

Local Government Records Law

ARTICLE 57-A, ARTS & CULTURAL AFFAIRS LAW

Section

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§57.13. Statement of legislative intent.

The legislature finds that public records are essential to the administration of local government. Public records contain information which allows government programs to function, provides officials with a basis for making decisions, and ensures continuity with past operations. Public records document the legal responsibility of government, protect the rights of citizens, and provide citizens with a means of monitoring government programs and measuring the performance of public officials. Local government records also reflect the historical development of the government and of the community it serves. Such records need to be systematically managed to ensure ready access to vital information and to promote the efficient and economical operation of government.

§57.15. Short title.

This article may be cited as the "Local Government Records Law".

§57.17. Definitions.

Wherever used in this article, the following terms shall have the respective meanings hereinafter set forth:

1. "Local government" means any county, city, town, village, school district, board of cooperative educational services, district corporation, public benefit corporation, public corporation, or other government created under state law that is not a state department, division, board, bureau, commission or other agency, heretofore or hereafter established by law.

2. "Governing body" means the town board, village board of trustees, city council, county legislature or board of supervisors, board of education or board of trustees of a school district or board of cooperative educational services, board of fire commissioners or other body authorized by law to govern the affairs of a local government.
3. "Local officer" shall mean and include a local officer as defined in section two of the public officers law and any officer of a public benefit corporation.
4. "Record" means any book, paper, map, photograph, or other information-recording device, regardless of physical form or characteristic, that is made, produced, executed, or received by any local government or officer thereof pursuant to law or in connection with the transaction of public business. Record as used herein shall not be deemed to include library materials, extra copies of documents created only for convenience of reference, and stocks of publications.
5. "Retention period" means the minimum length of time that must elapse before a record is eligible for disposition.
6. "Records retention and disposition schedule" means a list or other instrument describing records and their retention periods which is issued by the commissioner of education.
7. "Disposition" means the disposal of a record by destruction, sale, gift, transfer to the local government archives, or by other authorized means.

§57.19. Local government records management program.

The governing body, and the chief executive official where one exists, shall promote and support a program for the orderly and efficient management of records, including the identification and appropriate administration of records with enduring value for historical or other research. Each local government shall have one officer who is designated as records management officer. This officer shall coordinate the development of and oversee such program and shall coordinate legal disposition, including destruction of obsolete records. In towns, the town clerk shall be the records management officer. In fire districts, the district secretary shall be the records management officer. In villages, the village clerk shall be the records management officer. In other units of government, except where the governing body shall have enacted a local law or ordinance establishing a records management program and designating a records management officer prior to the date that this article shall take effect, the chief executive official shall designate a local officer to be records management officer, subject to the approval of the governing body.

§57.21. Local government records advisory council.

The commissioner of education shall appoint a local government records advisory council consisting of representatives of local government associations, historians, the chief administrative judge, the commissioner of the department of records and information services of the city of New York or its successor agency, other users of local government records, and other citizens. The city clerk of the city of New York shall be a

non-voting members of such advisory council. The council shall advise the commissioner of education concerning local government records policies and procedures, state services and financial support needed to assist or advise local officials, and regulations pertaining to local government records, and grants for local government records management improvement pursuant to section 57.35 of this chapter. The advisory council shall prepare an initial report on the above matters by December first, nineteen hundred eighty-seven to be provided to the commissioner of education, the governor, and appropriate committees of the legislature. The commissioner of education shall not promulgate regulations for the administration and maintenance of local government records before July first, nineteen hundred eighty-eight except with prior consultation with and review by the advisory council.

§57.23. Oversight and advisory services.

