TITLE: Records Retention And Destruction (Other than Pupil Records)

NUMBER: BUL-5503.0

ISSUER: Michelle King, Senior Deputy Superintendent
School Operations
Office of the Superintendent

DATE: July 1, 2011

I. **ROUTING**
All Employees
All Locations

POLICY: All Records, other than Pupil Records, created, maintained, and otherwise disseminated through the District, either physically or through the District's information systems, are District property and are therefore subject to this policy. District Records are to be used only to conduct the District's business.

The District will store emails for a maximum of 90 days only. On the 91st day, the email will be automatically deleted from the District's email system. *The automatic deletion feature of the District's email system will be fully implemented in July 2012.

All District employees, officers, and consultants are subject to this policy. Offices that have developed or are planning to develop their own Record retention and destruction policies must ensure that their policies conform to the Districtwide policy set forth herein.

MAJOR CHANGES: This is a new policy.

GUIDELINES: I. OBJECTIVES

Abide by the law. The District is required to preserve Records for as long as the pertinent laws require us to preserve the Records.

Conduct District business in a cost-effective manner. Because the District relies on public funds, it is imperative for the District to minimize its costs and, therefore, dispose of information and Records in a timely manner. All District Records must be managed accordingly.

Preserve confidentiality and privileges. It is the responsibility of all District personnel to preserve the confidentiality of certain information and to protect privileged information, such as Pupil Records and health information, from improper disclosure.

Provide access to necessary information. The District's ability to function efficiently depends on its personnel and authorized individuals being able to access information in as timely a manner as possible. For example, the District must also provide members of the public with access to certain Records after a proper request is made.

II. DEFINITIONS

Class – A category of Records that were created or obtained during the prior school year and are to be retained for a certain period of time. Records are classified as Class 1, 2 or 3.

Continuing Record – Records of a continuing nature, i.e., active and useful for administrative, legal, fiscal, or other purpose(s) over a period of years. These Records shall not be classified until the Records' usefulness has ceased.

Custodian of Records - The person who remains legally responsible for the Record and can authenticate it if necessary.

Types of Custodians:

- District's Official Custodian of Records - The Custodian of Records for the entire District. This person must, by law, be a certificated employee. The highest ranking certificated employee in the District shall be designated as the District's legal Custodian of Records.

- Original Custodian - The originator of a paper or email message or the creator of an Electronic Record if that person is a District employee; otherwise it is the District employee to whom the message is addressed or to whom the Record is sent. If the Record is transferred, by agreement or policy, to another person for archival purposes, then that person becomes the legal custodian.

- Records Manager - The administrator of the division responsible for coordinating off-site document storage and disposal activities Districtwide.

Electronic Record – Non-erasable, optical image where additions, deletions, or changes to the original document are not permitted by the technology. An Electronic Record, for purposes of this Policy, accurately reflects the information set forth in the Record at the time it was first generated in its final form and is accessible. Emails are Electronic Records.

The original of an Electronic Record is the one saved on the hard-drive of the Original Custodian's computer or under that person's name on a server. A paper printout of an Electronic Record is a copy, not the original.

Pupil Record - Any item of information (in any format, written, electronic, or other) that is directly related to an identifiable District pupil (current or former) and is maintained by the District or by a District employee in the performance of his or her duties.

Record - All records, maps, books, papers, and documents of a school district required by law to be prepared or retained or which are prepared or retained as necessary or convenient to the discharge of official duty. Records may be in virtually any form, including hard-copy (typed or hand-written); film impression, such as microfilm or microfiche; tape recording, audio recording, photograph, or video; and electronic (including emails, Word documents, spreadsheets, PowerPoint presentations, computer files, and other data maintained or stored on any computer drive or backup device).

The following are NOT Records and therefore are not covered by this policy:

- Personal notes and personal correspondence, including personal email correspondence, even if on District premises or on a District-assigned computer;
- Personal financial or tax information or any other information of a purely personal nature, even if on District premises or on a District-assigned computer;
- Advertisements, spam or junk email received by District employees;
- Preliminary drafts and informal notes that have no further value to the District;
- Library books, magazines, and pamphlets not prepared by or for the District;
- Textbooks, maps used for instruction, and other instructional material; and
- Any other document (paper or electronic, including emails) that has nothing whatsoever to do with the District's business or with its students, teachers, other employees, or contractors.

