
Note: For information regarding security breaches, see ECA.
For record retention requirements under specific statutes, see the applicable policy code.

ESCs are local governments subject to the Local Government Records Act. *Local Gov't Code 201.003(7); Atty. Gen. Op. GA-1038 (2014)*

Definitions

Custodian

“Custodian” means the appointed or elected public officer who by the state constitution, state law, ordinance, or administrative policy is in charge of an office that creates or receives local government records.

Essential Record

“Essential record” means any ESC record necessary to the resumption or continuation of ESC operations in an emergency or disaster, to the re-creation of the legal and financial status of the ESC, or to the protection and fulfillment of obligations to the people of the state.

Local Government Record

“Local government record” means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information-recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by the ESC or any of its officers or employees, pursuant to law or in the transaction of public business. The term does not include:

1. Extra identical copies of documents created only for convenience of reference or research by ESC officers or employees;
2. Notes, journals, diaries, and similar documents created by the ESC officer or employee for his or her own personal convenience;
3. Blank forms, stocks or publications, and library and museum materials acquired solely for the purposes of reference or display; or
4. Copies of documents in any media furnished to the public under the Public Information Act (PIA) or other state law.

Permanent Record

“Permanent record” or “record of permanent value” means any local government record for which the retention period on a records retention schedule issued by the Texas State Library and Archives Commission (TSLAC) is given as permanent.

Records Control Schedule “Records control schedule” means a document prepared by or under the authority of a records management officer listing the records maintained by an ESC, their retention periods, and other records disposition information that the records management program in each ESC may require.

Records Management “Records management” means the application of management techniques to the creation, use, maintenance, retention, preservation, and disposal of records for the purposes of reducing the costs and improving the efficiency of recordkeeping. The term includes the development of records control schedules, the management of filing and information retrieval systems, the protection of essential and permanent records, the economical and space-effective storage of inactive records, control over the creation and distribution of forms, reports, and correspondence, and the management of micrographics and electronic and other records storage systems.

Records Management Officer “Records management officer” means the person identified under Local Government Code 203.025 as the records management officer. [See Designation, below]

Records Retention Schedule “Records retention schedule” means a document issued by TSLAC under authority of Subchapter J, Chapter 441, Government Code, establishing mandatory retention periods for local government records.

Retention Period “Retention period” means the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record, before it is eligible for destruction.

Local Gov’t Code 201.003

ESC’s Duties

Each ESC shall:

1. Submit to the director and librarian of TSLAC the name of the ESC’s records management officer and the name of the new officer in the event of a change;
2. File a plan or an ordinance or order establishing a records management program and any amendments to the plan or ordinance or order with the director and librarian;
3. Notify TSLAC at least ten days before destroying an ESC record that does not appear on a records retention schedule issued by TSLAC; and
4. File with the director and librarian a written certification as provided by Local Government Code 203.041 that the ESC has prepared a records control schedule that:

- a. Establishes a retention period for each ESC record as required by Local Government Code Chapter 203, Subchapter C; and
- b. Complies with a local government records retention schedule distributed by the director and librarian under Government Code 441.158 and any other state and federal requirements.

Gov't Code 441.169

**Board's
Responsibilities**

The board shall:

1. Establish, promote, and support an active and continuing program for the efficient and economical management of all ESC records;
2. Cause policies and procedures to be developed for the administration of the program under the direction of the records management officer;
3. Facilitate the creation and maintenance of ESC records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the ESC and designed to furnish the information necessary to protect the ESC's legal and financial rights of the ESC, the state, and persons affected by the ESC's activities;
4. Facilitate the identification and preservation of ESC records that are of permanent value;
5. Facilitate the identification and protection of essential ESC records; and
6. Cooperate with the TSLAC in its conduct of statewide records management surveys.

Local Gov't Code 203.021

**Custodians of
Records**

ESC custodians of records shall:

1. Cooperate with the records management officer in carrying out the policies and procedures established by the ESC for the efficient and economical management of records and in carrying out the requirements of Local Government Code Title 6, Subtitle C;
2. Adequately document the transaction of ESC business and the services, programs, and duties for which they and their staff are responsible; and

3. Maintain the records in their care and carry out the preservation, microfilming, destruction, or other disposition of the records only in accordance with the policies and procedures of the ESC's records management program and the requirements of the Local Government Code Title 6, Subtitle C and rules adopted under it.

