



NEW YORK ASSOCIATION OF LOCAL  
GOVERNMENT RECORDS OFFICERS

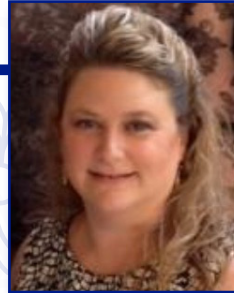
# NETWORK

[www.nyalgro.org](http://www.nyalgro.org)

Fall 2018

## President's Message

I hope all of you had a wonderful summer. Your Executive Board has been working hard to prepare for the 2019 conference — and we have booked our location for 2020 already! Here are some updates for you.



### 2019 Conference

In October your Executive Board members met to create the course schedule for the 2019 conference, which will be June 2-5, 2019 at the Riveredge Resort in Alexandria Bay. We have an exciting course schedule planned for you so hopefully you plan on attending! As always we welcome your suggestions. Please send them to [dpotvin@woodburyny.us](mailto:dpotvin@woodburyny.us) and we will try to get a class scheduled for you in the future!

### Scholarships Available

The cost of the 2019 conference can be paid for by applying and being awarded one of the two scholarships we offer annually. If your employer does not allow you to budget for the conference, please apply for a scholarship. We would like to assist you. Scholarship applications are available on the website. The estimate cost for 2019 is about \$400 for the two night package and about \$500 for a three night package.

### 2020 Conference

Will be held in Corning at the Ramada Inn from June 7-10, 2020. Mark your calendars now!

### Do you know someone deserving of an award/recognition?

We are always looking to recognize deserving individuals/groups to be acknowledged at our conference. NYALGRO gives out three awards each year and we need your help with recommendations. Please review the award descriptions on our website and reach out to us with your suggestions!

### Have you liked us on Facebook yet?

If you have time — consider liking us on Facebook©. We post interesting facts and upcoming events. And as always, please feel free to call me at any time if you have any questions about NYALGRO or just to say hi! My phone number is 845-928-6829, ext. 7!

*Desiree Potvin, President*  
[dpotvin@woodburyny.us](mailto:dpotvin@woodburyny.us)

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*Have a wonderful  
Holiday Season!*



# New York Archives Updates

The New York State Archives is pleased to announce that Michael Martin is the new Regional Advisory Officer (RAO) for the Central New York Region. He replaces long-time CNY RAO Kent Stuetz who retired. Michael has been with the Archives for over a decade most recently as an electronic records archivist. Michael, a Syracuse native, knows Central New York well and is a great addition to our regional staff.

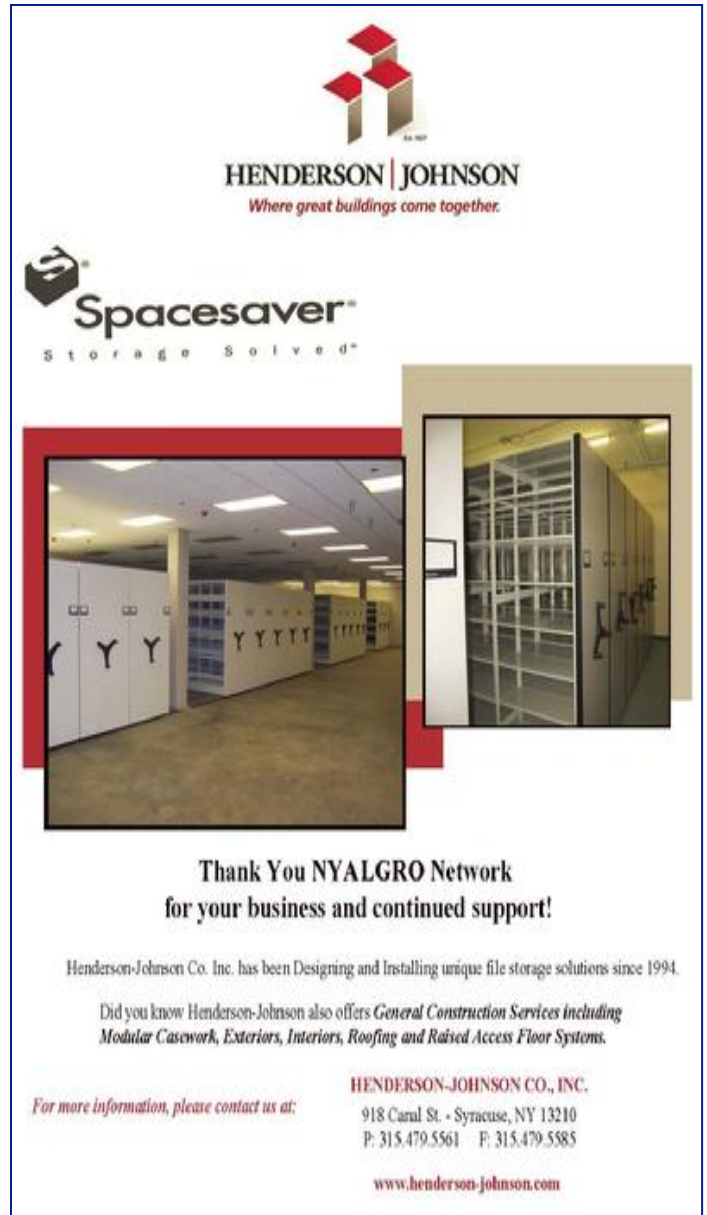
And speaking of Syracuse, the Archives is moving the Central New York office from Utica to Syracuse. The Syracuse location is much more central to the region and will make it easier to reach constituents for site visits and to conduct workshops.

