



Texas Association of School Boards

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Records Management for School District Administrators

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A school district's records management officer (RMO) is responsible for the district's records management program (RMP), while department heads and campus principals often assist as records custodians. This article reviews records retention requirements in Texas, including how to interpret retention schedules, categorize information, and implement legal holds.

For an introduction to basic school district records management, see TASB Legal eSource's [School District Records Management for School Board Members](#).

For brevity, this article uses the term "information" to mean generally all types of school information maintained by the district, including both *public information* and *local government records* as defined by law.

1. Who at the district typically serves as the RMO?

Most districts appoint the superintendent to serve as the RMO by local policy. TASB Model Policy CPC(LOCAL). Some districts appoint a deputy superintendent or a business manager trained in records management.

2. How does the board designate an RMO and inform TSLAC about the designation?

The designation of an RMO or position, and any subsequent designations, must be recorded in the minutes of a board meeting. Therefore, the board must act on a specific agenda item at a properly called open meeting to complete this approval. The new RMO or holder of a designated position must file the holder's name with the Texas State Library and Archives Commission (TSLAC) within 30 days after the date of assuming the position. Tex. Loc. Gov't Code § 203.025(b)-(e).

3. What are the duties of an RMO?

A district RMO must:

- assist in establishing, developing policies and procedures for, and administering the district's RMP;
- assist records custodians in reducing costs and improving efficiency of recordkeeping;

- in cooperation with records custodians, prepare and amend the district's records control schedules and list of obsolete records (as needed); identify and take adequate steps to preserve the district's essential records and records with permanent value; ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records complies with law and board policy; and establish procedures that duly regard a records custodian's legal duties and responsibilities and the confidentiality of information; and
- disseminate to the board and to records custodians necessary information concerning state laws, administrative rules, and board policies relating to district records. Tex. Loc. Gov't Code § 203.023; Tex. Gov't Code § 441.184.

4. Who is a custodian of records and who at a district typically serves in this role?

Typically, districts designate each department head as the records custodian of that department's records. A district's records custodian is responsible for cooperating with the RMO in carrying out the district's RMP. Duties include adequately documenting the transaction of district business for which the custodian and the custodian's staff are responsible and maintaining, preserving, microfilming, destroying, or disposing district records in accordance with the district's RMP and applicable laws. Tex. Loc. Gov't Code § 203.022. Sometimes, district employees or board members who possess the sole copy of an original district record are subject to the same legal responsibilities as a district custodian of records. To learn more about temporary custodians, see TASB Legal Services' [Board Member Responsibilities as Temporary Custodians](#).

5. Who is a records liaison and who at a district typically serves in this role?

The law does not require that a district have records liaisons. TSLAC, however, considers records liaisons to be a critical part of ensuring the district's RMP is implemented properly. A records liaison essentially leads the tasks of conducting an annual inventory of departmental records. According to TSLAC, the district's RMO or records custodian may determine whether liaisons are necessary and how many, if any, are needed. TSLAC, Megan Carey, *Records Liaisons and Where to Find Them* (Apr. 7, 2016). In smaller districts, one person may end up in all of these roles.

6. How does an RMO establish the district's records control schedule?

A district has two basic options for establishing records control schedules:

- **Option One: Adopt TSLAC's retention periods.** Typically, districts choose to adopt as their own records control schedule those retention periods established in the local government retention schedules issued by TSLAC. Choosing this option requires the district's RMO to file with TSLAC a written certification of compliance, confirming that

the district has adopted records control schedules that comply with the minimum requirements established by TSLAC's schedules. Tex. Gov't Code § 441.169(4); Tex. Loc. Gov't Code § 203.041(a)(2).

- **Option Two: Adopt district-specified local record retention periods.** Although uncommon, a district may choose to develop its own records retention periods and schedules. Tex. Loc. Gov't Code § 203.041(a)(1). Retention periods adopted by a school district for their own control schedules may not be less than those prescribed in a records retention schedule issued by TSLAC or in a federal or state law, regulation, or rule of court. Tex. Loc. Gov't Code § 203.042(b).

