

Title 49: Department of Records and Information Services

Chapter 1: Disposal of Records by City Agencies

§ 1-01 Scope.

These Rules and Regulations shall govern the procedure by which agency records no longer necessary for the conduct of business or for purposes of audit or litigation may be disposed of. No records shall be disposed of unless permission has been obtained from the Department and the corporation counsel in accordance with the provisions of these Rules and Regulations.

§ 1-02 Definitions.

As used in these Rules and Regulations the following terms shall have the following meanings:

Department. "Department" means the department of records and information services.

Records. "Records" means any document, book, paper, photograph, sound recording, machine readable material or any other material, regardless of physical form or characteristics, made or received pursuant to law or ordinance or in connection with the transaction of official city business. Library and museum materials made or acquired and preserved solely for reference or exhibition purposes, extra copies of documents preserved only for convenience of reference and stocks of publications are not included within the definition of records as used in these Rules and Regulations.

Records disposal. "Records disposal" means:

(1) the removal by a city agency, as provided herein, of records no longer necessary for the conduct of business or for purposes of audit or litigation. Methods of disposal include, but shall not be limited to:

- (i) the disposal of records by destruction or donation;
 - (ii) the transfer of records to the Department;
 - (iii) the transfer of records to the Department determined to have historical or other sufficient value to warrant continued preservation;
- (2) the transfer of records from one city agency to another city agency.

Records disposal schedule. "Records disposal schedule" means any list of records promulgated by the Department for an agency which lists the records maintained by that agency by title and defines the exact length of time for which the records shall be kept.

§ 1-03 Interim Records Disposal Schedules.

Pending the establishment of records disposal schedules pursuant to 49 RCNY § 1-04, all directions for the destruction of records issued by the Board of Estimate in the period of January 1, 1976 through December 31, 1978 which have been filed with the Department shall be deemed to constitute interim records disposal schedules unless the status of the records has changed. Agencies which presently maintain records of a type destroyed pursuant to such directions may request permission to dispose of any such records which have since become eligible for disposal. Eligibility for disposal shall be determined by reference to the schedules used by the Board of Estimate in issuing such directions. Requests to dispose of records pursuant to an interim disposal schedule will be made pursuant to 49 RCNY § 1-05.

§ 1-04 Procedure for Making Requests to Establish a Records Disposal Schedule.

(a) Agency requests for the establishment of a records disposal schedule shall be made to the Department on such forms as may be prescribed by the Department.

(b) Upon receipt of a request for the establishment of a records disposal schedule, the Department shall make a formal survey of records maintained by the agency. Based on the findings for such survey, a records disposal schedule shall be established by the Department and approved by the corporation counsel and the Office of the Comptroller. Each agency shall provide the Department, the corporation counsel and the comptroller with its full cooperation and shall provide any information necessary to evaluate the request. If the Department or the corporation counsel deems it necessary, the agency shall provide access to the records in question and, if requested, shall forward such records to the Department or corporation counsel for examination.

(c) The records disposal schedule for these records shall remain in force until the status of the records contained in the schedule changes.

(d) Upon change in status of records or at any time an agency determines that records not within its records disposal schedule are no longer necessary for the conduct of business or for purposes of audit or litigation, the agency may request the Department to make appropriate amendments to its records disposal schedule.

§ 1-05 Procedure for Annual Records Disposal.

Following promulgation of an approved records disposal schedule pursuant to 49 RCNY § 1-04, the agency will certify to the validity and currency of their schedule annually on forms provided by the Department on a date agreed upon by each city agency and the Department. The agency will also indicate the intention to destroy scheduled records 90 days after issuance of such certification and include a listing of those records, if any, which are to be held beyond the specified periods. The certification will list those retained records by title and date and state the reason for retention.

§ 1-06 Responses to Annual Certification.

(a) The Department and the corporation counsel will review the certification to ensure that it is valid. The Department or corporation counsel may disapprove the destruction of any other record on the schedule, but must indicate the title and date of such records and state the reason for retention.

(b) If the Department disapproves the destruction of records, it shall notify the agency and the corporation counsel prior to the expiration of the 90-day period provided in 49 RCNY § 1-05.

(c) If the corporation counsel disapproves the destruction of records, he shall notify the agency and the Department prior to the expiration of the 90-day period provided in 49 RCNY § 1-05.

(d) In no case shall any agency proceed with the destruction of records until the agency certification form is returned by both the Department and the corporation counsel indicating both have received and reviewed it. The returned receipted form will constitute authorization for an agency to proceed with their annual disposal of records.

(e) Following notice that disposal of records has been authorized, the agency shall dispose of such records forthwith. Each agency must certify to the

Department that the records have been disposed of within 60 days of such notice.

§ 1-07 Historical Records.

No request for disposal of records shall be granted if in the judgment of the Department such records should be retained for historical or research purposes. Upon request of the Department an agency in possession of records which are no longer necessary for the conduct of business or for purposes of audit or litigation and which are deemed to be of historical or research value shall transfer such records to the municipal archives for permanent custody.