1. It shall be the responsibility of the commissioner of education to advise local governments on planning and administering programs for the creation, maintenance, preservation, reproduction, retention, and disposition of their records; to advise local governments on the development of micrographics systems, automated data processing systems, and other systems that rely on technology to create, store, manage, and reproduce information or records; and to advise local governments on the preservation and use of vital records and records with enduring value for historical or other research purposes.
2. The commissioner of education is authorized to establish requirements for the proper creation, preservation, management and protection of records, and shall develop statewide plans to ensure preservation of adequate documentation of the functions, services, and historical development of local governments.
3. The commissioner of education is authorized to promulgate regulations to implement the provisions of this article with advice from the local government records advisory council.

§57.25. Records retention and disposition.

1. It shall be the responsibility of every local officer to maintain records to adequately document the transaction of public business and the services and programs for which such officer is responsible; to retain and have custody of such records for so long as the records are needed for the conduct of the business of the office; to adequately protect such records; to cooperate with the local government's records management officer on programs for the orderly and efficient management of records including identification and management of inactive records and identification and preservation of records of enduring value; to dispose of records in accordance with legal requirements; and to pass on to his successor records needed for the continuing conduct of business of the office. In towns, records no longer needed for the conduct of the business of the office shall be transferred to the custody of the town clerk for their safekeeping and ultimate disposal.

2. No local officer shall destroy, sell or otherwise dispose of any public record without the consent of the commissioner of education. The commissioner of education shall, after consultation with other state agencies and with local government officers, determine the minimum length of time that records need to be retained. Such commissioner is authorized to develop, adopt by regulation, issue and distribute to local governments records retention and disposition schedules establishing minimum legal retention periods. The issuance of such schedules shall constitute formal consent by the commissioner of education to the disposition of records that have been maintained in excess of the retention periods set forth in the schedules. Such schedules shall be reviewed and adopted by formal resolution of the governing body of a local government prior to the disposition of any records. If any law specifically provides a retention period longer than that established by the records retention and disposition schedule established herein the retention period established by such law shall govern.

§57.27. Records with statewide significance.

The commissioner of education is authorized to designate particular local government records for permanent retention because of their enduring statewide significance.

§57.29. Reproduction of records and disposition of the originals.

Any local officer may reproduce any record in his custody by microphotography or other means that accurately and completely reproduces all the information in the record. Such official may then dispose of the original record even though it has not met the prescribed minimum legal retention period, provided that the process for reproduction and the provisions made for preserving and examining the copy meet requirements established by the commissioner of education. Such copy shall be deemed to be an original record for all purposes, including introduction as evidence in proceedings before all courts and administrative agencies.

§57.31. Cooperative records storage and management.

All local government records shall be kept in secure facilities maintained by the local government unless the consent of the commissioner of education is obtained to their transfer and storage elsewhere. Any local government may cooperate with another local government or governments for the improved management and preservation of records, and may enter into a contractual arrangement for such purposes.

§57.33. Exclusions.

The provisions of this article shall not apply to:

1. The records of any court, except as provided in section 57.35 of this article.
2. The records of any city with a population of one million or more, and the records of any county contained therein, so long as the destruction of the records of such city or county shall be carried out in accordance with the procedure prescribed by any existing law exclusively applicable to the destruction of the records of such city or county,

provided that section 57.35 of this article shall apply to grants for local government records management for supreme court records in the custody of the counties of New York, Kings, Queens, Richmond and Bronx, and records under the jurisdiction of the department of records and information services of the city of New York or its successor agency, and records under the jurisdiction of the city clerk of the city of New York. If any such law shall be amended by local law after the first day of July, nineteen hundred fifty-one, the provisions of this section shall not apply to the destruction of such records if the procedures therefor established by such law, as amended by local law, shall be acceptable to the commissioner of education.

3. The records of any state department, division, board, bureau, commission or other agency.

§57.35. Grants for local government records management improvement.

1. The commissioner of education, upon consultation with the local government records advisory council, is authorized to award grants for records management improvement as specified in sections 57.19, 57.25, 57.29 and 57.31 of this chapter to individual local governments, groups of cooperating local governments and local governments that have custody of court records and for records management improvement for supreme court records in the custody of the counties of New York, Kings, Queens, Richmond, and Bronx and in accordance with subdivision two-a of this section, records under the jurisdiction of the department of records and information services of the city of New York or its successor agency and the city clerk of the city of New York.