Any time the district adopts or amends their records control schedule, the district's RMO must file a new written declaration of compliance with TSLAC certifying that the amended schedule meets minimum time periods established on the schedules issued by TSLAC. Tex. Loc. Gov't Code § 203.041(d). Filing the written certification also means a district agrees to comply with established rules adopted by TSLAC governing standards for electronic records where records are maintained in electronic form. Tex. Loc. Gov't Code § 205.003.

7. How does a district's records custodian determine what district records should be retained?

A district's records custodian should carefully review the definition of *public information* under the Public Information Act (PIA) and the definitions of *record* and *local government record* under the Local Government Records Act (LGRA) to determine when district information is subject to preservation under the PIA or subject to retention under the LGRA. If district information is subject to a pending request under the PIA, then such information must be preserved until the request is resolved.

If district information does not meet the definition of a *local government record* and is not subject to a pending public information request under the PIA, then such information does not need to be retained. However, if district information meets the definition of a *local government record* under the LGRA, then the record will need to be retained. The custodian should then review the content of the record and consult the district's records control schedule to determine how long that type of record should be kept. The record may not be destroyed unless allowed by the schedule.

To learn more about how to determine if district information is subject to the PIA, see TASB Legal Services' [Public Information Act: Duties of Temporary Custodians](#).

8. What are the most common TSLAC records retention schedules applicable to school districts?

The schedules published by TSLAC that are most likely to apply to school districts include:

- **[Local Schedule GR](#)**: *Records Common to All Local Governments* contains retention periods for meeting agendas and minutes, certified agendas of closed meetings, public comment cards, board resolutions, grievances, conflict of interest documentation, public information requests, financial records, personnel records, construction records, and more.
- **[Local Schedule SD](#)**: *Records of Public School Districts* applies to local education agencies, including regional education service centers and special educational cooperatives. It does not apply to state colleges and universities or community colleges. Schedule SD contains retention periods for instructional records, grade reporting and testing records, discipline and counseling records, transcripts, birth date documentation, custody records, records related to special programs (e.g., special education, gifted and talented, Section 504, dyslexia), teacher appraisals, library records, food service and transportation records, and more.
- **[Local Schedule EL](#)**: *Records of Elections and Voter Registration* contains retention periods for a district's election records.
- **[Local Schedule PS](#)**: *Records of Public Safety Agencies* applies to a district's law enforcement unit. Schedule PS contains retention periods that apply to a district's juvenile law enforcement records (juvenile records), peace officer training records, arrest and offense records, and police vehicle, equipment, and animal records.
- **[Local Schedule TX](#)**: *Records of Property Taxation* contains retention periods of property tax collection records.

A complete list of all TSLAC records retention schedules is available on the [TSLAC website](#).

9. What do the abbreviations on TSLAC's records retention schedules mean?

TSLAC's schedules use a series of abbreviations to indicate the retention period for a category of records. Records in some categories must be retained for a certain length of time after a specific event, such as five years after a student's withdrawal or graduation, or until a new record supersedes the existing one, such as when new staff requires the creation of a new organizational chart. Records in other categories may be deleted after a district determines a record is no longer of administrative value, such as for transmittal correspondence that merely references the attachment of a record itself.

Abbreviations used in TSLAC’s schedules:

AV = Administratively Valuable

CE = Calendar Year End

FE = Fiscal Year End

US = Until Superseded

LA = Life of Asset

10. Who determines how long a record is “administratively valuable” (AV)?

The law does not define how long to keep records subject to an “AV” retention period or who decides how long an “AV” retention period lasts. According to TSLAC, this is to afford local governments like school districts the maximum amount of discretion in determining a specific retention period for the record described. 13 Tex. Admin. Code § 7.125(a)(1). For more information, also see TSLAC’s [Introduction, Local Schedule GR](#) (April 17, 2016) (affording districts maximum discretion for AV records).

Subchapter C of Title 6 of the Local Government Act (the Local Government Records Act, or LGRA) requires an RMO to assist in developing policies and procedures for a district’s RMP. Tex. Loc. Gov’t Code § 203.023. Therefore, when TSLAC retention schedules simply indicate “AV” as the retention period, TASB Legal Services recommends that an RMO, in cooperation with designated records custodians, determine on a case-by-case basis a specific time period when certain records no longer serve any value for the district.

