



Frequently Asked Questions

What is key to know about records law in Alabama?

No county, municipal, or other local government official and/or state officer shall cause any...records to be destroyed or otherwise disposed of without first obtaining the approval of the state and/or local government records commission. ([Ala. Code 1975, § 41-13-21](#)); ([Ala. Code 1975, § 41-13-23](#))

Approved Records Disposition Authorities (RDAs) or retention schedules constitute authorization by the State and/or Local Government Records Commission for the disposition of agency records as stipulated in the document. These RDAs also identify the permanent records that a government agency must maintain.

Local Agencies: the condition of the authorization is that the responsible official must use the approved RDA to submit a [Local Government Records Destruction Notice](#) to the Alabama Department of Archives and History (ADAH) to receive a letter of eligibility. ADAH staff also work with local agencies on information management and on the preservation of their permanent records.

State Agencies: the condition of the authorization is that the agencies submit an annual Records Disposition Authority (RDA) Implementation Report on agency records management activities - including documentation of records destruction and permanent records activities - to the State Records Commission by January 15 or each year for the previous fiscal year. The Alabama Department of Archives and History (ADAH) works with state agencies on information management and on the transfer of their permanent records to ADAH for preservation and access.

What factors determine how long records should be kept?

Retention periods in agency Records Disposition Authorities (RDAs) or retention schedules are based on a record's legal, administrative, fiscal, and historical, and aesthetic value. Generally, records that document an agency's policy decisions, or fulfillment of its statutory mandates, as well as annual financial summaries, are appraised as permanent.

Even temporary records may have historical value if they are old enough. The Local Government Records Commission has declared that no pre-1900 record can be legally destroyed, while the State Records Commission requires review of records before 1940.

Temporary records should be retained beyond their RDA retention periods if they are needed for pending audit or litigation purposes, if the agency has a continuing administrative need for them, or if they are essential to reestablish agency operations after a disaster.

How does an agency that doesn't have an RDA obtain one? How can we add records not covered in our RDA, or get a record's retention requirements changed?

Nearly all state and local government agencies have approved RDAs in place. (For the full list, see [Local Retention Schedules](#) or [State Retention Schedules](#).)

Additions or changes to the RDAs are approved at the State and/or Local Government Records Commission regular meetings in April and October.

In order to have proposed changes included in draft revisions of the RDAs, agencies should contact the ADAH at 334-353-5039 no less than three months before the commission's scheduled meeting.

Records of the local courts (except for probate courts) are not currently under ADAH jurisdiction; contact the Administrative Office of the Courts about their disposition. ADAH does work with courts on information management and on the preservation of permanent records.

I'm already following the retention periods in my RDA. Why must I notify the Department of Archives and History when I'm ready to destroy records? What requirement is there for reporting that destruction?

Local Agencies: Your records disposition authority (RDA) provides the legal authority to destroy temporary records, but reporting destruction to the Local Government Records Commission is required by law ([Section 41-13-23 of the Code of Alabama 1975](#)). Send a [Local Government Records Destruction Notice](#) to the ADAH Archives Division, whose archivists serve as the commission's staff. ADAH will send a letter of eligibility and keep records destruction notices permanently. Staff can verify, in case questions arise during audit or litigation, that your records were legally destroyed.

State Agencies: Your records disposition authority (RDA) provides the legal authority to destroy temporary records. Agencies, however, must submit a brief Annual RDA Implementation Report by January 15 for the previous fiscal year reporting, among other items, about your agency's destruction, information management, and permanent records activities.

What are the Basic Step-by-Step Destruction Procedures?

- Consult your agency's RDA for retention requirements
- Determine if the temporary records have met the minimum retention requirements
- Ascertain whether litigation or other hold prevents the legal destruction of records
- Complete a destruction notice
 - State Agencies (create own form or use template)
 - Local Governments ([Local Government Records Destruction Notice](#))
- Ensure the appropriate supervisor or records liaison signs off on the destruction notice
- Local Only
 - Submit the [Local Government Records Destruction Notice](#) to ADAH
 - Receive a Letter of Eligibility
- Securely destroy records through shredding or some other secure means
- State Only
 - Report all destruction to your agency liaison so that it can be documented in your agency's mandated annual report. Maintaining destruction notices provide protection to show that you are in compliance.
- Local Only
 - ADAH maintains local destruction notices permanently, in case there is ever a question (e.g. during audit or litigation) as to whether records were legally destroyed.
- Failure to properly adhere to destruction procedures may result in an audit finding

How should records be destroyed?