Local Gov't Code 203.022

**Records
Management Officer**

The board shall designate an individual or an office or position as the records management officer for the ESC.

Designation

The name, office, or position of the records management officer shall be entered into the minutes of the board and filed by the records management officer with the director and librarian of TSLAC within 30 days after the date of the designation.

Any subsequent designations of a new individual or a new office or position shall be entered into the minutes and reported to TSLAC in the same manner as the original designation.

If the order designating a records management officer designates an office or position rather than an individual, a new holder of that office or position must file the holder's name with TSLAC within 30 days after the date of assuming the office or position.

Local Gov't Code 203.025

Duties

The ESC's records management officer shall:

1. Assist in establishing and developing policies and procedures for the ESC's records management program;
2. Administer the records management program and provide assistance to custodians for the purposes of reducing costs and improving recordkeeping efficiency;
3. In cooperation with the custodians of the records:
 - a. Prepare the records control schedules and amended schedules required by Local Government Code 203.041 and the list of obsolete records as provided by Local Government Code 203.044;
 - b. Identify and take adequate steps to preserve ESC records of permanent value;
 - c. Identify and take adequate steps to protect essential ESC records; and
 - d. Ensure that the maintenance, preservation, microfilming, destruction, or other disposition of records is carried out

in accordance with the ESC's records management program and requirements of Local Government Code Title 6, Subtitle C and rules adopted under it;

4. Disseminate to the board and custodians of records information concerning state laws, administrative rules, and government policies relating to ESC records; and
5. In cooperation with the custodians of records, establish procedures to ensure that the handling of records in any context of the records management program is carried out with due regard for the duties and responsibilities of custodians that may be imposed by law and the confidentiality of information in records to which access is restricted by law.

Local Gov't Code 203.023

**Records
Management
Program**

A board by ordinance or order shall establish a records management program to be administered by the records management officer. The ordinance or order must provide methods and procedures to enable the board, the custodians, and the records management officer to fulfill the statutory duties and responsibilities concerning management and preservation of records. The ordinance or order may prescribe any policies or procedures for the operation of the records management program that are consistent with the requirements of Local Government Code Title 6, Subtitle C and rules adopted under it. A copy of the ordinance or order must be filed by the records management officer with TSLAC within 30 days after the date of its adoption. *Local Gov't Code 203.026(a)-(c)*

**Records Control
Schedule**

The records management officer shall:

1. Prepare a records control schedule listing the following records and establishing a retention period for each:
 - a. All records created or received by the ESC;
 - b. Any record no longer created or received by the ESC that is still in its possession and for which the retention period on a records retention schedule issued by TSLAC has not expired; and
 - c. Any record no longer created or received by the ESC that is still in its possession and for which the retention period on a records retention schedule issued by TSLAC has expired but which will not be destroyed; and

2. File with the director and librarian a written certification of compliance that the ESC has adopted records control schedules that comply with the minimum requirements established on records retention schedules issued by TSLAC.

Amendment of
Schedules

The records management officer shall review the ESC's records control schedules and prepare amendments to the schedules as needed to reflect new records created or received by the ESC or revisions to retention periods established in a records retention schedule issued by TSLAC. The records management officer shall file with the director and librarian a written certification of compliance that the ESC has amended the records control schedules to comply with the minimum requirements established on records retention schedules issued by TSLAC.

The board shall require in the ordinance or order establishing the records management program the review or approval of a records control schedule or amended schedule by the officers of the ESC as it considers necessary.