III. RULES FOR RECORD RETENTION AND DESTRUCTION

A. Designate a Custodian of Records. The Board of Education shall delegate the selection of the District's Official Custodian of Records to the Superintendent or his or her designee.

B. Categorize Records as Classified or Non-Permanent. Before January 1 of each year, the District's Official Custodian of Records shall cause the head of each Division to review and classify all Records originating during the prior school fiscal year. The head of each Division is responsible for ensuring compliance with this policy and is the Custodian of Records for his or her Division. The Records shall be classified as either Class 1 – Permanent Records or as Non-Permanent Records.

1. Class 1 – Permanent Records.

   Examples: Annual Reports, Records of Official Actions, Permanent Personnel Records (other than Pupil Records), and Property Records. See Appendix A, Title 5, California Code of Regulations section 16023, for details.

2. Non-Permanent Records include:

   a. Class 2 – Optional Records.

   All Records of the prior school year may be classified as Class 2 – Optional, pending further review and classification within one year.

   Examples: Certificated Eligible List Cards, Certificated Re-election List Cards, Classified Eligible List, Certificated Promotional Eligible List, Classified, Certificated and Promotional Examination Cards, Certificated Smooth Reports and Classified Smooth Reports. See Appendix A, Title 5, California Code of Regulations section 16024, for details.

   b. Class 3 – Disposable.

   Examples: Copies of any Record; detail records basic to audit; periodic reports; certificated examination; classified examination records; certificated promotional-examination records. See Appendix A, Title 5, California Code of Regulations section 16025, for details.

Exception: The official copy of a District Record is considered the ORIGINAL if (1) the original was required by law to be filed with another governmental agency, OR (2) for whatever reason, the original is not in the custody of the District.

c. Continuing Records - Records that are active and useful for administrative, legal, fiscal, or other purposes over a period of years.

Example: Historical inventory of equipment.

C. Determine Retention Period. Before January 1 of each year, the District's Official Custodian of Records shall cause the head of each Division to divide Class 1- Permanent records from Non-Permanent Records and establish a date for the destruction of the Non-Permanent Records. The head of each Division is responsible for ensuring compliance with this policy and is the Custodian of Records for his or her Division. Records shall be retained consistent with the following:

Class 1 Permanent - Must be retained in perpetuity.

Non-Permanent Records – With the exception of Continuing Records, Non-Permanent Records may be destroyed 7 years after origination or may be destroyed earlier in accordance with the rules set forth below. If there is doubt about when a Non-Permanent Record should be destroyed, however, with the exception of Continuing Records, Non-Permanent Records can be assigned a document destruction date that is 7 years after origination.

Class 2 – Any Record worthy of temporary preservation but not classified as Class 1 may be classified as Class 2 and shall then be retained until reclassified as Class 3. If the District's Official Custodian of Records determines that classification should not be made by January 1, all records of the prior year may be classified as Class 2 pending further review and classification within one year.

Class 3 - Disposable. Disposal date depends on whether the Record is basic to an audit.

If Basic to Any Audit: Class 3 Records that are basic to any audit must be retained until after the third July 1 succeeding the completion of the audit required by Education Code section 41020 or of any other legally required audit or after the ending date of any longer retention period required by any agency other than a State of California agency.

Example: Date of Audit – April 2010

Disposal Date – After July 1, 2012

If Not Basic to Any Audit - Class 3 Records that are not basic to any audit may be destroyed during the third school year after the school year in which they originated, unless a longer retention period is required by statute, regulation, or contract.

Example: Date Record Created – September 2010

Disposal Date – During 2013 – 2014 School Year

Continuing - Must be kept indefinitely until usefulness has ceased, at which time the Record can either be destroyed after 7 years or classified as Class 1, Class 2 or Class 3 and retained for the period required for the classification. If there is a doubt about when Continuing Documents should be destroyed, Continuing Documents can be assigned a document destruction date that is 7 years after the document's usefulness has ceased.

D. Proper Disposition/Destruction. All Class 3 Records which have been held for the required retention periods shall be destroyed. Disposal of Records should be accomplished by shredding or other means to assure complete destruction and to prevent any reconstruction of the Records to any degree.

When the District's Official Custodian of Records determines, in accordance with both the District's Record retention schedule and applicable legal and business standards, that certain Records should be destroyed, the following steps should be followed:

For Hard Copy Documents:

1. The Records Manager will distribute to employees a notice listing the records to be destroyed.

2. Employees will conduct a reasonable search for any hard copy documents in their possession that fit the classes of documents to be destroyed.

