

SCHOOL DISTRICT RECORDS, RETENTION & FOIL

It is the policy of the Board of Education to inform members of the public about the administration and operations of the public schools in accordance with the Freedom of Information Law (FOIL) of the State of New York.

The Superintendent of Schools shall develop regulations ensuring compliance with FOIL and setting forth the procedures to be followed to obtain access to district records, and submit such regulations to the Board for approval. The Superintendent of Schools shall designate, subject to Board approval, a Records Access Officer and Records Management Officer, pursuant to law.

The Records Management Officer shall develop and submit to the Board, for approval, a Records Management Program. This program shall include regulations ensuring compliance with FOIL and governing procedures to be followed to obtain access to permissible District records.

Retention and Destruction of Records

Understanding that the District has a responsibility to retain administrative, fiscal, and legal records which have historical value, the Board of Education hereby adopts the Records Retention and Disposition Schedule ED-1 issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, which contains the legal minimum retention periods for District records. In accordance with Article 57-A, the District will dispose of those records described in the schedule after they have met the minimum retention periods set forth in the schedule.

The manner of destruction will be determined by the format of the record (i.e., paper, electronic, etc.). In addition, destruction per Schedule ED-1 will be appropriately documented.

Litigation-Hold

The Superintendent will establish procedures in the event that the school district is served with legal papers. The Superintendent will communicate with applicable parties, including the school attorney and the records management official, to ensure that, when appropriate, a litigation-hold is properly implemented. The litigation-hold is intended to prevent the destruction or disposal of records that may need to be produced as part of discovery. It is the intention of the Board of Education to comply with applicable rules and regulations regarding the production of necessary documents, data, files, etc. The Board directs the Superintendent to institute such procedures to implement this policy.

Cross-Reference: Policy 2330 – Executive Sessions
Policy 2360 – Minutes
Policy 2370 – Public Participation at Board Meetings
Policy 5500 – Student Records
Policy 6630 – Financial Reports and Statements

Reference: Public Officers Law § 84 *et seq.* (Freedom of Information Law)
Public Officers Law § 87(c)(3)
Education Law § 2116
Arts and Cultural Affairs Law § 57.11
Local Government Records Law, Article 57-A of the Arts and Cultural
Affairs Law
Federal Rules of Civil Procedure, 16, 26
8 NYCRR Part 185 (Appendix I) – Records Retention and Disposition
Schedule ED-1

Revised: December 19, 2017; November 18, 2008; May 22, 2001

SCHOOL DISTRICT RECORDS, RETENTION & FOIL REGULATION

The following comprises the rules and regulations relating to the inspection and production of school district records:

A. Designation of Officers

1. The Superintendent of Schools, subject to Board of Education approval, shall designate a Records Access Officer for the District.
2. The Records Access Officer shall receive requests for records of the District and make such records available for inspection or copying when such requests are granted.
3. The Records Access Officer shall compile and maintain a detailed current list by subject matter, of all records in the possession of the District, whether or not available to the public.
4. The Records Access Officer shall promote and support a Records Management Program for the orderly and efficient management of records.
5. The Superintendent, subject to Board of Education approval, shall designate a Records Management Officer for the District.
6. The Records Management Officer shall develop and oversee the Records Management Program for the orderly and efficient management of District records. The Records Management Officer shall ensure proper documentation of the destruction of records, in accordance with the schedule.

B. Definition of Records & Records

1. A record is defined as any information kept, held, filed, produced or reproduced by, with, or for the District in any physical form, including but not limited to reports, statements, examinations, memoranda, opinions, folders, files, books, manuals, pamphlets, forms, papers, designs, drawings, maps, photos, letters, microfilms, computer tapes or disks, rules, regulations, or codes.
2. The Records Management Officer, or his/her designee, shall have the responsibility for compiling and maintaining the following records:
 - a. a record of the final vote of each member of the Board on any proceeding or matter on which the member votes;
 - b. a record setting forth the name, school or office address, title and salary of every officer or employee of the District and/or the Board of Education; and
 - c. a reasonably detailed and current list, arranged by subject matter, of all records in possession of the District, whether or not available for public inspection.

3. No record for which there is a pending request for access may be destroyed. However, nothing in these regulations shall require the District to prepare any record not possessed or maintained by it except the records specified in Item B-2, above.
4. Records Management Program is defined as an ongoing, coordinated, administrative effort to systematically manage a local government's records from initial creation to final disposition. The Records Management Program includes but is not limited to:
 - a. the legal disposition of obsolete records;
 - b. the identification and administration of an access to records of enduring value;
 - c. filing and indexing systems;
 - d. the use of computer or other technology in information creation, manipulation and storage;
 - e. the storage and management of inactive records no longer needed for the conduct of day-to-day business in the office;
 - f. the microfilming of records;
 - g. the oversight of the creation and the use of forms, correspondence and other records; and
 - h. the provision for protecting vital records.

