

BUSINESS AND NON-INSTRUCTIONAL OPERATIONS

SP 3420 Electronic Document Archiving and Retention Policy

I. SCOPE

- A. Pursuant to Proposed Title 5, California Code of Regulations Record Retention Regulations and subject to the listed exceptions, it shall be the policy of the El Dorado County Superintendent of Schools Office to retain all Electronically Stored Information (ESI) for a period of four years. This shall not apply to electronic messages (The language relating to electronic messages is left open to include text messages, e-mails, and future electronic communications that may be developed) which shall be retained for a period of one year after which time such records may be destroyed.
- B. Exceptions to this established one year timeline are listed in the Electronic Mail Definition.

II. LEGAL AND POLICY BASIS

- A. All County records shall be developed, maintained, and disposed of in accordance with law and California Department of Education regulations. [EDCOE Board Policy and Administrative Regulation 3420; Government Code Sections 6252-6265; EC §§ 35145, 35163, 35250-35255, 44031, 49065; 5 CCR §§16020-16027]
- B. Inspection of County business records must be available to members of the public upon request during office hours. [GC 6252-6253]

III. PROCEDURES

- A. Questions concerning Electronic Records should be directed to the Director of Information Technology.
- B. Title 5, CCR identifies that record retention procedures are to ensure the efficient, reliable and economical management of information. The management of information should be designed to ensure that information is accessible and available while at the same time minimizes the costs and burdens to taxpayers associated with the expense of retaining records that are no longer necessary to the discharge of official business. Title 5, CCR requires that all “records” not related to “pupil” records shall be retained for a period of four years. Personnel records shall be retained for a period of four years after the employee has ceased to be employed by the El Dorado County Office of Education.
- C. Originators and recipients of records are responsible for identifying and saving documents that must be retained in order to comply with Federal, state, or local laws, COE policies or directives, or upon notice of possible litigation or E-Discovery.

IV. DEFINITIONS

- A. **Electronic Mail.** Electronic mail (E-Mail) and voice mail are defined as any message sent or received through or stored on the district's central Information Technology email servers. Such email may include, but is not limited to, correspondence and attachments, calendar schedules, and forms transmitted electronically.

Email that includes active and useful records for administrative, legal, fiscal or other purposes may be classified as public records.

The Information Technology Department shall acquire adequate systems to archive all incoming and outgoing E-Mail on the county operated E-mail system. That system shall be configured to automatically dispose of records that are one year old or older.

The system must be able to flag records subject to litigation or a discovery order and retain them until advised by county legal counsel.

The system must be able to search for, find, and export records as required by a discovery order.

- B. **Electronically Stored Information (ESI) include:** all computer files created by the end user, the contents of databases created by proprietary programs created by the county or the state, electronic faxes, PDF files, graphic images, and any and all files created on county-owned computer systems other than the executable and files that comprise the software that operate the computer systems.
- C. **County-owned Computer Systems and Storage include:** personal computers, laptops, "smart" peripheral devices assigned to or used by county employees and students, networked computers, servers, and file storage. ESI can also be stored on permanent external media, including, but not limited to optical media, external harddrives, and flash storage devices.
- D. **Public Records:** Any written record containing information relating to the conduct of the district's business prepared, owned, used or retained in accordance with Federal, state, or local laws, district policies or directives, or for other reasons, regardless of form or media. [GC §6252(e)]

Public records may not include preliminary drafts and notes that are not kept in the ordinary course of business. [GC §6254(a)]

- E. **Inspection of Records:** Any public records must be available to members of the public upon request at all times during office hours. The manager responsible for maintaining the business record shall respond to each request for inspection.

Inspection is not provided for employee or student records specifically protected as confidential or private (non-directory) records. Generally, no production of student records is allowed, absent parental consent or a court order. [Education Code Sections 45345, 49060-49079, 49558, 51512; Federal General Education Provisions Act, 20 U.S. Code 1232g; Government Code Sections 6205 *et seq*; No Child Left Behind Act; AB 1636, Chapter 321, 2004; 34 CFR §99.31(a)(9)]

Documents pertaining to pending litigation to which the district is a party shall be withheld from inspection. [GC §6254(b)]

Test questions, scoring keys, and other examination data are exempt from inspection. [GC §6254(g)]

