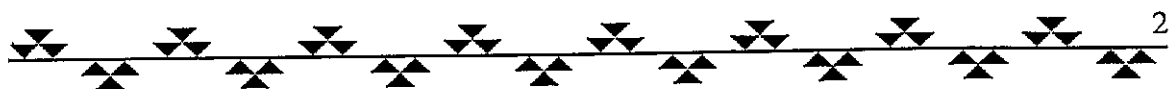
Office of Archives and Records Management

March 6, 2003

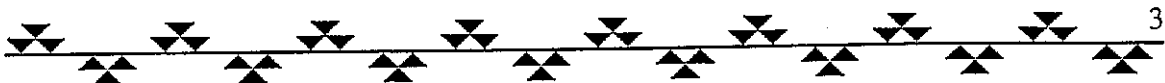
Hoopa Tribal Records Policy

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SECTION 1. GENERAL PROVISIONS

1.1 Introduction

- 1.1.1 The Hoopa Valley Tribal Council did on September 23, 1998 adopt resolution number 98-95 which states: Records Inventories to be done by all departments as a first step in implementing an effective records management program.

1.2 Purpose

- 1.2.1 The purposes of this Policy is to establish and implement the Tribal wide Records Management Program; thus, providing controls for managing the life cycle of hardcopy and electronic records; for preserving information required for effective management; for documenting accountability; and for protecting the legal and financial rights of the Hoopa Valley Tribal Council.
- 1.2.2 Nothing in this Policy shall be interpreted to prevent the lawful enforcement of other Tribal laws or to authorize the withholding of information from the Tribal Council.

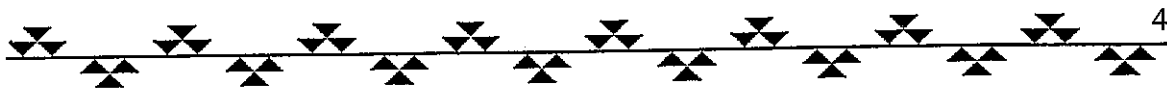
1.3 Application

All departments are affected and will comply with Records Management Program Policy, procedures and practices and will maintain primary responsibility of the records in its custody.

- 1.3.1 All Departments shall:
- (a) Inventory their records;
 - (b) Develop retention schedules;
 - (c) Identify and safeguard their vital records;
 - (d) Identify and preserve archival and potentially archival records;
 - (e) Safeguard their legal and fiscal accountability;
 - (f) Document their administrative history; and,
 - (g) Ensure efficient access to the records of the Hoopa Valley Tribe by implementing the Tribal Disclosure Act.
 - (h) Ensure only active records (*referred to at least once per month*) are stored in valuable office space, and
 - (i) In-active records are shifted to low-cost records center storage on a regular basis.

1.4 Records Policy

All tribal records created, filed or received by a Department/Entity, or individual, of the Hoopa Valley Tribe, shall be and remain the property of the Hoopa Valley Tribe.



1.5 Injury to Tribal Records – Penalties

No employee has, by virtue of his/her position, any personal or property right to tribal records even though he/she may have helped develop or compile them. The unlawful destruction, removal from files, and personal use of tribal records is prohibited.

1.5.1 Injury to Tribal Record

Any individual who willfully and unlawfully purloins, alters, mutilates, destroys, conceals, or obliterates a record, map, book, photo, paper, document, etc. created, filed or deposited with the Hoopa Valley Tribe, shall be deemed theft and/or a destruction of tribal property. A written notice of the offense shall be forwarded to the Office of Tribal Attorney. Within a reasonable time the Office of Tribal Attorney shall investigate and file a claim, if necessary, in the Hoopa Valley Tribal Court on behalf of the Hoopa Valley Tribe.

1.5.2 Injury to and Misappropriation of tribal record

Any staff person(s) or officer(s) who shall willfully and unlawfully purloin, alter mutilate, destroy, conceal, erase, obliterate, or falsify any record or paper appertaining to the person's office, or who shall fraudulently appropriate to the person's own use or to the use of another person, or secrete with intent to appropriate¹ to such use, any money, evidence of debt or other property entrusted to the person by virtue of the person's office, shall be considered an offense under the tribal personnel policies. The staff person(s) or officer(s) shall be subject to disciplinary action in accordance with the Hoopa Valley Tribal Personnel Policies, Chapter 8. Further, the Hoopa Valley Tribal Council may decide to initiate additional actions in other jurisdictions.

1.5.3 Offering false instrument for filing or record

Any person who shall knowingly procure or offer any false or forged instrument to be filed, registered, or recorded in any tribal office, which instrument, regarded genuine, might be filed, registered or recorded in such office shall be deemed defrauding the Hoopa Valley Tribe for personal gain. A written notice of the offense shall be forwarded to the Office of Tribal Attorney. Within a reasonable time the Office of Tribal Attorney shall investigate and file a claim, if necessary, in the Hoopa Valley Tribal Court on behalf of the Hoopa Valley Tribe.