The destruction form lists several methods of destruction: shredding, landfiling, burning, recycling, and deletion of electronic records. There is also a box to check when temporary original records are destroyed and reformatted versions retained as the "record copy." (*Permanent records are not eligible.*)

Neither the Alabama Department of Archives and History (ADAH) nor the State and Local Government Records Commissions stipulate how to destroy records; but the method chosen should ensure that those containing sensitive or confidential information are totally obliterated. For records going to the landfill, send staff along to ensure that they are properly buried and not accessible to "dumpster divers."

Are agencies required to maintain records in any particular format? Must an agency retain paper copies of its records once they have been digitized?

RDA retention periods are based on a record's legal, administrative, fiscal, and historical value, not the format in which the record is maintained. The Code of Alabama 1975 authorizes microfilm to replace original records if certain conditions are met ([Section 41-13-40](#)) and establishes the conditions under which electronic records can be legally acceptable ([Sections 8-1A-1 through 8-1A-20](#)).

The Local Government Records Commission's position is that record information must be maintained for the periods the RDA requires; it does not stipulate the format in which records must be kept. That said, agencies should understand that they have a long-term commitment to back up and migrate permanent or long-term records kept only in digital format. The Alabama Department of Archives and History strongly discourages the destruction of reformatted permanent records.

For more information on this subject, contact the Department of Archives and History (ADAH) Archives Division at 334-242-4452, or becky.hebert@archives.alabama.gov.

Should I digitize?

If an agency has never had a records management program, chances are that digital imaging is not the place to start. Before investing in any reformatting technology, the agency should evaluate the current record-keeping system and try to project future needs.

It is also important to conduct a cost/ benefits analysis. In order to justify the expense of hardware and software, a digital imaging system should reduce records personnel and storage costs and allow agency staff to manage records more productively. If the agency invests in digital imaging without first assessing its overall records management concerns and goals, it may end up spending more money than necessary (for example, on converting large backfiles of temporary records), without improving aspects of its records program that do not pertain to current records.

A good first step in making a decision is to conduct a records inventory of each agency subdivision and records storage area. Employ the RDA to identify all permanent and disposable records, and destroy any backlog of outdated temporary records. Once this preliminary work is done, it should be easier to estimate storage requirements for the remaining paper records and to decide which of them require reformatting.

What's the difference between a "public record" and an "open record?" Aren't all records open to the public?

[Section 41-13-1](#) of the Code of Alabama defines "public records" as those "made or received . . . by the public officers of the state, counties, [and] municipalities . . . in the transactions of public business." Thus, public records document the work of government officials responsible to (and sometimes elected by) the public.

Not all public records, however, are open to public inspection. [Section 36-12-40](#) states that: "Every citizen has a right to inspect and take a copy of any public writing in this state, except as otherwise expressly provided by statute." State agencies may hold records that document public business but are closed by statute to public inspection. Counties and municipalities hold many records (e.g., adoptions, voter applications, personal tax records, student grades, library circulation records, criminal investigation files) that document public business but are closed by statute to public inspection.

I'm being denied access to a record I think I should be allowed to see. What can I do?

For a variety of reasons, state and local officials may occasionally deny access to an open record. Even though [Code Section 13A-10-12](#) sets penalties for officials who refuse to make open records available for public use, there is currently no statutory provision or procedure for enforcing the Open Records Law. If citing the law to the official, or contacting the city or county attorney does not help, the only remedy may be court action.

Neither the State or Local Government Records Commission nor ADAH has the legal authority to intervene in records access issues.

How can ADAH assist in taking care of my county/city's records?

Besides creating RDAs, the ADAH Archives Division offers other help to counties and municipalities. Staff provide resources and advice on a variety of records management concerns, as well as free on-site assistance to localities.