3. If any relevant Records are found, the employee shall place all such documents in a standard-size storage box and print on the outside of the box in large, legible writing "Class 3 Documents" along with the date of disposal, e.g., "Destroy after July 1, 2013."

4. The division head or site administrator (or other qualified designee) will coordinate with the Records Manager for pickup and disposal of the Class 3 records.

For Electronic Documents:

1. The Records Manager will distribute to employees a notice listing the Electronic Records to be destroyed.

2. Employees will conduct a reasonable search of all electronic sources of information (computer hard drive, flash drive, thumb drive, zip drive, CD-ROM, floppy disk, etc.) within his/her possession that may contain an Electronic Record to be destroyed.

3. If any relevant Records are found, the employee shall delete those Electronic Records permanently from the electronic source.

IV. SPECIAL CIRCUMSTANCES

A. Copies. If the original of a record is scanned, photographed, micro-photographed, or otherwise reproduced on film, the copy thus made is a record that must be retained permanently and the original remains a record that may be classified as Class 3 – Disposable, provided that:

- The reproduction was accurate in detail and on film of a kind approved for permanent, photographic records by the U.S. Bureau of Standards;
- The Custodian of Records, has attached to or incorporated in the microfilm copy his/her signed and dated certification that the copy is a correct copy of the original, or of a specified part thereof, as the case may be; and
- The microfilm copy is placed in a conveniently accessible file, and provision has been made for preserving it permanently, examining it, and using it.

IMPORTANT NOTE: Documents scanned into .pdf format do <u>not</u> meet the regulatory requirements for copies. Instead, the copy must be created using a "Trusted System," such as File Net.

A Trusted System is the combination of techniques, policy, and procedures for which there is no plausible scenario in which a document retrieved from or produced by the system could differ substantially from the document that is originally stored. The Trusted System used by the District for document storage and record preservation shall meet the requirements of Government Code section 12168.7 and all related regulations, which are intended to establish uniform statewide standards to be adopted by the Secretary of State,

in consultation with the Department of General Services, to use in recording, storing and reproducing permanent and non-permanent documents or records in electronic media.

B. Electronic Records

1. PROHIBITED USE OF EMAIL FOR EDUCATION AND PUPIL RECORDS

   Per District policy, the email system shall not be used to create or transmit "education records" or "pupil records" as defined in federal and State law, respectively, below. Under federal law, the term "education records" is broadly defined as those directly related to a student that are maintained by an educational agency. State law describes "pupil records" as those relating to individual pupils gathered within or outside the District and maintained by the District.

   Federal and State law establish the requirements the District must follow pertaining to the retention and protection of education records and pupil records. Using email to transmit education or pupil records would make the retention and protection of such records extremely difficult to monitor and manage. There would be no uniformity of retention or filing protocol, and searching for particular education or pupil records over the thousands of email accounts would be a monumental task.

   Accordingly, education and pupil records are not to be created or transmitted via District e-mail.

2. Email. Emails (and any associated attachment(s)) that are sent or received by District employees are District Records if they contain information that relates to the conduct of the District's business or its students, teachers, other employees, or contractors.

   The District's email system is provided at the District's expense to assist employees with carrying out District business by allowing a means for internal communication and external communication with selected individuals and organizations. The email system is to be used for District-related purposes.

   Personal use of the email system must be in compliance with District policy, including, but not limited to, the *Acceptable Use Policy (AUP) for District Computer Systems* (Bulletin BUL-999.4) and the *LAUSD Employee Code of Ethics*.

Each email user must take responsibility for sorting out personal messages from work-related messages and retaining District Records as directed in the official records retention and disposition schedules.

Email Retention Guidelines

- Duplicates or Personal/Junk Email should be deleted from the system immediately. These emails do not meet the definition of a Record; therefore, they are not to be stored on District servers.

- The District email system retains emails for 90 days only. On the 91st day, the email will be automatically deleted from the District's email system. *The automatic deletion feature of the District's email system will be fully implemented in July 2012. (Note: emails stored in a department's server or on an employee's computer hard drive are not subject to automatic deletion protocols.)

- Emails that are Records should be retained in a department's electronic filing cabinet in a shared folder for a period of time consistent with the retention period for such Records.

- Emails should not be stored on an employee's computer hard drive.