1.5.4 Failure to Notice

Any staff person who knowingly fails to notify his/her immediate supervisor of any offense listed above shall be deemed insubordinate with an intent to secret wrongful conduct. The staff person(s) or officer(s) shall be subject to disciplinary action in accordance with the Hoopa Valley Tribal Personnel Policies, Chapter 8.

¹ Appropriate: 1. To set apart for a specific purpose. 2. To take possession of or make use of exclusively for oneself, often without permission.

1.5.5 Sovereign Immunity Not a defense; Council Immunity Preserved

Because the purpose of any legal claim authorized and mandated by this section is to re-create, recover or replace tribal documents and any associated costs, any defendant in such an action shall not be permitted to assert the Tribe's sovereign immunity as a defense. Nor shall anything in this provision be construed as a waiver by the Hoopa Valley Tribe of its sovereign immunity from un-consented lawsuit, nor as consent to bring an action against it or any of its officials or employees in their authorized capacities, including any cross claim that might be asserted.

1.5.6 TRIBAL COURT AUTHORITY

a) If the Hoopa Valley Tribal Court finds a preponderance of the evidence that an individual willfully and unlawfully purloins, alters, mutilates, destroys, conceals, or obliterates a record, map, book, photo, paper, document, etc. created, filed or deposited with the Hoopa Valley Tribe, the Court shall declare such action in violation of this policy and an order repayment for the cost to re-create and/or replace shall be issued.

b) The Tribal Court may also impose such additional penalties as may be appropriate, either on its own motion or on motion of the Tribe. The appropriateness of such additional penalties shall depend on the circumstances surrounding and the magnitude of the violation, and may include assessment of interest, court costs and reasonable attorney fees, any consequential damages proximately caused by the violation of this policy, and as set forth below, punitive damages and other consequences for aggravated violations of this Act.

c) Where violations of this Policy involve intent to secrete wrongful conduct, defraud the Tribe, or embezzle for personal gain, the Court shall impose the strictest penalties within its authority, including punitive damages. In such cases, the Tribal Council may decide to initiate additional actions in other jurisdictions. Also in such cases, the Tribe may request the Court to determine whether such violations amount to an offense involving moral turpitude with reference to Article VI, Section 6© of the Tribal Constitution.

d) The Court may enforce its orders by garnishment of wages paid by the Tribe, by imposing a lien on future payments from the Tribe (including per capita's and Council or Committee pay), or by any other method that appears effective and appropriate.

SECTION 2. CUSTODY OF RECORDS

2.1 Jurisdiction

All tribal records will remain in the legal custody of the office in which they were originally filed, which shall be considered "the office of record", until transferred or destroyed pursuant to approval of the Hoopa Valley Tribal Council. They shall not be placed in the legal or physical custody of any other person, or organization, public or private, or released to individuals, except for disposition provided by law or by these policies.

2.2 Access And Confidentiality

Access to tribal records is governed by the Hoopa Tribal Disclosure Act. While the intent of this act is to provide full access to tribal records, certain personnel and other records are exempt from public inspection and copying. Rules and procedures shall be established to ensure that such information is not released to unauthorized individuals and is handled in a responsible manner by the Hoopa Valley Tribal Council and its employees.

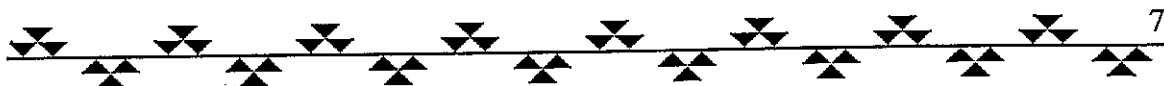
Confidential Records will be identified on records retention schedules.

The Office of Archives and Records Management shall have reasonable access to the records for purposes of information, surveying, or cataloguing; however, the creating Department/Entity controls the access to the records. The Archives refers any requests from other Department/Entities and/or individuals requesting access to records stored in a records center back to the creating Department/Entity.

2.3 Authority To Transfer Records

2.3.1 All unscheduled records of every Department/Entity, board, commission, committee, or any other activity of government which may be abolished or discontinued, shall immediately be transferred to the Archives so that the valuable historical records of the tribe may not be lost, thus, insuring permanent preservation:

2.3.2 Tribal records designated by the Archivist as being archival or potentially archival shall be transferred to the legal and physical custody of the Archives so that the valuable historical records of the tribe may be centralized, made more widely available for research, and insured permanent preservation.



- 2.3.3 All tribal records designated as archival on Department/Entity records retention schedules must be either transferred to the Archives in accordance with approved records retention schedules or may be retained by the originating Department/Entity or individual in accordance with standards for the maintenance of and access to archival records established by the Archivist.

