

ELECTRONIC COMMUNICATIONS USE AND RETENTION

This policy applies to the retention, storage, and destruction of electronic information and records within the District and does not supersede any state or federal laws, or any other District policies regarding confidentiality, information dissemination, or standards of conduct. Generally, electronic information should be used only for legitimate District business; however, brief and occasional e-mail messages may be sent and received.

Electronic communication is transmittal of a communication between two or more computers or electronic devices, whether or not the message is converted to hard copy format, whether or not the message is viewed upon receipt or stored for later retrieval, and whether or not transmittal is through a local, district or global network.

Electronic communications, including records made with other software and sent in e-mail, which are sent or received by the Board of Education or District employees pertaining to the business of the schools may be subject to public disclosure and inspection as public records under the Connecticut Freedom of Information Act and discovery in litigation as evidence in support of a claim. The Superintendent or his/her designee shall be responsible for implementing administrative regulations concerning the placing of a "hold" on electronic and paper records that may reasonably be anticipated to be subject of discovery in the course of litigation.

Use of electronic mail should conform to the same standards of judgment, propriety and ethics as other forms of school business-related communications.

The District is obligated to respect and, where necessary, to protect confidential data. The Board recognizes technical and legal limitations may restrict the District's ability to protect confidentiality. Electronic communication is recognized as similar to a paper document for legal purposes. The Board understands it may be legally compelled to disclose electronic information including business or personal use of e-mail to community members in accordance with the Freedom of Information Act. Such information will be disclosed to governmental authorities or, in the context of litigation, to other third parties. E-mail may also contain information that should be retained in the official records of the District.

Electronic communication on District computers or electronic communication systems shall be retained only as long as necessary. The same record retention policy that applies to paper records applies to electronically stored information, including e-mail communications. Therefore, like paper records, the content and function of an electronic record, including e-mail communications, determines the retention period for that document and will be retained in accordance with the *Management and Retention Guide for State and Municipal Government Agencies* (General Letter 98-1) administered by the Connecticut State Library, Public Records Administrator.

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In addition to the Board's retention guidelines, all District employees have a duty to preserve all paper records and electronic information, including records and electronic information that might otherwise be deleted or destroyed, that relate to any matter that is currently in litigation or may be anticipated to involve litigation. The Superintendent or his/her designee shall develop administrative regulations to preserve such records and electronically stored information that could potentially be related to any matter currently in litigation or which may be anticipated to result in future litigation.

The responsible authority for the maintenance and security of records shall be the Superintendent of Schools or his/her designee. The Superintendent shall designate a Records Custodian who will be responsible for implementation of District policies and administrative regulations pertaining to the preservation of paper records and electronically stored information, including e-mails and to respond to requests to inspect electronic mail pursuant to the Freedom of Information Act.

When security of certain financial, student, or other confidential information must be maintained, employees shall take appropriate security measures such as the use of personal identification passwords and/or encryption codes. Employees shall safeguard the confidentiality of passwords and codes and shall take reasonable steps to insure that computer terminals do not become available for unauthorized use.

Users are responsible for appropriate access to and use of electronic mail systems. Illegal or improper use of the electronic mail systems, including but not limited to, pornography, obscenity, harassment, solicitation, gambling and violating copyright or intellectual property rights are prohibited.

Use of the electronic mail systems for which the District will incur an expense without written permission of a supervisor is prohibited.

Violation of this policy shall constitute just cause for appropriate disciplinary action.

(cf. 4118.4/4218.4 – Electronic Monitoring)
(cf. 4118.5/4218.5 - Acceptable Computer Network Use)
(cf. 9327 – Electronic Mail Communications)
(cf. 9330 – Board/School District Records)
(cf. 5125 – Student Records; Confidentiality)

ELECTRONIC COMMUNICATIONS USE AND RETENTION (Continued...)