When email is used as a transport mechanism for other kinds of records, it is possible, based on the content, for the retention and disposition periods of the email and the transported Record(s) to differ. In this case, the longer retention period shall apply.

3. Instant Messaging

The District does not currently support or authorize the use of Instant Messaging (IM) for District business.

C. Microfilm Copy. Whenever an original record is photographed, micro-photographed, or otherwise reproduced on film, the copy thus made is classified as Class 1 - Permanent. The original record, unless classified as Class 2 - Optional, may be classified as Class 3 - Disposable and may then be destroyed in accordance with this Policy if the following conditions have been met:

1. The reproduction was accurate in detail and on film of a type approved for permanent, photographic records by the United States Bureau of Standards;

2. The Custodian of Records has attached to or incorporated in the microfilm copy his signed and dated certification of compliance with the provisions of Section 1531 of the Evidence Code; and

3. The microfilm copy was placed in a conveniently accessible file, and provision was made for preserving permanently, examining and using same.

D. Legal Holds

When litigation against the District or its employees is filed or threatened, the law imposes a duty upon the District to preserve documents and records that pertain to the issues. As soon as the Office of the General Counsel ("OGC") becomes aware of pending or threatened litigation, a Legal Hold directive will be issued to the legal custodians. Similar holds will be issued in the event of actual or likely government audits or investigations.

A Legal Hold directive overrides any Records retention schedule that may otherwise have called for the transfer, disposal, or destruction of the relevant records, until the hold has been removed by the OGC. Email and computer accounts of separated employees that have been placed on a Legal Hold will be maintained by the OGC until the hold is released. No employee who has been notified by the OGC of a Legal Hold may alter or delete an electronic or paper document that falls within the scope of that hold. Violation of the hold may subject the individual to disciplinary action, up to and including dismissal.

E. Historical Records

The history of the District has been captured in various forms, including documents, written and oral histories, photographs, and video tapes. It is important to continually collect and track the historical development of the District from both an informational and historical perspective. Any Record classified as Historical shall be maintained indefinitely and in accordance with proper archival preservation and storage methods.

VI. PERSONAL FILES AND EMPLOYEE DEPARTURES

A. Personal Files. During the normal course of business, District employees may create and maintain files for personal use, including personal correspondence. These records should be organized and maintained at the discretion of the user and should be periodically reviewed for proper disposition.

The District is not responsible for the management and/or storage of these files. The individual has the sole responsibility to complete disposition of these records in an appropriate and timely manner to reduce unnecessary risk to the District, reduce physical and virtual storage space, and enhance personal organization.

B. Employee Departures. The following procedure should be followed for an employee who has announced a decision to leave the District's employ:

The employee is responsible for transferring and/or emptying his or her hard-copy and electronic files (including those in Word, Excel, PowerPoint, email, and any other electronic format), assuring that any Records that must be maintained in accordance with this Policy and any applicable Legal Holds are appropriately maintained. The employee should ask his or her supervisor or the IT department for assistance with this project, if necessary.

Before the computer used by the employee is assigned to anyone else and/or wiped clean, the employee's supervisor must take all steps necessary to ensure that all Records on that computer are retained in accordance with this policy and any applicable Legal Holds.

AUTHORITY: This is a policy of the Board of Education of the City of Los Angeles.

RELATED RESOURCES: California Civil Code section 1633.1, et seq.;
California Education Code sections 35250, et seq.;
California Evidence Code sections 1550, et seq.;
California Government Code sections 12168.7 and 14755, et seq.; and
California Code of Regulations, Title 5, sections 16020, et seq.

Pupil Records: Access, Confidentiality and Notice of Educational Rights, BUL-2469. April 24, 2006.

Acceptable Use Policy (AUP) or District Computer Systems, BUL-999.4, June 1, 2009
LAUSD Employee Code of Ethics.

CASBO Records Retention Manual, K-12 and Community Colleges, 5th Ed. (2007).

ASSISTANCE: For assistance or further information, please contact Leasing and Space Utilization, at (213) 241-6785 or the Office of General Counsel at (213) 241-7600.

DOCUMENT RETENTION PERIODS

Per Title 5, California Code of Regulations
Sections 16023, 16024, And 16025

§ 16023. Class 1--Permanent Records

The original of each of the records listed in this section, or one exact copy thereof when the original is required by law to be filed with another agency, is a Class 1--Permanent record and shall be retained indefinitely, unless microfilmed in accordance with Section 16022(c).