2.4 Retrieval

Legal custody of the records stored in a "records center" remain with the office or Department/Entity that created the records, access to and retrieval of records from storage is limited to the creating Department/Entity or persons. Retrieval requests from other Department/Entities or persons will be referred back to the creating Department/Entity or persons for authorization.

SECTION 3. POWER AND DUTIES OF OFFICIALS

3.1 Tribal Archivist -- Powers and duties

All tribal records shall be and remain the property of the Hoopa Valley Tribe. They shall be delivered by outgoing officials and employees to their successors and shall be preserved, stored, transferred, destroyed or disposed of, and otherwise managed in accordance with the provisions of this Section. In order to insure the proper management and safeguarding of tribal records, the Office of Archives and Records Management is established under Tribal Administration.

The Tribal Archivist, who shall administer the Tribal Records Policy, shall have reasonable access to all tribal records, wherever kept, for purposes of information, surveying, or cataloguing, shall undertake the following functions, duties, and responsibilities:

- 3.1.1 To manage the Archives of the Hoopa Valley Tribe;
- 3.1.2 To centralize the Archives of the Hoopa Valley Tribe, to make them available for reference and scholarship, and to insure their proper preservation;
- 3.1.3 To approve all record schedules and destruction requests that are submitted to the Records Committee.
- 3.1.4 To insure the maintenance and security of all tribal records and to establish safeguards against unauthorized removal or destruction;
- 3.1.5 To adopt rules:
 - (a) Setting standards for the durability and permanence of tribal records maintained by departments and entities;
 - (b) Governing procedures for the creation, maintenance, transmission, cataloging, indexing, storage, or reproduction of photographic, optical, electronic, or other images of tribal documents or records in a manner consistent with current standards, policies, and procedures of Archives and records management

- (c) Governing the accuracy and durability of, and facilitating access to, photographic, optical, electronic, or other images used as tribal records; or
- (d) To carry out any other provision of this Ordinance;
- 3.1.6 To gather and disseminate to interested Department/Entities information on all phases of records management and current practices, methods, procedures, techniques, and devices for efficient and economical management and preservation of records;
- 3.1.7 To approve microfilming projects undertaken by Department/Entities and all other agencies of the Hoopa Valley Tribe; and to maintain proper standards for this work;
- 3.1.8 To maintain necessary facilities for the review of records approved for destruction and for their economical disposition by recycling or burning; directly supervise such destruction of tribal records as shall be authorized by the terms of this Section; [and]
- 3.1.9 To assist and/or coordinate training in the proper methods of creating, maintaining, cataloging, indexing, transmitting, storing, and reproducing photographic, optical, electronic, or other images used as tribal records.

3.3 Records Officer -- Designation -- Powers and duties

During the first year, The Chairman shall designate a Records Officer to coordinate the Records Management Program and to represent the Chairman's office in all contacts with the Records Committee, hereinafter created, and the Office Of Archives And Records Management. During the second year, the Hoopa Valley Tribal Council may advertise the position upon the Chairman's recommendation. The Records Officer, who shall coordinate the Records Management Program, shall have reasonable access to all tribal records, wherever kept, for purposes of information, surveying, or cataloguing, shall undertake the following functions, duties, and responsibilities:

- 3.3.1 Coordinate all aspects of the records management program.
- 3.3.2 Inventory, or coordinate the inventory, of all tribal records at least once during a biennium for disposition scheduling and transfer action, in accordance with procedures prescribed by the Archivist and Records Committee: PROVIDED, That Vital records shall be inventoried and processed at least annually.
- 3.3.3 Consult with any other personnel responsible for maintenance of specific records within his organization regarding records retention and transfer recommendations.
- 3.3.4 Analyze records inventory data, examine and compare Department/Entity inventories for duplication of records, and recommend to the Archivist and Records Committee minimal retentions for all copies commensurate with legal, financial and administrative needs.
- 3.3.5 Approve all records inventory and destruction requests that are submitted to the Records Committee.

- 3.3.6 Review established records retention schedules at least annually to insure that they are complete and current. If a particular Department/Entity does not wish to transfer records at a time previously scheduled therefore, the records officer shall, within thirty days, notify the Records Committee and request a change in such previously set schedule, including his reasons therefore.
- 3.3.7 Exercise internal control over the acquisition of filming and file equipment.
- 3.3.8 To establish and operate record centers as may from time to time be necessary, for the purpose of preserving, servicing, screening and protecting all tribal records which must be preserved temporarily or permanently, but which need not be retained in office space and equipment;
- 3.3.9 To inspect, inventory, catalog, and arrange retention and transfer schedules on all record files of all departments and entities of the Hoopa Valley Tribe.