11. Do all the records retention schedules issued by TSLAC apply to districts?

Probably not. For districts that desire to adopt the retention schedules published by TSLAC as their own district control schedule, TSLAC recommends that public school districts adopt Schedules EL, GR, SD, and TX. See TSLAC’s [Recommended Local Retention Schedules](#) (guidance on choosing schedules on a declaration of compliance). If a district believes it possesses a record not covered by either the TSLAC’s published records retention schedules adopted by the district or by its own board-adopted records control schedules, it should contact TSLAC for more guidance or consult its school attorney.

12. Are personal communications or documents considered records subject to retention under the LGRA?

No. Information that is created or received in a personal capacity not in connection with district business is not considered a *local government record* subject to retention under the LGRA. However, even personal information located on district servers and accounts may be challenged by a litigant and subject to review by a court to resolve a dispute.

Therefore, best practice is to avoid creating personal records or information on district devices or accounts. If an individual receives notice to pause or suspend destruction of records, such as notice of a litigation hold or other legal hold, then all information—including personal communications or documents found on district devices, servers, or accounts—should not be destroyed without legal authorization.

13. Is there a different retention period for electronic records compared to paper records?

No, there is no separate retention period for “electronic” records when compared to “paper” records. Under the LGRA, each retention schedule groups information into categories or classes of records based on the record’s content rather than its form or medium. Then, based on the content, the schedule assigns different retention periods to each category or class. Therefore, an email or a text message is a form or medium of correspondence, not a class or category of record. For example, an email from a parent informing a teacher about a child’s absence from school is the same type of record as a handwritten note on paper, both of which would be classified as an attendance control document. TSLAC, [Local Government Retention Schedules](#).

14. May a district maintain original records in electronic form rather than paper form?

Yes. The LGRA allows a district to retain district records electronically or by microfilm in addition to or in instead of paper records. Tex. Loc. Gov’t Code §§ 204.002, 205.002. Special storage standards apply to records with retention periods of at least 10 years or longer, such as board meeting minutes or recordings. Tex. Loc. Gov’t Code § 205.003; 13 Tex. Admin. Code §§ 7.73-.79. If an electronic record is the only or official copy of a local government record, the software or hardware required to access the record must also be maintained in order to ensure that the “accuracy, completion, and accessibility of information” in an electronic record are not lost due to changing technology or media deterioration. 13 Tex. Admin. Code § 7.76.

15. May a district shred or destroy original paper records after converting them to electronic form?

It depends. Generally, if there is no legal reason to preserve an original paper record, a district may store a local government record in electronic form or in another medium rather than in paper form, so long as the electronic version complies with standards under the LGRA and implementing rules. Tex. Loc. Gov’t Code § 205.002; 13 Tex. Admin. Code §§ 7.73-.79. However, sometimes for legal reasons or for quality control purposes, a district may find that immediate destruction may be prohibited or not a best practice. According to TSLAC, the longer the retention requirement of a record, the more scrutiny or consideration a district should give to destroying the original source document. As a practical matter, TSLAC recommends that governmental bodies retain original paper

copies for at least six months after digitizing or scanning prior to destroying the original. Districts should also look closely at every single scan to make sure that it is a complete representation of the original record. TSLAC, Angela Ossar, [FAQ: Can a local government destroy a paper original after scanning?](#) (May 20, 2013).

16. What is metadata and is it a record?

Simply put, “metadata” is data that describes other data, and is considered a component of a record in electronic form. The TSLAC does not consider an electronic record that is missing metadata to be a complete record. TSLAC, [Is Metadata a Part of an Electronic Record or Not?](#) (Oct. 18, 2018).

For example, metadata may show the time when an email or a document was created and to identify the employee who created the record. Metadata may also be used to prove the admissibility of an electronic document in court or the authenticity of evidence. This information may be relevant to the district’s position in a legal proceeding. Simply copying or forwarding a file may modify the metadata of the original file. Consequently, district staff must take care to “image” the data in a manner that will not modify the metadata. In addition, the district’s electronic records storage procedures and contracts should address appropriate methods of protecting or transferring metadata.

