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## RETENTION AND DISPOSITION OF LIBRARY AND LIBRARY SYSTEM RECORDS

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### Introduction

Libraries and library systems in New York State frequently express concern about their administrative records. What is the legal definition of a “record?” How long must records be retained? How can valueless records be legally disposed of? Which library records must be retained permanently for research and other uses? This leaflet provides basic information on these requests.

**The State Archives.** The New York State Archives, in the State Education Department, was established in 1978. The State Archives’ Government Records Services oversees the retention and legal disposition and advises on the management of the records of the over four thousand governments in New York State, a number of which operate or are themselves public libraries. Government Records Services administers Article 57-A of the Arts and Cultural Affairs Law, effective August 5, 1998, and known as the “Local Government Records Law.”

**The Local Government Records Law.** This Law, Article 57-A of the Arts and Cultural Affairs Law, was passed by the Legislature in

1987. This legislation covers the management and the retention and disposition of local government records. No public library, or public or school library system covered by the Local Government Records Law, may legally dispose of records until the governing body passes a resolution adopting the appropriate “records retention and disposition schedule.” The State Archives issues these schedules, which list local government records and indicate their legal minimum retention periods. These are discussed below. In addition, the State Archives provides advice on records of enduring value (archival records) and on aspects of records management such as micro-filming and imaging.

**Definition of “public record.”** According to the Local Government Records Law, a “public record” is defined as “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.” Records may include audio and computer tapes, microfilm and optical disks, but do not for the most part include books, other library materials, or copies of government documents and other publications. In the case of a local government-operated library or library system, manuscript holdings (such as personal, family, organization, or business records) are considered records under the Local Government Records Law. As such, these records are subject to legal requirements regarding disposition, storage, loan or deposit, and reproduction.

### **Types of Libraries and Library Systems, and Disposition of Their Records**

**Public Libraries.** Only public libraries that are local government entities or units of other local governments are required to use a State Archives’ schedule before legal disposition of records can take place. A “public library” as defined in Section 253.2 of the Education Law, means “a library ... established for free public purposes by official action of a municipality or district or the legislature...” There are six types of “public libraries” in New York State that are either autonomous local governments or departments of other local governments.

1. There are currently nearly 200 “municipal libraries” that are departments of their respective town, village, or city. Two libraries are parts of county government (in

Schenectady and Tompkins counties). These libraries may not dispose of records until their county’s or municipality’s governing body (e.g., town board, county legislature) has adopted by resolution the appropriate records retention and disposition schedule. Library officials should check with their county’s, city’s, town’s, or village’s Records Management Officer (RMO) to determine if they may legally dispose of records using *LGS-1, Retention and Disposition Schedule for New York Local Government Records*.

2. There are currently more than 140 “public school district libraries” that are autonomous units of local government. These libraries, while coterminous with school districts, are separate legal entities with separate budgets and independently elected boards of trustees. These libraries must use *LGS-1*. NOTE: The Chatham and Newburgh public libraries are not considered to be autonomous under the Local Government Records Law, but are instead considered part of their respective school districts. These two libraries must also use *LGS-1* to dispose of records.

3. Also autonomous are currently more than forty “special district libraries” which serve “special” or “improvement” districts that are established by the State Legislature. Because these libraries are autonomous “district corporations”, each must also use *LGS-1*.

4. There are currently six autonomous “joint municipal libraries” that have been established by local or state legislation by more than one city, town, or village according to Section 119-o, General Municipal Law. Each must use *LGS-1* to dispose of records.

5. There are three “city and county public libraries” (in Broome, Erie, and Onondaga

counties) created pursuant to Chapter 768, Laws of 1953. These must use *LGS-1* to dispose of records.

6. Three autonomous libraries are unique in their organization, namely the New Rochelle and Yonkers Public Libraries and the Woodward Memorial Library. These are classified as “miscellaneous” and must use *LGS-1* to dispose of records.

**Association Libraries.** These libraries are “established and controlled ... by a group of private individuals operating as an association” and are not created by governmental actions. Some association libraries may have “Public Library” in their title, but are nonetheless not units of any local government. The currently about 375 association libraries, as defined in Section 255.3, Education Law (quoted above), are not required to use a State Archives’ schedule to dispose of records. The New York, Brooklyn, and Queens Borough Public Libraries are also considered to be association libraries. These include a few non-chartered libraries and “reading centers.”

**Library branches.** The records of library branches are considered records of the parent library and must be dealt with accordingly.

**School District and BOCES Libraries.** The records of these libraries are considered records of the school district or BOCES which operates the library. Their records cannot be disposed of until the respective BOCES or school board adopts *LGS-1* by resolution.

**Public Library Systems.** These systems are established according to Section 272, Education Law and serve their members, which consist of public libraries and association libraries. There are 27 public library systems in the State.

1. The Buffalo and Erie County Public Library and the Onondaga County Public Library, being city and county public libraries as well as systems, are covered by #5, above.
2. The Clinton-Essex-Franklin Library System (considered a “federated” system) is an independent local government entity created pursuant to 119-o of the General Municipal Law. This System must use *LGS-1* to dispose of records.
3. The remaining 20 public library systems are established according to Section 255.2 of the Education Law, and are cooperative in nature, being created by the action of member libraries, and are not units of local government and are not required to use a State Archives’ schedule to dispose of valueless records.