3.4 Department/Entity Managers

Each Department/Entity has primary responsibility for the proper and legal management of the records in its custody. That Department/Entity is known as the office of record. Program directors, department heads, and other management staff are responsible for ensuring compliance with tribal laws and policies for the management of tribal records. Day-to-day responsibility may be delegated to designated Records Managers.

3.5 Records Manager

The office Records Manager is responsible for the physical inventory of all office records holdings, analysis and evaluation to identify record series titles and functions, and assessment of administrative need for office retention, records center retention, and total retention of office records holdings. The Records Manager acts as a liaison with the Records Officer to effect all phases of the Records Management Program including annual updating, retrieval and disposition.

The Department/Entity head may designate one staff member as the office Records Manager. It is important that the person be chosen for his/her understanding of the function of the office and familiarity with the files and records.

Each Department/Entity who designates a Records Manager is authorized to grant Compensatory Wage increase for added duties in accordance with the Hoopa Valley Tribal Personnel Policies.

3.6 Administrative Records Manager

As an appointee of the Tribal Chairman, Provides System oversight on the Document Imaging Program in addition to Records Manager duties. They shall be eligible to receive Compensatory Wage increase for added duties in accordance with the Hoopa Valley Tribal Personnel Policies.

3.7 Tribal Records Committee

3.7.1 There is created a working committee, to be known as the Tribal Records Committee, composed of

- a) an appointed Council Member,
- b) the Self-Governance Coordinator
or an appointee from the Division of Finance.
- c) an appointee of the Chairman's Executive/Administrative Staff, and
- d) the Tribal Archivist, as Secretary

3.7.2 Committee members shall serve without additional salary, but shall be entitled to travel expenses incurred in accordance with the Travel Policy. Such expenses shall be paid from the appropriations made for Travel expenses of their respective Departments/Entities or Office.

3.7.3 The Records Committee shall meet in open session on the last Thursday of each month at 10:00 am for the first year. The second year, the Records Committee shall meet at least once every quarter on the last Thursday of January, April, July and October, or as business dictates. The third year, the Records Committee shall meet at least once every six months. Thereafter, the Records Committee will meet biennially².

3.7.4 Action by the committee shall be by majority vote and minutes shall be kept of all committee business.

3.7.5 It shall be the duty of the Records Committee to approve, modify, or disapprove the recommendations on retention, schedules of all files of tribal records and to act upon requests to destroy any tribal record: Provided, that any modification of a request or recommendation must be approved by the head of the Department/Entity originating the request or recommendation.

3.7.6 The Office of Archives and Records Management shall provide forms to all Department/Entities, approved by the Records Committee.

3.7.7 The schedules are to be submitted to the Records Committee, which may either veto, approve, or amend the schedule. Approval of such schedule or amended schedule shall be by unanimous vote of the Records Committee. Upon committee approval, the schedule shall be forwarded to the Council for final approval.

² Biennially: Happening every second year. An event that occurs once every two years.

SECTION 4. PRESERVATION OF RECORDS

4.3 Records Inventory

During the first year, A FILE INVENTORY form shall be completed by each Department/Entity at the folder level. All original completed inventory forms shall be submitted to the Tribal Archivist with copies sent to the Records Officer. The inventories will assist the Archivist in developing the general Tribal Records retention schedule as well as the estimated volume of records within the tribe.

The inventory shall include a record title of each folder, The beginning month and year and the end of the month and year, The Physical form or forms, such as letter size paper, legal size paper, bound book, audio tape, video tape, film, computer tape, floppy disk, or other medium, the Current location or locations of the records being inventoried, and the Type of filing system, such as alphabetical, chronological, numerical, geographical, or other. Thereafter, records will be inventoried at the record series level, and not by folder.

4.4 Records Description and Appraisal RDA

Appraisal is the process of evaluating records and information in order to determine how useful they are now and will be in the future. The Archivist assists Department/Entities in appraising records in order to make appropriate disposition decisions.

- 4.4.1 A record series appraisal worksheet shall be completed by each Department/Entity. The following information is required for each record series derived from the file inventory form:

The records series Title and A record series description, Date span, Physical form, Current location, The total quantity of materials, whether they are Archival or potentially archival, Identify if they are a vital record, Purpose in terms of Administrative, Legal, Fiscal, Research etc, Condition of the records, , Type of filing system, Access restrictions, Audit requirements and grant requirements if any.

4.5 Schedule Preparation

A records retention schedule is a document that lists records and specifies how long they must be kept. A records retention schedule is organized by function or type of record, such as personnel, financial, or administrative records; it is not arranged according to the office or Department/Entity that created and manages the records. A records schedule is further divided into groups of records, called series, which document a common function and are normally filed, used, and destroyed as a unit.

The Hoopa Valley Tribal Council has the responsibility and authority to authorize destruction of records. A records retention schedule is used to authorize destruction of records.