While it is uncommon for a typical requester of public information to specific metadata, litigation discovery requests often include requests for a document’s metadata. Preservation methods for electronic records must not only protect the documents but also the documents’ metadata.

17. What is discovery?

Discovery refers to the compulsory disclosure, at a party’s request, of information that relates to litigation. *Black’s Law Dictionary* (West 2001).

18. When may a district legally destroy district records?

Typically, district records not subject to a legal hold may be destroyed only if:

- The record is listed on the district’s records control schedule and either its retention period has expired or it has been microfilmed or stored electronically;
- The record appears on a list of obsolete records approved by TSLAC; or
- A destruction notice is provided to TSLAC at least 10 days before destruction of a record not listed on a TSLAC retention schedule.

Tex. Loc. Gov’t Code § 202.001(a); 13 Tex. Admin. Code § 7.78(a).

Depending on the content of certain records, however, other laws may require additional steps before or after destruction of the records. For example, the Individuals with Disabilities in Education Act (IDEA) does not require districts to retain records related to special education for any specific period. The IDEA does, however, require districts to inform parents when personally identifiable information collected, maintained, or used to provide educational services to a student is no longer needed; then, the information must be destroyed at the parent's request. 34 C.F.R. § 300.624.

19. What is the district's duty to provide records as a party in litigation?

When a district stores information electronically, it is likely that, at some point, electronic information will be requested by an opposing party in litigation. While the state and federal standards for the discovery of electronic information during litigation primarily affect attorneys, the implementation of these rules may also impact a district's records retention practices.

20. What is a "litigation hold" and when must one be initiated?

A "litigation hold" commonly refers to the implementation of measures to stop the destruction of information subject to legal preservation requirements.

Under federal law, if an event gives rise to the potential for litigation, a district has an obligation to preserve documents and evidence related to the potential claim. Fed. R. Civ. P. 37. Under the LGRA, a district may not destroy any local government record the subject matter of which is known to be in litigation until the litigation is settled. Tex. Loc. Gov't Code § 202.002(a).

21. What are the consequences of failing to implement a litigation hold on the destruction of district records?

In federal court, any intentional destruction, mutilation, alteration, or concealment of evidence ("spoliation") can result in sanctions against the district. Fed. R. Civ. P. 37(b), (e). Furthermore, if spoliation is proved, the court may instruct the jury that the missing evidence was unfavorable to the party responsible for the spoliation. *See Condrey v. SunTrust Bank of Ga.*, 431 F.3d 191, 203 (5th Cir. 2005) (stating that spoliation of evidence raises a presumption against the spoliator). Similar remedies are available to address spoliation of evidence in state court. *See Brookshire Bros., Ltd. v. Aldridge*, 438 S.W.3d 9 (Tex. 2014) (establishing a test for spoliation claims); *see also* Tex. R. Civ. P. 215.2 (concerning sanctions for failure to comply with discovery request or order).

22. Who can implement a litigation hold?

Any administrator should have the authority to implement a litigation hold over records within that administrator's authority. Central office administrators should be able to implement district-wide litigation holds. Furthermore, the district's attorney may direct them to implement a litigation hold without superintendent approval in emergency situations when the superintendent is unavailable. Any administrator who implements a litigation hold should immediately notify the superintendent.

23. What procedures should districts implement for a litigation hold?

TASB's Model Policy CPC(LOCAL) requires a district's RMO to develop procedures designed to prevent the routine destruction of all district information once the potential for litigation has been identified. TASB Legal Services recommends that district procedures identify who has the authority to impose a litigation hold, who is responsible for communicating the litigation hold requirements, who is responsible for implementing the litigation hold, and who has the authority to determine that the litigation hold is no longer necessary. Preservation techniques may include disabling certain account functions, removing access levels, or locking backup files to prevent accidental or intentional alteration of protected information subject to a hold. Sample procedures may be found in TASB's Regulation Resource Manual at CPC(REGULATION).

Furthermore, a district may strengthen its litigation position by documenting the procedures followed by district staff in order to preserve information. TASB Legal Services recommends working with a school attorney during this process as the documentation may later be used in court to demonstrate the district's efforts to avoid spoliation, or the destruction of requested information.

