

## **Electronic Records Management Guidelines**

### **I. Objectives**

The employees of the Fort Bend Independent School District (the “District”) routinely create, use, and manage information electronically in their daily work. Proper management of the District’s electronic records strengthens its business processes, administrative efficiencies, and ability to function transparently and accountably. The District seeks to increase the accessibility of public information and focus the use of its electronic resources on District-related business. In compliance with state and federal law, the “District” has developed these guidelines for the management of electronic records, including emails. Management includes the creation, use, disposition, and retrieval of electronic records.

All employees are responsible for complying with these Guidelines. Numerous laws affect the management of electronic records, many of which are outside the scope of these Guidelines, but all employees should be generally familiar with the Texas Public Information Act (Texas Government Code, Chapter 552); the Local Government Records Act (Texas Local Government Code, Chapters 201 and 205); the Records Retention Schedules (Texas Administrative Code, Chapter 7); and the Family Educational Rights & Privacy Act (“FERPA”).

These guidelines supplement all other District policies, including the following policies specifically concerning records: Records Management CPC (Local); Student Records FL (Local); Access to Public Information GBA (Legal); Requests for Information GBAA (Local); Technology Resources CG (Legal); Authority BBE (Local) (all available on the District website at <http://pol.tasb.org/Home/Index/483>). These guidelines should be read in conjunction with those policies, which remain in full force to the extent they do not conflict with these guidelines. In the event of a conflict, the provisions of Chapter 205 of the Local Government Code and related regulations will prevail over the provisions of this regulation.

Departments share responsibility with the Department of Legal Services to implement this Procedure.

### **II. Records Retention Schedules**

The District has adopted and certified the following retention schedules:

- Retention Schedule for Records of Public School Districts
- Retention Schedule for Records Common to All Local Governments
- Retention Schedule for Records of Property Taxation
- Retention Schedule for Records of Elections and Voter Registration
- Retention Schedule for Records of Public Safety Agencies

Each schedule provides a list of records, sets the periods of authorized retention, and lists, by office, the holder of the official copies of various records series. The schedule may be revised periodically to include a newly created record series, to change retention periods, or to

delete a record that is no longer useful. All records will be kept for the minimum periods listed in the appropriate schedule. A record whose retention period has expired will not be destroyed if any of the exceptions described in Section IV apply.

### **III. Email Management, Organization, and Disposition**

#### **Introduction**

Under Sections 201.003(8) and 205.002 of the Local Government Code, emails relating to District business are subject to the state records retention schedule and litigation discovery rules just as if they were paper documents.

The District's email system is not a records management system. Email is a medium in which a record is stored, not a type of record. An email that is not transitory information must be retained for a length of time determined by the category of record set forth in the relevant records retention schedule. The record category is determined by the content of the individual email message.

Employees are responsible for managing their emails in accordance with these guidelines. The disposition of all electronic messages, instant messages, voicemail, and text messages regarding District business must follow the District's retention requirements. Employees may be subject to disciplinary consequences or legal consequences for their failure to preserve electronic messages subject to retention requirements. Accordingly, all District employees will develop a plan to manage, organize, and dispose of their emails.

#### **Management**

Regular management, organization, and disposition of emails and other electronic records will facilitate efficient and accurate disposition during Records Roundup.

1. Is the email transitory information? Transitory information includes personal emails with no relevance to District business, spam, unsolicited emails, including vendor ads or news articles, and convenience copies.
  - a. If yes, delete. Transitory information may be deleted at any time and is not subject to record disposition rules.
  - b. If no, the email is a record. Proceed to Step 2.
2. Is the content of the email related to your responsibilities as a District employee?
  - a. If yes, proceed to Step 3.
  - b. If no, use your professional judgment to either delete the email or forward it to a custodian.
3. Are you a custodian of the email?
  - a. If yes, keep and organize the email. This email is an official record copy, and you must retain it according to the appropriate records retention schedule.
  - b. If no, delete your copy.