- 4.5.1 The schedule shall be prepared by completing a records retention and disposal schedule form which shall include the following information:
- (a) Name of the Department/Entity.
 - (b) Description of each record series, which shall include the record series title and the record series description, as specified on the RDA (records description and appraisal worksheet)
 - (c) Retention period for each record series. The following apply:
 - (i) For records to be preserved permanently, the schedule shall provide for periodic transfers to the Archives or to a depository designated by the Archives;
 - (ii) For permanent records that are scanned or microformed, the schedule shall state that the master copy shall be transferred annually or more frequently to the Archives;
 - (iii) For disposable records, the schedule shall state the length of time the records will be kept in the Department/Entity and, if applicable, the length of time the records will be stored in a records center;
 - (iv) For records with audit requirements, the schedule shall state the length of time the records shall be kept after the audit.

SECTION 5. RECORDS DISPOSITION AUTHORITY

5.1 Authority -

Except as otherwise provided by law, no official tribal records shall be destroyed until approved for destruction by the Hoopa Valley Tribal Council.

Council Approved record schedules constitutes authority to destroy the records listed thereon, after the required retention period, on a recurring basis until the schedule is either amended or revised by the Records Committee and approved by the Tribal Council.

5.2 The Tribal Retention Schedule (TRS)

The Hoopa Valley Tribal Council shall approve and issue a general tribal records retention schedule which shall constitute authority to dispose of specific like records, held commonly by most offices, after a required retention period, on a recurring basis until the schedule is either amended or revised by the committee and approved by the Hoopa Valley Tribal Council.

The Tribal Retention Schedule (TRS) serves as both a guide and authority for the retention and disposition of records common to many tribal Departments/Entities.

5.3 The Department/Entity Schedule (DES)

The Department/Entity records retention schedule serves as both a guide and authority for the retention and disposition of records unique to that Department/Entity. Office records not included on the Tribal Retention Schedule should be listed and approved on the Department/Entity Schedule, prepared by the office Records Manager and the Records Officer.

5.4 Records retention and disposition guidelines

The Archivist may furnish suggestions and guidelines to Department/Entities for their assistance in the preparation of lists and schedules and may furnish information relating to any other matter relating to the retention, preservation, or destruction of tribal records. Such guidelines may be published and include suggestions relative to the minimal retentions of records and recommendations for scanning and/or microfilming. The guidelines are suggestive only and are not records destruction authorizations.

SECTION 6. METHODS OF RECORDS DISPOSAL

6.1 Generally

When the Hoopa Valley Tribal Council has authorized the destruction of tribal records through approved schedules, it shall be the responsibility of the Department/Entity having requested or received such authorization to cause such records to be disposed of promptly and effectively, after the approved retention period.

6.2 Disposal of confidential records

It is the Department/Entity's responsibility to insure that records exempt from disclosure, or which are otherwise considered confidential, are protected from unauthorized access during any disposal process. The primary purpose of such disposal shall be that of reducing the records to an illegible condition, under the following conditions:

- (1) The prompt destruction of the records shall be insured, and the responsibility for such destruction shall continue to be that of the Department/Entity until effectuated³.
- (2) Records shall not be kept in unattended and unprotected storage awaiting their destruction.
- (3) Records shall be destroyed by burning or shredding.

6.3 Disposal by recycling

Pursuant to disposal authorization by the Hoopa Valley Tribal Council, a Department/Entity may dispose of records by recycling, under the following conditions:

³ Effectuated: To cause; to make happen; bring about; effect; accomplish.

(1) Records shall not be kept in unattended and unprotected storage awaiting their destruction.

6.4 Authorization

All records temporarily stored by the Records Officer in a records center legally belong to the Department/Entity that created them. Therefore, the Records Officer will ask the creating Department/Entity to authorize destruction of records when the retention period has been satisfied.

6.5 Certificate of Records Destruction

6.5.1 When records are destroyed in accordance with the terms of an approved schedule, the Department/Entity shall submit a certificate of records destruction to the Archives and the Records Committee. The certificate shall contain the following information:

- A. Title of each record series;
- B. Schedule number or numbers, as assigned
- C. Inclusive dates for each record series;
- D. Quantity of material for each record series;
- E. Date of destruction;
- F. Method of destruction; and
- G. Signature of a designated official

6.5.2 A schedule may be amended or revised at any time by a Department/Entity, or at the request of the Records Officer. Reasons for amendments or revisions include the creation of new record series, changes in record-keeping practices, changes in formats, and/or reorganization of a Department or Entity.

6.6 Biennial Review

Once schedules are approved, At least once every two years a Department or Entity shall review its retention schedule or schedules to determine if they encompass all current record series. Based upon the review, a Department or Entity may be required to amend or revise its schedule or schedules.

