

**Special Education Records
and Records Retention Policy**
Policy No. 536

I. PURPOSE

This Policy has been developed in recognition of the very different nature of the records public school districts generate in the normal course of educating their special education students and to ensure consistency in the maintenance and retention of this information. It supplements, but does not replace, the School District's policy on student records.

Any District requirement or regulations regarding the maintenance, retention or release of data which is applicable to all students applies to special education students as well.

II. SPECIAL EDUCATION DOCUMENT AND FILE MAINTENANCE REQUIREMENTS.

The following procedures must be followed when creating and maintaining documents relevant to the identification and evaluation of special education students and/or the development and implementation of a student's special education program.

- A. Special education evaluation, program and due process paperwork (hereinafter "special education documents") must be retained pursuant to the requirements set forth in this policy.
- B. All special education documents must be filed in a separate file and at a separate location from the Student's general education cumulative file. The file must be maintained in a locked location specified by each building administrator and contain an access log that includes the name, date, and purpose for which the individual is authorized to use the record.

- C. A “note,” indicating that a separate special education file is being retained for the student in a separate location must be placed in each special education student’s general education cumulative file.
- D. Only one special education file per student shall be maintained. Special Education “working files” may not be maintained by a student’s educators beyond the school year in which they are created.
- E. At the end of each school year, working documents *which are duplicates* to those already contained within a student’s special education file must be shredded. Any special education document contained within an educator’s working file, but not in the student’s special education file must be transferred thereto.

The only exception to this rule is if documents within working files are subject to the “desk drawer exception” recognized under Minnesota and federal laws or are required to be destroyed pursuant to the retention schedule set forth below. The desk drawer exception is very narrow.¹ In general, documents which are deemed important enough to be retained in a working file should be transferred to the Student’s permanent file, notwithstanding this exception.

- F. Special educators are reminded that electronic communications constitute student records. All e-mails should be drafted in an objective and professional manner. Personal opinions and comments irrelevant to a student’s education are inappropriate and should not be included in these messages.
- G. Special education records shall be filed in chronological order (most recent documents to the front) by each school year. A School District “blue sheet” must be placed on the top of each initial evaluation, 3 year re-evaluation and annual IEP, pursuant to the directions set forth thereon. Only one copy of each due process document shall be retained in each student’s file.

¹ The “desk drawer exception” is very narrow. In order for records to fall under this exception, they must be kept in the sole possession of the teacher who creates the records and not be accessible to or revealed to any other individual, except a substitute teacher. Discussing or sharing the records with *any* other staff (or other individual) for *any* reason removes the records from this “desk drawer” exception. A document subject to this exception must be destroyed by the end of the school year in which it was created.

- H. When significant changes are made to an annual IEP, a copy of each version of the IEP (prior and subsequent to the IEP revision) must be retained. Dates on each IEP should reflect the date on which that version of the IEP was drafted.
- I. All documents greater than one page must be stapled.
- J. All progress data, charts, IEP meeting notes or notes documenting communications with other staff members, parents, students, etc. must be dated and identify the name of the staff member who created the note or document.
- K. Phone and communication logs must be maintained by each teacher and/or service provider for each student. The logs, which should document any communication between staff and parents, including the mailing of due process documents and required notices, must be retained in each student's special education file. To the extent logs are maintained on a computer file, they must be printed at the end of each school year and placed in the student's special education file.
- L. Each case manager is expected to review and ensure that his/her students' special education files are being timely updated and are orderly and complete at the end of each school year.

III. SPECIAL EDUCATION DOCUMENT RETENTION AND DESTRUCTION SCHEDULE.

The following schedule pertains solely to special education records. It supplements and does not replace any document destruction schedule previously adopted by the School District. A copy of this schedule will be published to students and parents at least one time per school year in the School District's annual Summer Newsletter.

- A. The District will retain the student's name, address, phone number, standardized and achievement test results, grades, attendance, and grade level completed as well as the student's last Individual Education Program (IEP) and last Comprehensive Evaluation Report in an electronic or paper format without time limitation.
- B. However, in this circumstance, the term "standardized achievement test" means tests provided to both regular and special education students to gauge their overall academic performance and progress. The term "standardized achievement tests" does not include protocols for tests conducted in connection with special education evaluations.

- C. Protocols used in completing actual special education evaluation assessments will be destroyed five years after administration, interpretation, and summarization, pursuant to parent notification in the School District's Annual Newsletter.
- D. Individual Education Plans ("IEPs"), Evaluation Reports, Independent Medical Reports and supporting due process documents, including Team Meeting Notices, Prior Written Notices, and Progress Reports) will be retained in either an electronic or paper format for five years after the Student ages out of special education or graduates from the School District. Consistent with 34 C.F.R. §300.624, the School District will notify Parents and/or Guardians prior to destroying these personally identifiable records.
- E. When a Student has transferred to or open enrolled in a different school district, the School District must retain either an electronic or paper copy the Student's last evaluation and IEP until five years after the Student would have graduated had s/he not transferred school districts.
- F. IEP meeting notes, parent contact and/or telephone logs, copies of communication notebook entries and electronic communications will be retained for five calendar years.
- G. In addition to being provided yearly notice of the Special Education Document Retention Schedule in the School District's Annual Newsletter, parents and/or guardians and eligible students will be notified about this practice at the time the student is (a) dismissed from special education services, (b) graduates from school, or (c) ages out of school. This will constitute notice and no further notice will be provided. Parents and/or guardians and eligible students will be asked to sign an acknowledgment of their receipt of this policy. A copy of this notice will be retained by the school with the Student's last Individual Education Program (IEP) and last Comprehensive Evaluation Report.
- H. Records may not be destroyed if there is an outstanding request to inspect the records by the parent and/or guardian or eligible student. Records must be destroyed at the request of the parents if they are no longer needed for educational purposes.

Date of Adoption: November 23, 2015

Date of Revision: May 23, 2022