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Disposition 101
For Local Government & State Agency Records

State and Local Records Management Division
Texas State Library and Archives Commission
(512) 463-7810 | slrmdo@tsl.texas.gov
<https://www.tsl.texas.gov/slrmdo>

LIBRARY ARCHIVES

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Records Management Assistance @ TSLAC

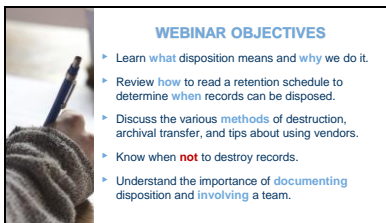
We Provide:

- Consulting and training services for state agencies and local governments
- Development of retention schedules and interpretation of administrative rules
- Storage and imaging services at the State Records Center

PRESENTERS

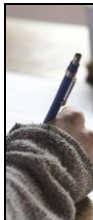


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WEBINAR OBJECTIVES

- ▶ Learn **what** disposition means and **why** we do it.
- ▶ Review **how** to read a retention schedule to determine **when** records can be disposed.
- ▶ Discuss the various **methods** of destruction, archival transfer, and tips about using vendors.
- ▶ Know when **not** to destroy records.
- ▶ Understand the importance of **documenting** disposition and **involving** a team.



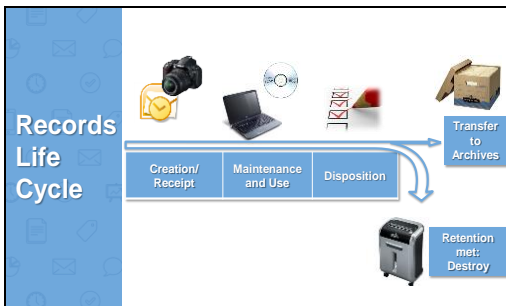
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What is Disposition? 

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“actions taken with regard to government records that are no longer needed for current government business as determined by their appraisal pursuant to legislation, regulation, or administrative procedure.”

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Benefits of Disposition

- ▶ Creates Space
- ▶ Reduces Costs:
 - ▶ Physical Storage
 - ▶ Network Server Storage
 - ▶ Recovery
- ▶ Speeds up Retrieval
- ▶ Provides Legal Protection

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Why can't we get rid of it all?

- Illegal
- Intentional Destruction is Unlawful
- Consequences for Not Keeping Records Long Enough
 - Criminal Penalties and Fines Under the Public Information Act

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Why can't we just keep everything?

- ▶ Cost of Physical and Electronic Storage
- ▶ Time Spent on Retrieval
- ▶ The RMO (Government/Agency) Is Responsible for Protecting Records
- ▶ The Legal Risk

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Local Government Records Act

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LOCAL GOVERNMENT RECORDS ACT
ENACTED 1989

- ▶ A local government record may be destroyed if:
 - ▶ The record appears on a records retention schedule that's been approved by TSLAC.
 - ▶ The retention period of the record has expired, or the record has been microfilmed or stored electronically.

LGC §202.001, Destruction of Records.

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State Records Management Laws

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STATE RECORDS MANAGEMENT LAWS
ENACTED 1989

- ▶ A state record may be destroyed if:
 - ▶ The record appears on a records retention schedule that's been approved by TSLAC.
 - ▶ The record's retention period has expired.

Gov. Code § 441.187, Destruction of State Records.

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Ensure Compliance

Local Governments:	State Agencies and Universities:
<ul style="list-style-type: none">▪ Policy▪ RMO Designation▪ Declaration of Compliance<ul style="list-style-type: none">▪ Follow updated retention schedules	<ul style="list-style-type: none">▪ RMO Designation<ul style="list-style-type: none">▪ SLR 104▪ Certified retention schedule

<https://www.tsl.texas.gov/sirm/forms#local>
<https://www.tsl.texas.gov/sirm/forms#state>

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How do we start?

- Get Support (aka "Buy-In")
 - Point Out Benefits
 - Advertise "Shred Day" or "Delete Day"
 - Incentives
- Who should be involved?
 - RMO
 - Division or Department Head
 - Legal Counsel
 - IT/IRT
 - Liaison or Coordinator

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What is a Records Retention Schedule?

- Lists all **records series** maintained by the state agency with mandatory prescribed minimum **retention periods**.
- Retention schedules are **media-neutral**.
- **Benefits:**
 - Comply with state records management laws.
 - Convey retention rules to all agency staff.
 - Identify, secure, and protect vital records.



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Archives Transfer Local Governments

(b) Transfers of permanent records to another local government **require the prior approval** of the director and librarian.