## **Organization**

Use professional judgment to determine whether an email may be classified as a specific record. Email that is directly relevant to another record series should be classified as that record series.

## **Disposition**

The process of the legal disposition of electronic records, including email, is subject to the same documentation requirements as any other format or medium.

Emails that an employee determines are subject to retention for more than 30 days must be moved from the employee's Inbox and Sent Items folders within 30 days of its receipt or creation. This determination should be based on the records retention schedules. Emails to be retained must be placed in folders that are labeled and organized in a way emails can be efficiently identified during Records Roundup and for other purposes, including litigation holds. State law regarding electronic records requires that they are individually identifiable and retrievable for their entire retention period. Backup tapes cannot be considered a method of retaining records unless the backup tape is indexed for individual record retrieval.

A record may be destroyed once its retention period has expired or it is otherwise eligible for destruction under Section 202.001 of the Texas Local Government Code. Transitory information may be destroyed at the professional judgment of District personnel.

## **IV. Exceptions to Destruction in Accordance with Retention Schedules**

Even if the retention period for a record has expired, the District will not destroy certain documents as provided below. Pursuant to Section 202.002 of the Local Government Code, the District shall not destroy any record, including electronic records, if:

- the subject matter of the record is known by the custodian to be in litigation or anticipated litigation;
- the record is subject to a pending request for disclosure under the Public Information Act;
- there is an outstanding request to inspect and review the record under FERPA;
- the record is subject to a pending audit by a federal or state grantor or subgrantor agency; or
- a question remains unresolved from a conducted audit until audit finds are resolved.

## **V. Litigation Hold**

When an event giving rise to a potential claim occurs, appropriate records, including electronic records, will be subject to a litigation hold designed to prevent their routine destruction.

A school district has an obligation to preserve documents and evidence related to an event once a lawsuit is filed and sometimes even when litigation is only anticipated. The

Department of Legal Services is authorized to impose a litigation hold and is responsible for implementing and ensuring compliance with a litigation hold. A litigation hold will be developed by cooperation among the Department of Legal Services, the Department for Information Technology, and District administrators and employees. The Department of Legal Services will determine when the litigation hold is no longer necessary and may be discontinued.

## **VI. Compliance**

Failure to comply with this Procedure may result in disciplinary action in accordance with District policy. Discipline will be evaluated and based upon the number of violations and severity of the incident. The Human Resources Department will provide guidance as required to departments regarding appropriate disciplinary actions to be taken against employees who violate this Procedure.

Destruction of records contrary to the provisions of the Local Government Records Act is a Class A misdemeanor (TEXAS LOCAL GOV'T CODE § 202.008) and, under certain circumstances, a third degree felony (TEXAS PENAL CODE § 37.10). The Texas Penal Code, the Texas Government Code, and the Texas Local Government Code contain criminal penalties for misuse of public information. Offenses include the following:

## **VII. Questions and Contact Information**

Please refer to the Records Roundup Frequently Asked Questions (“FAQ”) for answers to common questions and examples.

If in doubt, contact the Department of Legal Services for guidance.

## Definitions

“Convenience copies” means copies of an official record that are created for convenience, reference, or research. Convenience copies may be in any medium (e.g., voice mail, fax, email, hard copy, or current medium). A determination must be made as to whether a record is an official record or a convenience copy for a department to know how to manage it. If an official record is captured as an image, the image may be retained as the official and the hard copy original becomes a convenience copy.<sup>1</sup>

“Custodian” means a District employee responsible for determining the disposition of a record. If an email is determined to be a record, then the sender copy is an official record and the sender is a custodian of an official record. If the recipient needs to take action based on the content of the email or if the content is required for adequate documentation of the action, then the recipient copy is also an official record and the recipient is also a custodian.

“Disposition” means either retention or destruction in compliance with law. Official records will be retained in accordance with records retention schedules and any other laws which may apply. Retention may be temporary, for a longer time period, or permanent. The District will destroy documents in a manner that ensures protection of confidential information.