24. When should a litigation hold be lifted?

A litigation hold should be lifted only when the litigation is completed or the potential for litigation has passed. The decision to lift the litigation hold should be made by the superintendent, working closely with the district's attorney. Until the superintendent gives formal notification that a litigation hold has been lifted, all employees and board members should continue to preserve all information covered by the litigation hold.

25. Must a district initiate other legal holds on district records?

Yes. Like the above-described laws governing litigation procedure and evidence, other laws require similar holds on records to prevent destruction. Some common reasons to implement holds on records include:

- **Pending PIA Requests:** The LGRA requires that records subject to a PIA request may not be destroyed until after the request is resolved. Tex. Loc. Gov't Code § 202.002(b). A similar process to preserve relevant records, as described above for litigation discovery holds, should be applied to records subject to a PIA request.
- **Pending FERPA Request:** The Family Educational Rights and Privacy Act (FERPA) is a federal law that makes a student's personally identifiable information confidential and also provides parents and students over the age of 18 with a special right of access to education records. 20 U.S.C. § 1232g; 34 C.F.R. Part 99. An *education record* means a record maintained by a district containing information that is directly related to a student. 34 C.F.R. § 99.3. The FERPA does not require a district to retain a student's records for any specific period of time; however, the federal law does prohibit destruction of education records when there is a pending request to access education records. 34 C.F.R. § 99.10(e).
- **Audit Records:** Districts must not destroy records that are subject to a pending audit by a federal or state grantor, even if the retention period for the record has expired. TSLAC, *Local [Schedule SD](#)*.

26. Are there penalties for unauthorized destruction of district documents?

Yes. Improper destruction of government records can be subject to criminal penalties under both state and federal law. Examples include:

Texas Penal Code: The Texas Penal Code makes it a criminal offense for a person to tamper with a governmental record by, for example, intentionally destroying, concealing, removing, or otherwise impairing the verity, legibility, or availability of a governmental record, unless the person is authorized by law to do so. Tex. Penal Code § 37.10(a)(3), (b).

Texas Local Government Code: An officer or employee commits a violation by knowingly or intentionally destroying a local government record in violation of Texas Local Government Code title 6, subtitle C. Tex. Loc. Gov't Code § 202.008.

Sarbanes-Oxley: The Sarbanes-Oxley Act imposes criminal penalties on anyone who knowingly alters or destroys documents with the intent to interfere with an investigation by a federal department or agency or any bankruptcy case. 18 U.S.C. § 1519.

FACTA: If a district possesses credit report information, certain disposal rules under the Fair and Accurate Credit Transactions Act (FACTA) and the Fair Credit Reporting Act (FCRA) may apply to the disposal of the information. 16 C.F.R. § 682.3. Specifically, a district that has "any record about an individual . . . that is a consumer report or is derived from a

consumer report” must employ “reasonable measures” to protect information. 16 C.F.R. §§ 682.1(b), .3(a). Examples of reasonable measures include shredding, pulverizing, or burning information and destroying or erasing electronic media, or protecting against unauthorized or unintentional disposal. 16 C.F.R. § 682.3(b). Districts should consider these issues when deciding whether to use credit report information in the hiring process. See TASB Model Policies DBAA(LEGAL) and (LOCAL).