2. The commissioner of education shall promulgate rules and regulations setting forth criteria and procedures necessary to award grants for records management improvement from monies available for this purpose in the New York state local government records management improvement fund, established pursuant to section ninety-seven-i of the state finance law. Such criteria shall include but not be limited to:

(a) the development by the applicant of a written plan for a records management program;

(b) the condition of the records of the applicant;

(c) the geographic location of the applicant so as to provide, to the extent practicable, equitable geographic distribution of the grants;

(d) the particular design of the applicant's records management program; and (e) the applicant's arrangements for cooperative activities among local governments for a records management program.

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(a) Notwithstanding the provision of paragraph (c) of subdivision two of this section, the commissioner of education may award grants totaling in the aggregate no more than one million dollars annually for records management improvement to the department of records and information services of the city of New York or its successor agency and the city clerk of the city of New York in accordance with the provisions of this subdivision.

(b) The department of records and information services or its successor agency and the city clerk of the city of New York shall submit applications to the commissioner of education at the same time as applications pursuant to subdivision two of this section are required to be submitted. The applications shall set forth the records management improvement projects proposed by the department of records and information services or its successor agency and the city clerk of the city of New York in priority order and the amount requested for each project. Priority assignment of each project shall be a factor taken into consideration in addition to those outlined in subdivision two of this section when making grant awards.

(c) Upon receipt of grant monies, the commissioner of the department of records and information services or its successor agency and the city clerk of the city of New York shall direct the disbursement of grant monies to each project for which a grant has been approved.

(d) The commissioner of the department of records and information services or its successor agency and the city clerk of the city of New York shall, in addition to monitoring the progress of and providing technical assistance to projects receiving awards pursuant to this subdivision, prepare and submit progress reports on such projects. Such reports shall be at the level of detail and frequency comparable to reports required of other local governments receiving awards pursuant to this section.

3. All monies received by the commissioner of education under the provisions of the third undesignated paragraph of subdivision (a) of section eight thousand eighteen, subparagraph b of paragraph four of subdivision (a) of section eight thousand twenty-one and subparagraph b of paragraph eleven of subdivision (b) of section eight thousand twenty-one of the civil practice law and rules, and subdivision a of section 7-604 of the administrative code of the city of New York, shall be deposited by the commissioner of education to the credit of the New York state local government records management improvement fund established pursuant to section ninety-seven-i of the state finance law by the tenth day of the month following receipt of such monies.

4. Each year the New York state local government records advisory council shall review and make recommendations on a proposed operational and expenditure plan for the New York state local government records management improvement fund prior to its adoption by the commissioner of education. The annual expenditure plan shall be subject to the approval of the director of the division of the budget.

§57.37. Regional records offices.

1. The commissioner of education is authorized to establish in each judicial district, except New York city, a regional records office. In New York city, the commissioner of education is authorized to establish a single regional records office to oversee records management programs for entities within the city of New York whose records are not under the jurisdiction of the department of records and information services or its successor agency and the city clerk of the city of New York.

2. The regional records offices shall provide advisory and consultative services and technical assistance to local governments on records management and the

administration of archival records and address recommendations of the New York state local government records advisory council.

3. The commissioner of education is authorized to employ specialists in records management, archives administration and other specialists necessary to provide advisory, consultative and technical assistance to local governments from monies available for this purpose in the New York state local government records management improvement fund, established pursuant to section ninety-seven-i of the state finance law.

§57.39. Reporting requirements.

The commissioner of education, with the advice of the New York state local government records advisory council, shall report annually on or before March first to the governor and the legislature on the status of local government records management, including a report of revenues and expenditures from the New York state local government records management improvement fund for the previous calendar year and appropriate recommendations.