

School Board

Administrative Procedure - Protocols for Record Preservation and Development of Retention Schedules

Actor	Action
All Staff and Board Members	<p>No district record, as defined in the Illinois Local Records Act, shall be destroyed except as provided herein.</p> <p><i>“Public record means any book, paper, map, photograph, digitized electronic material, or other official documentary material, regardless of physical form or characteristics, made, produced, executed or received by any agency or officer pursuant to law or in connection with the transaction of public business and preserved or appropriate for preservation by such agency or officer, or any successor thereof, as evidence of the organization, function, policies, decisions, procedures, or other activities thereof, or because of the informational data contained therein.” 50 ILCS 205/3.</i></p> <p>Do not destroy any District record, no matter its form, if it is subject to a litigation hold.</p> <p>In federal lawsuits there is an automatic discovery of virtually all types of electronically created or stored data that might be relevant. Attorneys will generally notify their clients at the beginning of a legal proceeding to not destroy any electronic records that might be relevant. The receipt of a <i>litigation hold</i> or preservation letter from the Board’s attorney requires all potentially relevant electronic information to be identified, located, and preserved. This includes all e-mail, e-documents, the tapes and servers of discarded systems, and backup data stored elsewhere.</p>
Superintendent	<p>Assign the following activities to the Records Custodian and Head of Information Technology (IT):</p> <ol style="list-style-type: none"> 1. Develop and maintain a protocol for preserving and categorizing District records; 2. Develop and maintain a record retention and destruction schedule; and 3. Develop protocols to implement a litigation hold.
Records Custodian and Head of IT	<ol style="list-style-type: none"> 1. Develop and maintain a protocol for preserving and categorizing District records. <p>Develop and maintain a list of all District records organized in categories and sub-categories, e.g., records relating to business,</p>

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	<p>students, personnel, board meetings, etc. Align this list with the list District records required by the Freedom of Information Act. 5 ILCS 140/5.</p> <p>Paper records may be easier to locate than electronic records. Electronic records will potentially exist in all of the available servers, tapes, hard drives, computers, and similar types of electronic devices (e.g., laptops, Blackberrys, cell phones, Palm Pilots, voicemail, etc.).</p> <p>Provide for keeping only “records” and destroying non-records. Avoid filing non-record material with records. Determine what is a non-record, e.g., identical copies of documents maintained in the same file; extra copies of printed or processed materials (official copies of which are retained by the office); blank forms; and personal communications.</p> <p>The goal is to control excessive accumulation of material. Non-record material may be destroyed at any time. 50 ILCS 205/9.</p> <p>Absent a litigation hold, email must be retained only when it contains: (1) evidence of the District’s organization, function, policies, procedures, or activities, or (2) informational data appropriate for preservation. Email that is conversational, personal, or contains brainstorming may generally be deleted.</p> <p>A consistent email retention policy for use across the District ensures that the necessary emails are being retained and emails that are not required to be preserved are purged on a regular basis.</p> <p>Identify and index the location of each category and sub-category of District records. Organize electronic record and data storage.</p> <p>The goal is to ensure that all documents, including electronically created ones, are retained for the required timeframes and are easy to retrieve and produce if necessary.</p> <p>2. Develop and maintain a record retention schedule for submission to the Superintendent and eventually to the Local Records Commission.</p> <p>Prepare a list of public records that: (1) are not needed for current business, and (2) do not have sufficient administrative, legal, or fiscal value to warrant their further preservation. Stated differently, identify records that have no administrative, legal, or fiscal value.</p> <p>Records that have no administrative, legal, or fiscal value may be destroyed according to provisions in the Local Records Act. 50 ILCS 205/1 <u>et seq.</u></p> <p>Prepare a schedule for record destruction by identifying the length of</p>

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	<p>time a record category or series warrants retention after it has been received or produced by the District.</p> <p>The ultimate goal is to obtain permission to destroy unnecessary public records. The Local Records Commission must approve the destruction of any public record. 50 ILCS 205/7, 44 Ill.Admin.Code Part 4000 (Local Records Commission for agencies comprising counties of less than 3,000,000 inhabitants); 44 Ill.Admin.Code Part 4500 (Local Records Commission of Cook County). See the Archives Department on the Secretary of State’s website.</p> <p>A list can be used when applying for authority to destroy records. A schedule can be used when applying for continuing authority to destroy records after specified periods of time or the occurrence of specified events.</p> <p><u>The School Code</u> and other statutes (e.g., statutes of limitations) contain mandatory retention timelines. The Board’s attorney should be consulted.</p> <p>The e-discovery rules provide a safe harbor for parties during a lawsuit that cannot provide information because it was destroyed as a result of routine practices.</p> <p>Determine whether each sub-category of documents should be reproduced by photography, microphotographic processes, or digitized electronic format.</p> <p>If a record is reproduced in accordance with standards published by the Local Records Commission, the original may be destroyed. The reproduction’s destruction must be according to the approved record retention schedule.</p> <p>3. Develop protocols to implement a litigation hold.</p> <p>Understand what a <i>litigation hold</i> is.</p> <p>A litigation hold refers to the notification made by the Board’s attorney telling the District to preserve all information that may be relevant to current or anticipated litigation. While it may occur anytime in the legal process, it will usually occur during discovery, the pretrial phase of a lawsuit designed to compel the exchange of information between parties. A litigation hold triggers the need to immediately suspend destruction of electronic and other records relevant to the current or potential claim.</p> <p>Specify how to implement a litigation hold, i.e.:</p> <ul style="list-style-type: none"> • Who can trigger a litigation hold? • How is a litigation hold communicated? • Who should gather the records?

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	<ul style="list-style-type: none"> • What records are subject to a litigation hold and who determines this? • In what format should records be gathered? • Where should records be gathered? <p>Identify how to implement a litigation hold for all IT systems, including backup tapes, to ensure they are not deleted or overwritten as part of the normal tape rotation process.</p> <p>Prepare a map of potentially relevant data and otherwise assist the Board's attorneys in locating all potentially relevant information.</p>
Superintendent	<p>Submit new or revised record retention and destruction lists and schedules to the Local Records Commission for approval.</p> <p>Disseminate the record retention and destruction schedule, along with instructions, to all affected staff members and School Board members.</p> <p>Immediately inform the Records Custodian and Head of IT whenever a record must be preserved because: (1) it may be relevant to present or future litigation, or (2) the Board attorney has notified the District to preserve a record, including electronic information (<i>litigation hold</i>).</p>

LEGAL REF.: Federal Rules of Civil Procedure, Rules 16 and 26.
5 ILCS 140/1 et seq., Freedom of Information Act.
50 ILCS 205/1 et seq., Local Records Act.
105 ILCS 10/1 et seq., IL School Student Records Act.
820 ILCS 40/1 et seq., IL Personnel Record Review Act.

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