Legal Reference: Connecticut General Statutes
The Freedom of Information Act.
1-15 Application for copies of public records.
1-200 Definitions.
1-210 to 1-213 Access to public records.
1-211 Access to computer stored records.
1-214 Public contracts as part of public records.
1-225 to 1-240 Meetings of public agencies.
7-109 Destruction of documents.
10-15b Access of parent or guardians to student's records.
10-154a Professional communications between teacher or nurse & student.
10-209 Records not to be public.
10-221 Boards of Education to prescribe rules.
11-8a Retention, destruction and transfer of documents.
11-8b Transfer or disposal of public records. State Library Board to adopt regulations.
31-48d Employers engaged in electronic monitoring required to give prior notice to employees.
46b-56(e) Access to Records of Minors.
Connecticut Public Records Administration Schedule V – Disposition of Education Records (Revised 1983).
General Letters 98-1, 96-2 and 2001-1 of the Public Records Administrator Record Retention Schedules Towns, Municipalities, and Boards of Education.
Federal Family Educational Rights and Privacy Act of 1974 (section 438 of the General Education Provisions Act, as amended, added by section 513 of P.L. 93-568, codified at 20 U.S.C. 1232g.).
Department of Education 34 C.F.R. Part 99 (May 9, 1980 45 FR 30802) regs. implementing FERPA enacted as part of 438 of General Education Provisions Act (20 U.S.C. 1232g) parent and student privacy and other rights with respect to educational records, as amended 11/21/96.
Rules 34 and 35 of the Federal Rules of Civil Procedure (2006 Amendments).
USA Patriot Act of 2001, PL 107-56, 115 Stat. 272, Sec 507, 18 U.S.C. §2332b(g)(5)(B) and 2331.
PL 107-110 “No Child Left Behind Act of 2001” Sections 5208 and 9528.

Administrative Regulations to Policy #3543.31
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Retention Guidelines

These regulations provide guidance in the implementation of Policy #3543.31 regarding the retention of electronic records and information. These regulations supplement and do not replace District policy and regulations pertaining to student records (#5125).

Content and function of electronic messages determine the message's retention period. The determination of record status shall be on the same basis as is used for paper records. The District will comply with all of the minimum standards set forth in the *Municipal Records Retention Schedule, M8* of the Connecticut Records Administration. Electronic messages sent and received by public officials fall within three broad categories:

1. Transitory messages, including copies posted to several persons and casual and routine communications similar to telephone conversations.
2. Public Records with a less than Permanent Retention Period; and
3. Public Records with a Permanent or Permanent/Archival Retention Period.

Retention guidelines for each of these categories are as follows:

- **Transitory Messages-No Retention Requirement**
 - Public officials and employees receiving such communications may delete them at will immediately without obtaining the approval of the Office of the Public Records Administration and State Archives or the District's Custodian of Records. Transitory messages are not essential to the fulfillment of statutory obligations or to the documentation of district functions.
 - Examples include, but are not limited to:
 - ◆ Messages that address routine administrative, curricular and co-curricular matters, announcements of meetings, schedules of events, etc.
 - ◆ Messages that take the place of informal discussion and which if they were printed would not be retained in school records.
 - ◆ Messages that transmit generic information and are not specific to a student's educational program.

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Retention Guidelines (continued...)

- ◆ Messages that address personal matters unrelated to the District.
- ◆ Voice mail is transitory in nature and may be deleted at will. However, there are times when such messages may require a longer retention period, such as in the case of where the message may be potentially used as evidence in a trial, such as a bomb threat, or in some other illegal activity. Voice mail may also be subject to the discovery process in litigation.
- **Less than Permanent Messages-Retention Requirement**
 - Follow retention schedule for equivalent hard copy records as specified in the *Municipal Records Retention Schedule, M8* of the Connecticut Records Administration, retention schedule. The record must be in hard copy or electronic format, which can be retrieved and interpreted for the legal retention period.
 - When there is a doubt about the retrievability of an electronic record over the life span of that record, the record should be printed out.
 - The District may delete or destroy the records only after making and retaining a hard copy or after receiving signed approval from the Office of the Public Records Administrator.
 - Examples include, but are not limited to:
 - ◆ Messages that address significant aspects of a specific student's educational program including, but not limited to, health, discipline, special education program, interaction with DCF, and communication with parents relating to specific aspects of the student's interaction with the school district.
 - ◆ Messages that address and/or provide information used in making policy decisions, concerning curricular or co-curricular activities, personnel actions, or that relate to the business transactions of the District.
 - ◆ Messages that address activities of significant interest in the community relating to the District.

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Retention Guidelines (Continued...)