The Archives is also consolidating offices. Joining Michael in the new Syracuse office is Western New York RAO, Sarah Durling. No need for Western New York local governments to worry though, you'll still get the same great service from Sarah.

The Archives' Hudson Valley-Catskill region has been without a RAO since Linda Bull retired. However, we are providing services to the region. If your local government is in Westchester or Rockland counties, you may contact Lorraine Hill-Campbell at [lorraine.bill-campbell@nysed.gov](mailto:lorraine.bill-campbell@nysed.gov) and if your local government is in any of the remaining counties of the region you may contact Dave Lowry at [david.lowry@nysed.gov](mailto:david.lowry@nysed.gov)

Work continues on updating and consolidating the records retention schedules for local governments. Archives staff should have a first draft of the new schedule completed by the end of the calendar year (2018). Once the first draft is complete the Archives will ask local government officials to review changes to the new schedule. If you'd like to participate in the review, please contact us at [recmgmt@nysed.gov](mailto:recmgmt@nysed.gov) and let us know.

—Dave Lowry



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# FOIL, FOIL and more FOIL

As Records Access Officer for my County, I find in the last few years the number of FOIL requests have increased considerably. A great portion of my day is spent dealing with the requests; talking with different department staff on what records they have in order to answer the request and then consulting with the County Attorney to ensure that the documents can be released under the FOIL regulations. Many of them are simple and can be addressed in a day or two; however some are very complex and involve different sections that need the assistance of different departments.

The County Attorney and I have outlined some of the basic questions and answers that staff asks in order to be complaint with the FOIL procedures. I would like to share our experiences with the other Records Access Officers in New York State.

## **FOIL = Freedom of Information Law (Public Officers Law Article 6)**

- Based on the notion that government should operate in an open and transparent manner -- no matter who asks
- Presumes that all documents/information held by government entities are subject to public review unless they fall "squarely" under one of the statutory exceptions
- Includes not only paper documents, but also information in e-mails, on tapes or disks and other electronic media
- E-mail inquiries also trigger FOIL – no special form required
- All public entities are required to have a FOIL Records Access Officer (RAO) to handle information requests
- Does not require creation of documents that don't exist

## **What should I do if someone asks my department for information or records?**

- If the request isn't in writing, ask the requestor to put it in writing
- Send the request to Record Access Officer ASAP (5 day letter)
- RAO will send the required acknowledgment to the requestor and documents the process
- RAO will work with you to determine what documents you have that are responsive to the request
- RAO and County Attorney will determine whether any documents need to be withheld or redacted

## **Who you gonna call?**

- RAO
- County Attorney's Office

## **Can't I just handle routine information requests myself?**

- NO! All requests for information/documents fall under FOIL
- Law requires specific acknowledgement and has stringent time deadlines
- Denial of access must be supported by law and documented
- Documentation of FOIL compliance is important and protects YOU
- Failure to comply with FOIL exposes the County to civil liability and attorney's fees
- Production of information that is protected by other laws (e.g., HIPAA, bidding documents & privacy) can expose the County to substantial fines and civil liability

- Who makes the decision of what can be released? RAO and County Attorney will work with the department to determine what documents are responsive and whether any exceptions apply

## **What can we charge for copies of our records?**

- Review of documents is FREE
- Can charge no more than \$.25 per page for copies, or
- Existing electronic files that already exist are transmitted free of charge.
- "Actual cost" of reproduction.
  - hourly salary of lowest paid worker with skill to make copies
  - cost of disk, tape or other media in which the information is delivered to the requestor
  - amount paid to an outside service that makes the copies, but only if agency lacks equipment to make the copies itself

## **Who gets the money if I make copies?**

- Goes to special FOIL account

## **What about HIPAA and FOIL?**

- One of the statutory FOIL exceptions allows non-disclosure of records that are protected under other laws
- Records protected from disclosure under laws like HIPAA, FERPA, attorney-client privilege, etc. need not be produced.
- RAO and County Attorney will guide you to identify FOIL exceptions that apply to your records

## **What about County Clerk's records?**

- Court records do not fall under the jurisdiction of Freedom of Information Law.
- County Clerk is the official representative of the courts for records.
- CPLR 8019(f) allows the Clerk to charge fees up to \$40 per record for non-UCC filings

## **What is the difference between FOIL and FOIA?**

- FOIL is NY State law for state/county/local governments
- FOIA is Federal law applicable to federal entities
- Differences are not dramatic (e.g., poor person relief from fees under FOIA)





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The logo for Continuum Systems features the word "continuum" in a large, black, sans-serif font. A thick, purple line runs horizontally across the bottom of the word, starting from the left and ending with a sharp, diagonal upward-pointing arrowhead under the letter "m". Below "continuum", the word "SYSTEMS" is written in a smaller, grey, sans-serif font, with each letter spaced out.

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