(c) In a transfer of permanent records under this section, title and control of the records and all rights pertaining to the records granted by law to the original custodian or elected county officer are vested in the commission or the local government that receives the records.

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Archives Transfer: State Agencies

Section 441.181. State Archives Program.

(a) The commission shall take legal custody of and preserve archival state records and shall endeavor to collect and preserve other historical resources determined by the director and librarian to possess sufficient value to warrant continued preservation in the state archives.

<https://bit.ly/archivesFAQ>

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Other Requisites State Agencies

▶ **Section 6.8. Implementation of Certified Records Retention Schedules**

Final disposition of state records must ensure:

- (1) Archival Records
- (2) Confidential Records
- (3) Final Disposition


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Alienation of Records: Local Government

▶ **Non-Permanent Records:**

- ▶ To any public institution of higher education, public museum, public library, or other public entity.
- ▶ With the **approval** of the local government's records management officer and after the expiration of the record's retention period.

Local Government Code Section 202.004.




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Alienation of Records: Local Government Cont.

▶ **For the purposes of recycling only**

- ▶ To any private college or university, private museum or library, private organization of any type, or an individual.
- ▶ Except with the consent of the director and librarian and after the expiration of its retention period.


Local Government Code Section 202.004.



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Alienation of State Records Prohibited. (for State Agencies)

- ▶ A state record may not be sold, donated, loaned, transferred, or passed out of the custody of the state.
- ▶ This does not apply to the temporary transfer for the purposes of:
 - Microfilming
 - Duplication
 - Conversion to Electronic Media
 - Restoration



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Destruction of Paper Records

Confidential Records

- Pulping
- Shredding
- Burning

Open Records

- Recycle
- Landfill



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Shredding Paper Records

- ▶ Types of Shredding
 - Straight-cut
 - Cross-cut (5/16")
 - Compression
- ▶ Advantages & Disadvantages
 - Security
 - Price
 - Speed



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Outsourcing Options for Disposition

- ▶ Choosing a vendor:
 - ▶ Industry recommendations
 - ARMA Buyer's Guide - <http://armabuyersguide.org/>
 - ▶ Reliable references from other government bodies
 - ▶ Compliance with RM Laws
 - ▶ Certificate of Destruction

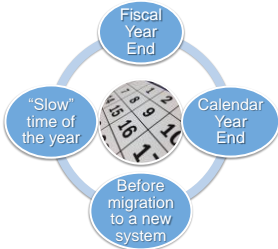
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Outsourcing Options for Disposition

- ▶ Comptroller Statewide Purchasing Department (SPD) Contracts
 - ▶ State and local governments
 - ▶ Secure Document Destruction Contracts <https://www.tsl.texas.gov/sirm/cpa-spd-contracts>
- ▶ Questions concerning technical specifications should be directed to:
Craig Kelso OR Joshua Clark
Texas State Library and Archives Commission (TSLAC)
(512) 463-7610 | (512) 936-0270
Email: ckelso@tsl.texas.gov | jclark@tsl.texas.gov

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When To Do Disposition



Fiscal Year End

Calendar Year End

Before migration to a new system

"Slow" time of the year

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When NOT To Do Disposition

DESTRUCTION HOLDS:

- Administrative Review
- Litigation
- Public Information Request
- Audit
- Claim
- Negotiation



Local Gov. Code §202.002 & State Gov. Code §441.187(b)


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When NOT To Do Disposition

The Last Minute 🗨️

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- Human Error
- Accidental Loss
- Negative Public Perception



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What if we destroy too soon?

- Intentional Destruction:
 - Class A Misdemeanor
 - Third Degree Felony
 - Penalties and Fines

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Training and Participation

- ▶ Provide Training:
 - ▶ Onboarding
 - ▶ Refreshers
 - ▶ Shred Days
 - ▶ Marketing/Incentives



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Training Resources

- ▶ Records Management Webinars: <https://www.tsl.texas.gov/slr/training/webinars>
- ▶ Records Management Laws and Rules: <https://www.tsl.texas.gov/slr/pubs>
- ▶ The Texas Record blog: <https://www.tsl.texas.gov/slr/blog/>
- ▶ External Resources: <https://www.tsl.texas.gov/slr/training/external>

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Thank you!

- ▶ Any questions?
- ▶ Find your analyst:
 - ▶ Local Governments: <https://www.tsl.texas.gov/slr/local/countylist>
 - ▶ State Agencies: <https://www.tsl.texas.gov/slr/state/agencylist>
- ▶ slrminfo@tsl.texas.gov
