

Opinion No. 60-72

April 13, 1960

BY: OPINION of HILTON A. DICKSON, JR., Attorney General

TO: Joseph F. Halpin, Administrator State Records Center Santa Fe, New Mexico

QUESTION

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Should general correspondence files be considered "public records" as defined in the Public Records Act, Sec. 71-6-2, N.M.S.A., 1953 Comp., 1959 Supplement?

CONCLUSION

See analysis.

OPINION

{*431} ANALYSIS

The term "public records" as it is used in the Public Records Act (§§ 71-6-1 to 71-6-17, N.M.S.A., 1953 Comp., 1959 Supp.), is defined at § 71-6-2 as follows:

"C. 'Public records' means all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, made or received by any governmental agency in pursuance of law or in connection with the transaction of public business **and preserved or appropriate for preservation by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained therein.** Library or museum material made or acquired solely for reference, circulation or exhibition purposes, extra copies of documents preserved {*432} only for convenience of reference, and stocks of publications and of processed documents are not included;"

It is clear from a reading of the underlined portion of the definition, that in order to be considered a "public record," an item must have some continuing significance or importance. There must be some purpose or reason for its preservation. Therefore, it is our conclusion that general correspondence files are not public records per se. Certainly there are many items in such a file which should be treated as public records because their contents bring them within the statutory definition. However, there are many items which should be classified as transitory in value and interest. To treat such items as public records and to require their retention for at least 3 years (§ 71-6-11) would be burdensome, wasteful and unnecessary.

In describing the duties of the State Records Administrator, § 71-6-6 states in part as follows:

"The administrator shall establish records disposal schedules for the orderly retirement of records and adopt regulations necessary for the carrying out of the Public Records Act."

Pursuant to this provision, the Administrator may adopt regulations which will guide state officers in determining which records are "public records" and providing for separate disposal standards and retention periods for nonpublic record correspondence. The disposition of those records found to be "public records" within the meaning of the statutory definition must be controlled by the applicable portions of the Public Records Act.

By: F. Harlan Flint

Assistant Attorney General