V. EXCEPTIONS

- A. **Records Created Prior to the Implementation of this Policy** - The only ESI subject to this policy are those existing at the time this policy is adopted. The Information Technology Department will make a reasonable attempt to collect archived E-mail from employees' computers upon implementation of the policy.
- B. **SPAM E-mail** - SPAM is unsolicited electronic mail, usually advertisements and other similar material. SPAM may be deleted permanently upon receipt.
- C. **Personal E-Mail and Documents** - ESI created by county employees on county computer systems that have no connection to county business may be deleted at any time. Personal ESI left on county computer systems are subject to discovery.
- D. **Discovery** - Upon receipt of a notice of impending discovery from FERPA, state, or Federal audit, all ESI subject to that discovery order shall be retained indefinitely, or until advised by the county's legal counsel that the ESI is no longer subject to litigation. This includes all personal ESI stored on county computer systems subject to any such order.
- E. **Matter Subject to Litigation** - All county employees that become aware of any incident that may subject the county to litigation shall inform their supervisor immediately. Any and all ESI pertaining to that incident, including personal ESI, shall be retained indefinitely, or until advised by the county's legal counsel that the ESI is no longer subject to litigation.
- F. **Deleted Items** - Individuals will ordinarily review and evaluate email messages soon after they are received. Content judged to be preliminary drafts or notes, or to be material that is not kept in the ordinary course of business may be deleted immediately. Emails remain on the server for only seven days after being deleted by a user.

VI. IMPLEMENTATION

- A. The Information Technology Department (IT) is responsible for maintaining computing and telecommunications systems as necessary to support teaching and business activities. This authority is intended to allow for effective and efficient management, monitoring, and coordination of technology and telecommunications services.
- B. Information Technology Department is responsible for defining and enforcing recognized industry standards for safeguarding electronic records to ensure integrity of collected data and its management, the physical security of the data, and adequate disaster recovery methods.
- C. Backup procedures protect all core application software hosted by the district and the data records maintained. Procedures are used to recover both (a) individual

documents or folders that have been inadvertently or intentionally deleted, and
(b) data records on a server or other hardware disabled by a hard disc failure.

- D. Any email message sent or received through or stored on the county's central Information Technology email servers will be retained in inboxes, folders, sent items, and outboxes on the central servers for one year after emails have been received or sent. This retention policy includes correspondence and attachments, calendar schedules, and forms transmitted electronically.
- E. Individuals desiring to save email and attachments beyond the one year are responsible for saving copies of email and attachments recognized to be County records before the one year period expires by transferring them to other electronic environments, media, or by printing hardcopies.
- F. All electronic mail and attachments remaining on central Information Technology email servers longer than one year will be automatically and permanently deleted.
- G. **Individual Records on County Computer Systems.** Upon notice of possible litigation or a discovery order, the Information Technology Department shall make a backup of any individual files stored on the network that may be subject to litigation or discovery and store that backup.

Supervisors or department directors of employees subject to litigation or a discovery order shall personally ensure those employees make immediate copies of all working files stored on their county-owned computer system to permanent media. That permanent media shall be collected and stored. Each employee will be personally informed by the supervisor that any subsequent records they create are subject to discovery and may not be deleted. The supervisor will, on a regular basis, make copies of new files to permanent media. Supervisors may contact the Information Technology Department for assistance as required.

Departure of Employees. When a person resigns, retires, is terminated, or otherwise leaves county employment, that employee's supervisor will ensure that a complete copy of all county-owned files on the person's county computer system is archived. These files shall be retained for four years unless they may be subject to litigation or a discovery order. In that case they shall be retained until advised by county legal counsel that they are no longer subject to litigation.

It shall be the responsibility of the Human Resources Department to ensure the supervisor of the departing employee complies with this policy or provides written notice that the departing employee had no ESI.

The Information Technology Department will assist supervisors in copying ESI subject to this policy.

Legal Reference: Federal General Education Provisions Act, 20 U.S. Code 1232g
No Child Left Behind Act
AB 1636, Chapter 321, 2004
GC §§ 6205 *et seq.*, 6252-6265
EC §§ 35145, 35163, 35250-35255, 44031, 45345, 49060-49079, 49558, 51512
5 CCR §§16020-16027
34 CFR § 99.31(a)(9)