6.7 Amendments

A Department/Entity submitting legislation that will change the manner or nature of record keeping within that Department/Entity shall submit in advance a copy of the proposed legislation to the Tribal Archives for review.

6.8 Suspension Of Record Disposition Guidelines

Upon service of legal process (subpoena, summons or the like), or upon learning of an investigation or audit, or if a claim is made, whether formal or informal, or a dispute arises, the record retention schedule shall be suspended and records related to the legal process, claim, dispute, investigation or audit should not be destroyed.

SECTION 7. DISASTER PREPARDNESS – Vital Records

7.1 Vital records -- Designation -- List

In order to provide for the continuity and preservation of tribal government, all Department/Entities and each elected and appointed officer of the tribe shall designate those tribal documents which are Vital records of his/her office and needed in an emergency for the reestablishment of normal operations after any such emergency. The original list of such records shall be forwarded to the Archivist on forms prescribed by the Archivist. The Department/Entity and elected or appointed officer shall review this list at least annually, to insure its completeness. Any changes or revisions following this review shall be forwarded to the Archivist. Each Department/Entity and elected and appointed officer of the Hoopa Valley Tribe shall insure that the security of Vital records of his/her office is by the most economical means commensurate with adequate protection.

7.2 Protection of Vital records

Protection may be by vaulting, planned or natural dispersal of copies, or any other method recommended by the Archivist and approved by the council. Reproductions of vital records may be by scanning, photocopy, magnetic tape, microfilm or other method recommended by the Archivist and approved by the Council. Departments/Entities may coordinate the protection of their Vital records with other Departments/Entities as necessary to provide continuity of tribal government under emergency conditions.

7.3 Vital records -- Reproduction and storage --

The Records Officer or Archivist is authorized to reproduce those documents designated as Vital records by the several elected and appointed officials by microfilm, scanning or other photographic process and to assist and cooperate in the storage and safeguarding of such reproductions in such place as is recommended by the Archivist.

7.4 Coordination of protection program --

The Archivist shall coordinate the Vital records protection program and shall carry out the provisions of the emergency plan as they relate to the preservation of Vital records.

7.5 Reproduction by film or photograph

The head of any department, entity, commission, committee, board or business may cause any or all records required or authorized by law to be made or kept by such official, department, commission, committee, board, or business to be photographed, micro photographed, scanned, reproduced on film, or photocopied for all purposes of recording documents, plats, files or papers, or copying or reproducing such records. Such film or reproducing material shall be of permanent material and the device used to reproduce such records on such film or material shall be such as to accurately reproduce and perpetuate the original records in all details, and shall be approved for the intended purpose: PROVIDED, That the Records Committee shall review and approve such material for records use, prior to Council approval.

7.6 Use as original

Such photo-static copy, photograph, microphotograph or photographic film record, or copy of the original records shall be deemed to be an original record for all purposes, and shall be admissible in evidence in all courts or administrative agencies. A facsimile, exemplification⁴ or certified copy thereof shall, for all purposes recited herein, be deemed to be a transcript⁵, exemplification or certified copy of the original.

SECTION 8. STANDARDS FOR ACCURACY

The Archivist shall adopt rules setting standards for the durability and permanence of tribal records maintained by the Hoopa Valley Tribal Council:

- (1) Governing procedures for the creation, maintenance, transmission, or reproduction of photographic, optical, electronic, or other images of tribal documents or records in a manner consistent with current standards, policies, and procedures.
- (2) Governing the accuracy and durability of photographic, optical, electronic or other images used as tribal records.

SECTION 9. IMAGING SYSTEMS

9.1 Imaging Systems, Standards For Accuracy And Durability

The purpose of this section is to establish standards and recommended practices for the creation, preservation, access to, and retention of tribal records on electronic imaging systems. Electronic imaging systems may legally be used for recording, producing, reproducing, maintaining, and storing tribal records if:

- (1) Those systems meet the standards set forth in this section;
- (2) The systems are used in accordance with this section; and

⁴ Exemplification: An official and certified copy of a document from public records.

⁵ Transcript: Something transcribed; Transcribe: 1.To write or type a copy of; write out fully, as from shorthand notes. 2.To transfer (information) from one recording and storing system to another.

(3) The retention and disposition of the original and copies of records maintained on those systems regardless of media are scheduled, maintained, and disposed of in accordance with approved records retention schedules. Nothing in this chapter can be construed to limit the admissibility of any tribal record as evidence.

9.2 Electronic document imaging system

An electronic document imaging system is a computer-based configuration of equipment and software that stores machine-readable document images and their associated character-coded index data for on-demand retrieval. Electronic images can be computer generated, or created through document scanning.