C. Access to Records

1. Records may be requested from, and inspected or copied at, the Office of the Records Access Officer at the District Office during normal business hours on any business day on which the District Office is open.
2. The Records Access Officer shall assist any applicant searching for the existence of a record prior to the making of a request.
3. The fee for documents up to 9x14 inches is 25 cents per page. For documents larger than 9x14 inches, digital records, or computer printouts, the cost will be based on the cost of reproduction or program utilized. Fees are subject to periodic review and change. However, no fee shall be charged for records sent via e-mail. Depending upon labor demands, fees may be charged for the search for or inspection of records, certification of documents, or copies of documents which have been printed or reproduced for distribution to the public. The number of such copies given to any one organization or individual may be limited, in the discretion of the Records Access Officer.
4. All requests for inspection or copying of records are to be submitted in writing either in person, by mail, or via e-mail to the Records Access Officer. Written requests shall reasonably describe the record that is sought to be inspected or copied.
5. Requests for inspection of payroll records shall only be made available in accordance with Chapter 578 of the Laws of 1974 and upon written notice in the form prescribed by the Comptroller of the State of New York.

6. All requests for information shall be responded to within five (5) business days of receipt of the request. If the request cannot be fulfilled within five (5) business days, the Records Access Officer shall acknowledge receipt of the request and provide the approximate date when the request will be granted or denied.
7. If a request cannot be granted within 20 business days from the date of acknowledgement of the request, the District must state in writing both the reason the request cannot be granted within 20 business days, and a date certain within a reasonable period when it will be granted depending on the circumstances of the request.
8. When a request for access to a public record is denied, the Records Access Officer shall indicate in writing the reasons for such denial, and the right to appeal.
9. An applicant denied access to a public record may file an appeal by delivering a copy of the request and a copy of the denial to the Superintendent within 30 days after the denial from which such appeal is taken.
10. The applicant and the New York State Committee on Open Government will be informed of the Superintendent's determination in writing within 10 business days of receipt of an appeal. The Superintendent shall transmit to the Committee on Open Government photocopies of all appeals and determinations.
11. Any person denied access to a record by the District may appeal to the Supreme Court of the State of New York pursuant to Article 78 of the Civil Practice Laws and Rules.

D. Records Exempted from Public Access

The provisions of this regulation relating to information available for public inspection and copying shall not apply to records which:

1. are specifically exempted from disclosure by State and/or Federal statutes;
2. if disclosed, would constitute an unwarranted invasion of personal privacy;
3. if disclosed, would impair present or imminent contract awards or collective bargaining negotiations;
4. are confidentially disclosed to the District and compiled and maintained for the regulation of commercial enterprise, including trade secrets or for the grant or review of a license;
5. are compiled for law enforcement purposes and which, if disclosed, would:
 - a. interfere with law enforcement investigations or judicial proceedings;
 - b. deprive a person of a right to a fair trial or impartial adjudication;

- c. identify a confidential source or disclose confidential information relating to a criminal investigation; or
 - d. reveal criminal investigative techniques or procedures.
6. if disclosed, would endanger the life or safety of any person;
7. are inter-agency or intra-agency communications, except to the extent that such materials consist of:
 - a. statistical or factual tabulations or data;
 - b. instructions to staff which affect the public;
 - c. final Board policy determinations; or
 - d. external audits, including but not limited to audits performed by the comptroller and the federal government;
8. are examination questions and/or answers which are requested prior to the final administration of such questions; and
9. if disclosed would jeopardize the District's capacity to guarantee the security of its information technology assets (which encompasses both the system and the infrastructure).

E. Prevention of Unwarranted Invasion of Privacy

To prevent an unwarranted invasion of personal privacy, the Records Access Officer may delete identifying details when records are made available. An unwarranted invasion of personal privacy includes but shall not be limited to:

1. disclosure of confidential personal matters reported to the Board which are not relevant or essential to the ordinary work of the Board;
2. disclosure of employment, medical or credit histories or personal references of applicants for employment, unless the applicant has provided a written release permitting such disclosures;
3. sale or release of lists of names and addresses in the possession of the District if such lists would be used for private, commercial or fund-raising purposes;
4. disclosure of information of a personal nature when disclosure would result in economic or personal hardship to the subject party and such records are not relevant or essential to the ordinary work of the Board; or
5. disclosure of items involving the medical or personal records of a client or patient in a hospital or medical facility.

Unless otherwise deniable, disclosure shall not be construed to constitute an unwarranted invasion of privacy when identifying details are deleted, when the person to whom records pertain consents in writing to disclosure, or when upon representing reasonable proof of identity, a person seeks access to records pertaining to him or her.

F. Listing of Records

Pursuant to Section 87(3)(c) of the Public Officers Law, the current records retention schedule for school districts, published by the Commissioner of Education, shall serve as the list by subject matter of all records in the possession of the school district, whether or not available under the law. The Superintendent or his/her designee, in consultation with the Records Management Officer, shall develop and disseminate department-specific guidance so that staff can implement this policy and regulation.

G. Litigation-Hold

The Superintendent will designate a “discovery” team, comprised of the school attorney, the Records Access Officer, Records Management Officer, the Supervisor of Instructional Technology and other personnel as needed. The discovery team will convene in the event that litigation is commenced to plan to respond to the request for records. The Superintendent, with assistance from the Supervisor of Instructional Technology, will ensure that measures are put in place to preserve applicable records.

H. Severability

If any provision of this regulation or the application thereof to any person or circumstance is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of any other provision of this regulation or the application thereof to any other person or circumstance.

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