27. Is there any personal liability for destroying records as authorized by law?

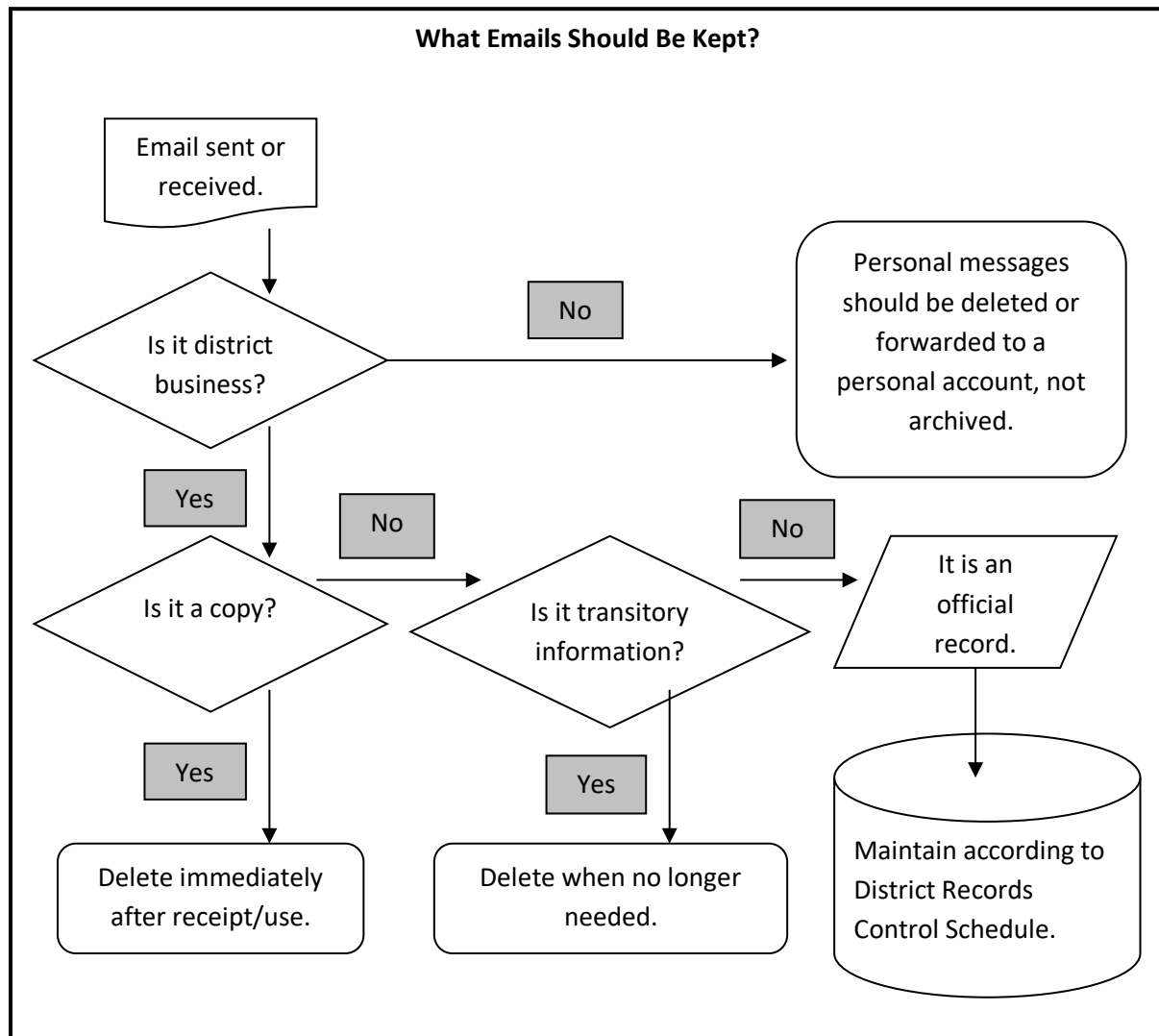
No. A board member, records custodian, RMO, or other district employee may not be held personally liable for the destruction of a district record if the destruction is in compliance with the LGRA and rules adopted under it, or the destroyed material is neither a local government record as defined by the LGRA nor subject to other required retention policy of the local government. Tex. Loc. Gov’t Code §§ 202.006-.007.

28. How should emails be sorted for retention or destruction?

As mentioned above, although an email is in an electronic format, it must be treated based on content just as it would have been treated when in a paper format. Generally, emails constitute records in the Correspondence category, although emails often contain attachments that belong to other categories.

For more discussions about retention issues related to email, see Texas Record, Bonnie Zuber, [FAQ: What is Routine or Transitory Email?](#) (February 22, 2016); Bonnie Zuber, [FAQ: what is the difference between Administrative and General Correspondence](#) (Oct. 28, 2015); Texas Record, [FAQ: What do you do with a separated employee’s emails?](#) (Mar. 14, 2016).

Below is a sample flow-chart that illustrates the process for deciding whether to retain or delete an email.



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