Local Gov't Code 203.041

Retention Periods

A retention period for each record on the records control schedule shall be determined by the board or under its direction. A retention period may not be less than a retention period prescribed by state or federal law, regulation, or rule of court; or a retention period for the record established on a records retention schedule issued by TSLAC. *Local Gov't Code 203.042*

**TSLAC Retention
Schedules**

TSLAC has adopted the following retention schedules, among others: Local Schedule GR—Records Common to All Governments, Local Schedule EL—Records of Elections and Voter Registration, Local Schedule TX—Records of Property Taxation, and Local Schedule SD—Records for Public School Districts. These schedules establish mandatory minimum retention periods for the records listed. *13 TAC 7.125*

Note: [Local government records retention schedules](#)¹ are available on the TSLAC website.

**Destruction of
Records**

An ESC record may be destroyed if:

1. The record is listed on a valid records control schedule and either its retention period has expired or it has been micro-filmed or electronically stored in accordance with legal requirements;
2. The record appears on a list of obsolete records as provided by Local Government Code 203.044;

3. The record is not listed on a records retention schedule issued by TSLAC and the ESC provides notice to TSLAC at least ten days before destroying the record as required by Government Code 441.169;
4. A district court issues an expunction order for the destruction or obliteration of the records, pursuant to state law; and
5. The records are defined as exempt from scheduling or filing requirements or listed as exempt in a records retention schedule issued by TSLAC.

Local Gov't Code 202.001

Exception

An ESC record the subject matter of which is known by the custodian to be the subject of litigation may not be destroyed until the litigation is settled. An ESC record that is subject to a request under the Texas Public Information Act, Chapter 552, Government Code, may not be destroyed until the request is resolved. *Local Gov't Code 202.002*

An ESC shall not destroy a student's education record, as defined by the Family Educational Rights and Privacy Act (FERPA), if there is an outstanding request to inspect and review the record. [See FL] *34 C.F.R. 99.10(e)*

Recordkeeping

As a board may require, the records management officer shall keep accurate lists of records destroyed, their volume, and other information of records management activities. *Local Gov't Code 203.046*

Preservation of Records

Permanent records shall be stored under conditions that meet the requirements of 13 Administrative Code 7.164.

Permanent Records

Microfilming

ESC records may be maintained on microfilm in addition to or instead of paper or other media, subject to the requirements of Chapter 204, Local Government Code and rules adopted by TSLAC. *Local Gov't Code 204.002*

Electronic Storage

ESC record data may be stored electronically in addition to or instead of source documents in paper or other media, subject to the requirements of Chapter 205 of the Local Government Code and rules adopted by TSLAC. *Local Gov't Code 205.002*

Records Offenses

Destruction or
Alienation of Record

A board member or ESC employee commits an offense if the board member or employee knowingly or intentionally violates Local Government Code Title 6, Subtitle C (local government records) or rules adopted under it by destroying or alienating a local government record in contravention of Local Government Code Subtitle C

or by intentionally failing to deliver records to a successor in office as provided by Local Government Code 201.006(a). *Local Gov't Code 202.008*

Tampering with
Governmental
Record

A person commits an offense if the person:

1. Knowingly makes a false entry in, or false alteration of, a governmental record;
2. Makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record;
3. Intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a governmental record;
4. Possesses, sells, or offers to sell a governmental record or a blank governmental record form with intent that it be used unlawfully;
5. Makes, presents, or uses a governmental record with knowledge of its falsity; or
6. Possesses, sells, or offers to sell a governmental record or a blank governmental record form with knowledge that it was obtained unlawfully.

It is an exception to the application of item 3, above, that the governmental record is destroyed pursuant to legal authorization or transferred under Government Code 441.204. With regard to the destruction of a local government record, legal authorization includes compliance with the provisions of Local Government Code Title 6, Subtitle C.

Penal Code 37.10

**Federal
Investigations**

Whoever knowingly alters, destroys, mutilates, conceals, covers up, falsifies, or makes a false entry in any record, document, or tangible object with the intent to impede, obstruct, or influence the investigation or proper administration of any matter within the jurisdiction of any department or agency of the United States or any bankruptcy case, or in relation to or contemplation of any such matter or case, shall be fined, imprisoned not more than 20 years, or both. *18 U.S.C. 1519*

¹ Local Government Retention Schedules: <https://www.tsl.texas.gov/slr/recordspubs/localretention.html>