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Policy on the Destruction of Damaged/Contaminated Records

Purpose: This policy establishes a process for City agencies to remediate and, when necessary, destroy municipal records that have been damaged or contaminated.¹

Policy: All data and information made or received pursuant to law or ordinance, or in connection with the transaction of official City business are City records,² and required to be retained pursuant to an approved records retention schedule. Section 1133 of the New York City Charter sets forth the procedure for disposal of eligible records. However, when municipal records are damaged and no longer usable, or if they have become contaminated such that they represent a “continuing menace to human health or life, or to property”,³ the responsible agency may seek immediate authorization to dispose of such records notwithstanding the records retention schedule.

Process & Procedure: When an agency becomes aware of damage or contamination of stored records, it should immediately contact the Records Management Division (RMD) of the Department of Records and Information Services (DORIS). The RMD will work with the agency to perform an immediate survey and inventory of the damaged or contaminated records, and will assist the agency in completing the following three steps:

- (1) **Documentation:** The agency shall be responsible for documenting the exact circumstances surrounding the damage or contamination of records, including information about:
 - the records series / description of the damaged records;
 - the location where the records were damaged or contaminated, including information about ownership and use of the property and any insurance policy that might cover the incident;
 - the date of the incident, or the date that the damage was discovered;
 - specific details about how the damage or contamination occurred;
 - the number of boxes affected;
 - the nature of the contamination or health and safety risks presented by the damaged records;
 - where possible, photographic evidence of the damaged records and the location where they were damaged, as well as any other documentation of the incident;

¹ This policy is intended primarily for damage caused to hard-copy records. Additional or different guidance may apply to digitally-stored records that have become damaged or corrupted.

² See New York City Charter Chapter 72, § 3011(2) (“Records’ means any documents, . . . sound recordings, machine readable materials or any other materials, regardless of physical form or characteristics. . . .”)

³ 36 C.F.R. § 1229.10



- the specific agencies and departments connected with the damaged records; and
 - the primary point of contact with the agency regarding the damaged or contaminated records.
- (2) **Mitigation and remediation:** The agency will be responsible for mitigating the damage or contamination as quickly as possible, including moving any undamaged records that are at risk to a safe location. DORIS will work with the agency to evaluate remediation options, including the use of outside vendors to perform remediation and decontamination where appropriate. The decision to remediate damaged records will be informed by the remaining retention period of the damaged records, the importance of those records to the operations of the City or the potential historic value of the records, and the projected costs of remediation and decontamination. The agency should take care to fully document all of the steps taken to mitigate, remediate, decontaminate, salvage, or otherwise recover the damaged records.
- (3) **Disposal of damaged or contaminated records:** Where remediation or decontamination is found to be impossible or unwarranted, the agency will submit an Expedited Application for Disposal to RMD. The application should include information about the proposed method for disposing of the records safely, including any outside vendors involved. Such applications will be processed for expedited review by DORIS and the Law Department.

Upon approval of an expedited disposal application by the Commissioner of DORIS and the Law Department, the agency may proceed with the disposal of the damaged or contaminated records.

The agency should take immediate steps to prevent or avoid similar damage or contamination from occurring in the future, including performing any necessary repairs or maintenance to the storage facility.

See also:

- **RMD-P-2020-01** — Policy on the Destruction of Obsolete Electronic Media;