- **Permanent or Permanent/Archival-Retention Requirement**
 - Records must be retained permanently.
 - Retention may be in the form of a hard-copy printout or stored on microfilm that meets microfilm standards issued in General Letter 96-2 of the Public Records Administrator. The information must be eye readable without further direction.
 - Examples include, but are not limited to:
 - ◆ Policy and Procedure manuals
 - ◆ Physician's standing orders
 - ◆ Nursing Protocols

Public officials and District employees are advised that e-mail messages sent as part of their workdays are not "private" but are discoverable communications and may be subject to FOI.

Since messages may be retained at different locations or levels of the system, users must remember that their communications can be retrieved during formal discovery processes.

Discretion, therefore, is an important consideration when using technology to send, record, and/or retain communications.

Maintenance/Retention of Electronic Mail

Records created using an e-mail system and electronically stored information will be saved/archived by the District for their required retention period by one of the following methods approved by the District's Record's Custodian:

1. Print message or record and store in appropriate hard copy file.
2. Place in computer folders and save on hard drive.
3. Save to removable disk which is then stored in an appropriate location.

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Maintenance/Retention of Electronic Mail (continued...)

4. Transfer to an automated records management software application.
5. Manage at the server by an automated classification system.

A review shall take place periodically, but at least annually, for the purpose of reviewing electronically stored information. The District's Record's Custodian and the District's Technology Administrator are responsible for this review.

No system wide process for automatic deletion of electronic information will be implemented without notice to any individual who may have such information and each such individual will verify that they have reviewed and archived information that must be retained. Following this review, all e-mails and/or electronically stored information that have not been archived according to District policies and procedures shall be designated for deletion or archiving, and the affected District employees will be notified about the procedures to be followed to implement this process. The Record's Custodian or his/her designee shall follow up with notified employees to ensure compliance.

In addition, the Record's Custodian, in cooperation with the District Systems Administrator, shall ensure that any process for automatic deletion of electronic information from the system will not delete information stored in folders and/or system locations that have been designated as appropriate for archiving electronically stored information.

Holds on the Destruction of Paper Records and Electronic Information

Upon receipt of notice that the District is involved in litigation as a party to a lawsuit, the District is issued a subpoena by a party to a lawsuit in which it is not a party, or if the District receives information that would lead a reasonable person to anticipate the possibility of litigation, the Record's Custodian shall immediately take steps to ensure that paper records and electronically stored information related to the litigation or potential litigation are preserved from deletion or destruction. Action to preserve records and electronically stored information shall include, but not limited to, the postponing or canceling of any automatic deletion of electronically stored information until relevant information and documents can be identified and stored, notification to employees of a "litigation hold" to prevent the deletion and destruction of documents that might be related to the litigation or potential litigation, and the identification documents and information that are subject to preservation. This "litigation hold" triggers the duty to preserve documents, such as transitory messages, that otherwise could be deleted under the District's record retention policy.

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Holds on the Destruction of Paper Records and Electronic Information (continued...)

The Record's Custodian shall issue a "litigation hold" memorandum that specifically describes the types of documents and information that must be preserved and describes how those materials are to be identified, maintained and stored. The memorandum shall specifically state that the duty of preservation is ongoing and that it is the responsibility of employees to continue to identify and preserve relevant documents until notified via a subsequent memorandum that the "litigation hold" is no longer in effect. All employees who are sent a "litigation hold" memorandum are to acknowledge receipt and understanding of the memorandum in writing, which may be in the form of an e-mail response. A copy of any "litigation hold" memorandum shall be sent to the District's Instructional Technology Department.

The Record's Custodian shall be responsible for the collection and coordination of the retention of documents that are subject to the "litigation hold," including electronically stored information. He/she shall work with the District's Instructional Technology personnel to ensure compliance with the "litigation hold."

The Record's Custodian shall determine the types of electronically stored information that exist and where that information is maintained, identify where both identified paper documents and electronically stored information will be stored, and implement procedures to ensure that District employees are complying with the "litigation hold." No system wide process for automatic deletion of electronic information will be implemented while "litigation hold" is in effect without prior notice to the Record's Custodian and verification by the Record's Custodian that the deletion process will not destroy documents or information that is subject to a "litigation hold." The Record's Custodian shall reissue the "litigation hold" memorandum, as deemed necessary, and will ensure that the "litigation hold" memorandum is provided to new employees who may have access to relevant information. The Record's Custodian shall ensure that all steps taken by the District to identify and preserve information are documented.