“Litigation hold” means a directive from the Department of Legal Services or other counsel for the District regarding the preservation of records related to pending or anticipated litigation.

“Official record” means records pertaining to District business or matters that must be recorded by law and does not include convenience copies. Many types of records are official records, including emails, websites, instant messages, voicemail, and text messages regarding District business.<sup>2</sup> An official record may be created or retained in any medium (e.g., voicemail, fax, email, hard copy, or current medium). A determination must be made as to whether a record is an official record or a convenience copy for a department to know how to manage it. If a determination cannot be made as to whether a record is an official record or a convenience copy, the record must be treated as an official record. For example, if one department sends a mass memo or email addressed to all other departments, the original memo is an official record, while the copies received by the various departments are merely convenience copies. (For example, Payroll is the only department that should retain a memo it sends announcing a new deadline or procedure.) However, when the same record serves different business purposes in two or more departments, each department must manage the record as an official record. (For example, the police department and the human resources department might possess the same records related to a criminal investigation and personnel investigation.)

“Permanent record” means any record for which the retention period on a records retention schedule issued by the Texas State Library and Archives Commission is given as permanent. Permanent records will not be destroyed as part of Records Round-up.

---

<sup>1</sup> There may be instances in which the original, hard copy form of a record must be preserved. For example, voice mail messages or other records regarding verbal authority to take certain actions, certain complaints, or reports of illegal activity may need to be retained in their original form for the purpose of evidence in legal proceedings.

<sup>2</sup> Emails, instant messages, voicemail, and text messages regarding District business but conducted through a District employee’s personal accounts or devices or during non-working hours may be subject to disclosure under the Public Information Act. See Technology Resources GC (Local) for additional information related to email.

“Record” means all written, photographic, machine-readable, or other recorded information created or received by District personnel relating to District business. The term “record” includes information recorded in any medium or form including hard copy or electronic records. Examples of electronic records include email, documents created using desktop applications (e.g., word processing, spreadsheet), databases, websites, social media, text messages, digital images, or current medium. Hard copy records preserved in electronic form include correspondence, spreadsheets, databases, calendars, plans, publications, photographs, registers, diaries, film, and maps. The term record does not include extra copies or convenience copies of recorded information maintained only for reference or a stock of publications or blank forms.

“Record series” are the different types of documents generally organized by purpose and use contained in the records retention schedule. For example, the record retention schedule for public school districts (Local Schedule SD) contains record series for student academic records, FERPA records, and records of special populations and services, among others.

“Records retention schedule” means a document issued by the Texas State Library and Archives Commission establishing mandatory retention periods for records.

“Special media records” are maintained separately from other records because their physical form or characteristics require unusual or specialized care. Examples of special media records include:

- Audiovisual records – records in pictorial or aural form, including still and motion pictures, graphic materials, audio and video recordings and multimedia, such as slide-tape productions
- Architectural records – drawings and related records depicting the proposed and actual construction of stationary structures, such as buildings, bridges and monuments
- Engineering records – design and construction drawings and related records depicting the planning and construction of such objects as roads, canals, ships, planes, weapons and machines
- Micrographic records – records containing images greatly reduced in size, and generally stored on microfilm
- Three-dimensional objects

“Transitory information” means records of temporary usefulness that the District is required to retain only until they have served their purpose and meet all of the following criteria:

- are not an integral part of a record series of the District
- are not regularly filed within the District’s recordkeeping system
- are required only for a limited period of time for the completion of an action by a District official or employee or in the preparation of an ongoing record series

Examples: routine messages; telephone message notifications; internal meeting notices; routing slips; District or departmental invitations to luncheons or other social events; unsolicited advertisements; memoranda of transmittal that add nothing substantive to enclosures; and routine information used for communication for any purpose that is not related to District or school business. Transitory information records may be received, created, or retained in any medium (e.g., voicemail, fax, email, hard copy, etc.). Exercise professional judgment before designating a record as transitory information instead of part of another records series listed in the records retention schedule. **If in doubt, contact the Department of Legal Services for guidance.**