**School Library Systems.** These currently 41 library systems are established according to Section 282 of the Education Law, and are governed by Boards of Cooperative Education Services or by “big five” city boards of education. Records of a school library system are considered to be the records of the system’s sponsoring BOCES or city school district, and may not be legally disposed of until the BOCES or school board has adopted *LGS-1* by resolution.

**Reference and Research Library Resources Systems (3Rs).** The nine Reference and Research Library Systems (3Rs) are defined in Section 272.2, Education Law as “resulting from the association” of member institutional, hospital, college, and university libraries. Being cooperative in nature they are not considered units of local government. They are not required to use a State Archives’ retention schedule..

## Records Retention and Disposition Schedules

LGS-1, *Retention and Disposition Schedule for New York Local Government Records* is now available from the State Archives for use by the libraries and library systems listed below:

- Libraries and library systems which are part of county government
- Libraries, which are part of city, town, or village government
- Special district libraries, public school district libraries, joint municipal libraries, city and county public libraries, miscellaneous autonomous public libraries, and the Clinton-Essex-Franklin Library System
- The Chatham and Newburgh public libraries, school libraries, BOCES libraries, and school library systems

## Other Issues Relating to Library Records

**Services to Association Libraries and Cooperative and Consolidated Library Systems.** These libraries and library systems are not government units and do not need to adopt *LGS-1, Retention and Disposition Schedule for New York Local Government Records* to dispose of valueless records. However, the State Archives will furnish copies of *LGS-1* to local governments for informational purposes, and provide, where possible, general advice and publications on records

management and archival practices.

## Services to Libraries and Library Systems that are Local Governments or Units of Local Government

**Grant-in-Aid Funding.** The Local Government Records Management Improvement Fund Law (Chapter 78, Laws of 1989) may provide funding for records management programs and projects for libraries that are entities or units of local government. For additional information, contact your Records Management Officer (RMO) or the State Archives. In addition, a chartered library with tax-exempt status is eligible to apply for Documentary Heritage Program (DHP) funding for an appropriate project. DHP funding is very limited, so contact the State Archives well in advance to determine if you should apply for DHP funding or an LGRMIF archival grant.

**Microfilming and Electronic Imaging of Records.** Libraries and other public institutions often try to manage their paper records by microfilming or scanning them. Microfilming can provide a high-quality solution for the permanent retention of bulky paper documents, and electronic imaging can be used to improve access to public records within the government or to the public over the Internet. Before going forward with any microfilming or imaging project, however, publicly sponsored libraries and library systems should contact the State Archives' Government Records Services for guidance. The State Archives has developed detailed technical guidelines that can ensure that any microfilm produced for your library or library system will be readable, reliable, and permanent (see in particular Publication # 77, *Managing Imaging and Micrographics Projects*). The Archives also has developed guidelines on

evaluating imaging applications (for instance Publication # 20, *Guidelines for Determining if a Stand-Alone Imaging System is the Best Choice for You*). The State Archives can help you ensure that any imaging or microfilming project you undertake successfully meets your needs.

**Electronic Records.** The Regulations of the Commissioner of Education (*8NYCRR*) provide standards governing the retention and preservation of electronic records. Because electronic records can easily be deleted, can sometimes be corrupted over short periods of time, yet still contain much valuable government information, publicly sponsored libraries and library systems should contact the State Archives to discuss methods to manage these records. The Archives provides many workshops, publications, and advice—all free of charge—to local governments on such electronic issues as selecting computer applications, recordkeeping requirements, developing policy, retention, and legal admissibility.

**Confidentiality.** Chapter 112, Laws of 1988, provides that any library records personally identifying users of libraries shall be confidential. Questions regarding access to these records should be directed to the Committee on Open Government, Department of State, 41 State Street, Albany, NY 12231 (phone 518-474-2518.)

**Records of Enduring Value (Archival Records).** Library and library system officials may not be aware of the few existing public library archival programs, and how fragmentary are early library records. The State Archives encourages libraries and library systems to provide for the retention, administration, and accessibility of their records of enduring value (archival records) as part of an overall records management program. The

State Archives can provide advice on the elements of an archival program, as well as a sample guide to public library archival records upon request. The Archives is particularly concerned that public libraries and library systems in the state can properly document their establishment and evolution. In addition, early library accession and circulation records may be valuable in documenting reading trends as well as library holdings over time. For these reasons, the Archives, by means of a regulatory requirement, will not allow the disposition of any library record which are dated before 1910 without special permission granted on a case-by-case basis. This requirement is especially important because of the scarcity of information on 19<sup>th</sup> century libraries and the fact that early records may possess intrinsic value.

### Government Records Services

Government Records Services is charged with providing advisory services to all local governments in the State by both our regional and Albany-based staff. Services include publications, presentations, and consultations with local officials concerning records and information management issues. Grants, workshops, and technical advisement are supported by the Local Government Records Management Improvement Fund. For further information, please contact

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