9.3 Retention scheduling and disposition of tribal records

Conversion to an imaging system does not automatically authorize the destruction of the source documents for which images have been created. Destruction of, or changes to the retention period of, any tribal records due to conversion to or the use of a new media requires review and approval of the tribal Records Committee.

9.4 Records retention scheduling for records on imaging system

The required retention scheduling of tribal records to be created, maintained, accessed, distributed, or preserved by government entities on electronic imaging systems should be done prior to the creation or copying of images of those records. Retention schedules shall be based on the information content and function of the record series. Record series documenting electronic information system operation, and maintenance must also be included on the records retention schedule approved for the Department/Entity using the system. Electronic image media rendered obsolete through the verified accurate migration of its images to a more current media for readability may be considered a redundant version and disposed of as directed.

9.5 Disposition of records identified by Records Committee as archival

Tribal records that are designated "archival" or "potentially archival" by the Records Committee may not be destroyed without Council approval, even where images of those records have been produced and stored on an electronic imaging system.

9.6 Usability of image and index data over time

Maintaining access to and usability of electronic records requires the ability to process images and indexes both on the computer system on which they were created and on their replacement computer systems without loss of information for the full retention period approved for that record. Ensuring the readability of electronic records over time requires the maintenance of proper environmental conditions, periodic recopying, and strategies to preserve data by migration from one generation of technology to another through a commitment to open architecture.

9.6 Record keeping capabilities

Electronic imaging systems must have the following security and retention features or capabilities:

- (1) Tracking information at the records series level.
- (2) Ability to properly eliminate or dispose of records that exceed their retention periods as established under the retention schedule.
- (3) Record authentication functions as needed to meet legal, audit, and administrative requirements including automatic, computer-generated maintenance of the date and time of record creation or updating, the identity of the user or system that created or updated the record, and a system-enforced log of disposition actions.
- (4) Protection against unauthorized access to records by means of a password hierarchy or other system security.
- (5) Indexing capabilities that provide flexibility in associating a record series with multiple subject categories, that facilitate access and retrieval, and that provide links to related records or supporting documentation.

9.7 Defining indexing requirements

The selection of indexing methods and terms should be based on an analysis of the retrieval requirements associated with a particular application, and must ensure efficient and accurate retrieval of images and information. The design and content of the index should utilize standard attributes wherever available and take into account the security of the index and the retrieval requirements of both current and future users of the records including tribal personnel, researchers, and the public.

9.8 Preservation strategy

For an electronic image system containing tribal records with a retention period of ten years or longer or records containing archival information, one or more of the following preservation strategies must be employed:

- (1) Retain the original paper documents;
- (2) Microfilm the original documents;
- (3) Migrate optical media and magnetic media at least every ten years or sooner as is necessary to avoid technical obsolescence, loss of readability, and excessive read error rates; or
- (4) Record the electronic images on industry standard microfilm at the same density at which they were scanned.

9.9 Security backup copies

Security backup copies must be made of electronic imaging system records stored on electronic media. The methods and frequency of backup should be determined by the amount of information that would be lost if data had to be restored using the previous backup. Since backup copies are also subject to media failure, it is recommended that redundant (multiple) backup copies be made and stored at different locations, with one copy stored off-site. In order to ensure accessibility of data, at least one redundant backup copy should be recorded in a nonproprietary format. Security backup copy media must be inspected for quality using de-facto⁶ or industry standards on a regular schedule and replaced before predicted failure. If the primary backup copy of an operational imaging system is found to deviate from the primary production copy due to suspected corruption or read errors, the discrepancy must be located and both the production and backup copies shall be corrected to contain accurate versions of the original images.

9.10 Ensuring usability

At a minimum, the system must include an electronic error checking utility that will check the integrity of the data when written to the media.

9.11 Environmental standards or best practices for storage of electronic media

Electronic media should be stored in a dust-free environment under the following environmental conditions:

- (1) Temperature ranges meeting standards or best practices recommended for the media stored;
- (2) A relative humidity range meeting standards or best practices recommended for the media stored;
- (3) Media should be stored in a closed container to protect from dust and fingerprints; and
- (4) Magnetic tape should be rewound in accordance with de-facto or industry standards, or to best practices.

9.12 Continued access to data

If access to data in an existing electronic imaging system cannot be maintained for the specified retention period of the records stored in that system, the images must be migrated, without loss to the images or indexes, at the time of acquisition or implementation of a new system. Access to electronic data, which has not been migrated to a new system, requires preserving the data, the storage medium in which the data is kept, and whatever hardware, operating system, and applications software is needed to view and use the data.

⁶ De-facto Standard: A widely accepted industry standard without official recognition by a standards group.

