



MEMO

TO: County Clerks Offices and Election Commissions

FROM: David Joens *daj*
Director, Illinois State Archives and Local Records Commissioner

RE: Disposal of post-2019 Election Materials

DATE: September 6, 2022

Over the past week or so, letters have gone out to some or all of you concerning possible litigation concerning post 2019 election materials. Many of the election materials in question have retentions that have already passed or are just about ready to be met. In light of the letters, my office has been asked to provide guidance on the disposition of these records. I have already talked to many attorneys, state's attorneys, county clerks and even archivists and records managers from other states on this issue.

To legally dispose of a government record in Illinois, a unit of local government must have an approved records retention schedule. A record has to have met a minimum retention period as defined in the records retention schedule before it can be disposed of. After a record has met its minimum retention length, a unit of local government has to receive permission from the State Archives, in the form of an approved disposal certificate, before it can dispose of any records. That permission can be denied if the record may be needed for any pending or anticipated litigation. The system is designed to protect the interests of both the public and units of local government.

We have determined that the letters that have been sent out do, in fact, constitute potential (anticipated) litigation. As such, the Archives will not be approving any disposal certificates for the disposition of post 2019 election records until this agency determines that the threat of anticipated litigation no longer exists. This means that until further notice, as of this date you may not legally dispose of post 2019 election materials.

We will be reviewing this issue often, especially as I believe it may cause a hardship on some of your offices. If you have any questions, please do not hesitate to contact me directly at 217-782-3492 or at djoens@ilsos.gov.