(a) Annual Reports.

(1) Official budget.

(2) Financial report of all funds, including cafeteria and student body funds.

(3) Audit of all funds.

(4) Average daily attendance, including Period 1 and Period 2 reports.

(5) Other major annual reports, including:

(A) Those containing information relating to property, activities, financial condition, or transactions.

(B) Those declared by board minutes to be permanent.

(b) Official Actions.

(1) Minutes of the Board or Committees Thereof, including the text of a rule, regulation, policy, or resolution not set forth verbatim in the minutes but included therein by reference only.

(2) Elections, including the call, if any, for and the result (but not including detail documents, such as ballots) of an election called, conducted or canvassed by the governing board for a board member, his recall, issuance of bonds incurring any long-term liability, change in maximum tax rates, reorganization, or any other purpose.

(3) Records transmitted by another agency that pertain to that agency's action with respect to district reorganization.

(c) Personnel Records (Employees).

(1) All detail records relating to employment, assignment, amounts and dates of service rendered, termination or dismissal of an employee in any position, sick leave record, rate of compensation, salaries or wages paid, deductions or withholdings made and the person or agency to whom such amounts were paid. In lieu of the detail records, a complete proven summary payroll record for every employee of the school district containing the same data may be classified as Class 1--Permanent, and the detail records may then be classified as Class 3--Disposable.

(2) Information of a derogatory nature as defined in Education Code section 44031 shall be Class 1--Permanent only after it becomes final. This information becomes final when:

A. The time for filing a grievance has lapsed, or
B. The document has been sustained by the grievance process.

(3) Information of a derogatory nature as defined in Education Code section 44031 shall be Class 3--Disposable if prior to the effective date of this Section the document was subject of grievance process and was not sustained.

***Information regarding Pupil Records under 5 CCR 16203 has been omitted from this policy. Pupil Record retention information may be found in BUL-2469, "Access, Confidentiality and Notice of Education Rights," April 24, 2006.

(d) Property Records. All detail records relating to land, buildings, and equipment. In lieu of such detail records, a complete property ledger may be classified as Class 1--Permanent, and the detail records may then be classified as Class 3--Disposable, if the property ledger includes:

(1) All fixed assets.

(2) An equipment inventory.

(3) For each unit of property, the date of acquisition or augmentation, the person from whom acquired, an adequate description or identification, and the amount paid, and comparable data if the unit is disposed of by sale, loss, or otherwise.

§ 16024. Class 2--Optional Records

Any record worthy of temporary preservation but not classified as Class 1--Permanent may be classified as Class 2-Optional and shall then be retained until reclassified as Class 3-Disposable. If the

superintendent and governing board agree that classification should not be made by the time specified in Section 16022, all records of the prior year may be classified as Class 2-Optional pending further review and classification within one year.

§ 16025. Class 3--Disposable Records

All records not classified as Class 1--Permanent or Class 2--Optional shall be classified as Class 3--Disposable, including but not limited to detail records relating to:

(a) Records Basic to Audit, including those relating to attendance, average daily attendance, or a business or financial transaction (purchase orders, invoices, warrants, ledger sheets, cancelled checks and stubs, student body and cafeteria fund records, etc.), and detail records used in the preparation of any other report.

Teachers' registers may be classified as Class 3--Disposable only if all information required in Section 432 is retained in other records or if the General Record pages are removed from the register and are classified as Class 1--Permanent.

(b) Periodic Reports, including daily, weekly, and monthly reports, bulletins and instructions.

For a more detailed listing of typical school records and recommended retention periods, please consult the *CASBO Records Retention Manual, K-12 and Community Colleges,* 5th Edition (2007).

Historical Records

The District Records Manager will be responsible for gathering the following documents on behalf of the District for the purpose of preservation as Historical Records in the District's Historical Archives. Individual schools and offices need not retain these documents in their files.

1. Administrative Guides
2. Annual Reports
3. School and Employee Directories
4. Fingertip Facts
5. Employee Newsletters and Handbooks
6. Objectives of Education, District Goals and Reaffirmation of Loyalty
7. Racial and Ethnic Surveys
8. Yearbooks and Individual School Publications
9. Any unique or old District administrative and instructional publications
10. Any identified/identifiable photos of District people, places and events
11. Any unique or old documents, pamphlets, books, etc. about the History of LAUSD