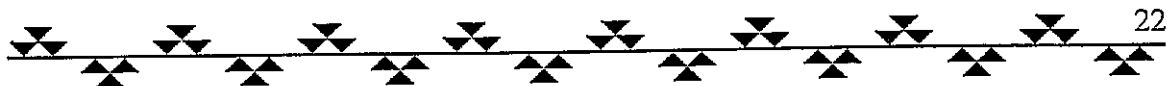
9.13 Data conversion costs

The adoption of new electronic imaging systems may require significant expenditures for conversion of information maintained in existing electronic formats to the formats required by new imaging systems. System planning must include analysis of future information access, maintenance, data conversion, and security costs.

SECTION 10. DEFINITIONS

Term	Definition
Active Records	Current records needed to carry out an organization's day-to-day business; records subject to frequent use (typically once a month).
Administrative Records	Any recorded information that serves as the vehicle for management problem solving and decision making, relating to the work of an office. The information can be letters, memoranda, completed forms, directives, reports, photographs, maps, microfilm, motion pictures, computer tapes and disks, and e-mail messages.
Archives	"Archives" means the Tribal Archives.
Archivist	"Archivist" means the Hoopa Valley Tribal Archivist
Department	"Department" means any Department of the Hoopa Valley Tribe.
Division	"Division" means the groupings of Department/Entities by function in the Records Organizational Chart of the Hoopa Valley Tribal Council.
Disposition	Actions taken with records after their value has been determined. The actions include retirement to a low-cost storage facility for temporary storage, transfer to an archival facility, microfilming, or disposal. The term includes, but is not synonymous with, disposal.
Entity	"Entity" means any unit of the Hoopa Valley Tribal Council.
Historical Records	Records that preserve a reasonable portrait of significant past events and are useful for purposes beyond those for which they were created. For example, historical information is often used as a basis for decision making. Historical records should be retained because of their administrative, legal, research, assessment, and archival value.
Inactive Records	Records no longer needed to carry out an organization's day-to-day business; records not subject to frequent use (typically accessed less than once every six months).
Non-Records	Extra copies of material kept only for reference or convenience, e.g., library books and stocks of publications.

Personal Papers	Recorded material related solely to an individual's own affairs or used exclusively for the individual's convenience. Material not used to conduct HVT business.
Records	Information of any kind and in any form or format (e.g., paper, photographs, microfilms, and electronic or other medium) that is: created, received, and maintained by Department or Entity or individuals as evidence of its functions, policies, decision, procedures, operations, or other activities.
Records Officer	A person designated by the Tribal Chairman to coordinate the tribal-wide records management program.
Records Manager	A person designated by the head of any Department/Entity who is assigned day to day records responsibilities and to act as a liaison with the Records Officer.
Records Retention Schedule	A document providing a timetable that identifies the length of time a record must be retained in active and inactive status before final disposition.
Records Series	Records accumulated over a period of time and arranged in an organized file or set of files which can be described, handled, and disposed of as a unit. A records series may consist of records of a single type or format, or of records kept. (E.g. Accounts payable, Ordinances, or Tribal Council Minutes) .
Records Series Title	A general or descriptive heading assigned to a document, which can be used for identification and retrieval purposes. Series titles should coincide with series descriptions.
Series Description	Vital information in a narrative format about the content of the records; the description should adequately describe the records to people unfamiliar with them.
Schedule	<p>"Schedule" means a records retention and disposal schedule which is an official document listing and describing all records of a Department or Entity, and providing:</p> <ul style="list-style-type: none"> (a) Authorization for the destruction of those records that are not Vital to its operations after the lapse of a stated period of time; and (b) For the permanent retention of those records deemed by statute or considered by the Archives to be of permanent value, or both.
Vital Records	One of two types of records: emergency operating records or legal rights and interests records. Emergency operating records include records that may be necessary for responding to an on-site emergency of any category (e.g., fire, flood, or sabotage) or that allow for continued operation and management of facilities and programs. Legal rights and interests records document legal rights and interests of individual citizens and their government, including documentation regarding retirement, insurance, finance, payroll, and certain types of research records.




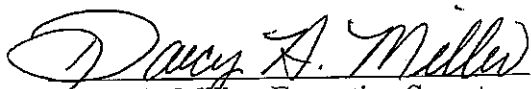
HOOPA TRIBAL RECORDS POLICY

CERTIFICATION

I, the undersigned, as Chairman of the Hoopa Valley Tribal Council, do hereby certify that the Hoopa Valley Tribal Council is composed of eight members of which five (5) were present, constituting a quorum, at a regular meeting thereof, duly and regularly called, noticed, convened and held this sixth (6th) day of March, 2003; and that this policy was adopted by a vote of four (4) FOR and zero (0) AGAINST, and that said policy has not been rescinded or amended in any way.

Dated this sixth (6th) day of March, 2003.


Clifford Lyle Marshall Sr., Chairman
Hoopa Valley Tribal Council

ATTEST: 
Darcy A. Miller, Executive Secretary
Hoopa Valley Tribal Council

