

SALEM SCHOOL DISTRICT  
Salem, Connecticut

BY LAWS OF THE BOARD / PERSONNEL – CERTIFIED/NON-CERTIFIED

RECORD RETENTION

Under state law, all public agencies have an obligation to maintain all “public records.” Such public records include any recorded data or information relating to the conduct of the Salem School District's business that is prepared, owned, used, received or retained by any Board of Education member or employee, whether such data or information is handwritten, typed, tape-recorded, printed, photostated, photographed or recorded by any other method. Such public records may include electronic messages.

In accordance with state law, public records may only be subject to destruction and disposal 1) in a manner provided by guidelines adopted by the Connecticut State Librarian, and 2) with the approval of the State Library's Public Records Administrator. With regard to the length of time that records should be retained, the Connecticut State Librarian has developed retention guidelines. The records retention schedule, as revised from time to time, is available through the State Library/Public Records Administrator and its website. (<http://www.ctstatelibrary.org>) Records are not subject to destruction *unless and until* permitted by these retention guidelines.

Electronic messages include e-mail, fax, instant messaging (IM), text messaging (SMS), and web-based messaging services. Electronic messages may be transmitted by a variety of mediums, including computers and mobile computing and messaging devices.

Electronic messages sent or received in the conduct of public business are public records. Such messages are subject to public disclosure by way of, for example, FOIA requests, discovery in court actions, and are admissible as evidence. Furthermore, if District officials and employees use private e-mail or messaging accounts to conduct public business, such messages are also subject to disclosure. Such messages possess only the same privacy rights that paper records would possess.

Electronic messages that document District functions and provide evidence of District business must be retained according to the equivalent records series from the state records retention schedule guidelines. Electronic messages are similar to traditional postal or “snail” mail – the message must be evaluated for action and subsequent retention.

Under the current records retention guidelines, public records (including e-mail and other electronic messages) sent and received by Board members and employees fall within the following broad categories:

1. If the record or message is a “non-record”, it may be destroyed at will. Examples of such non- records include “spam” mail and unsolicited advertisements.
2. If the record or message constitutes a “public record,” the following records retention guidelines will apply:
  - a. “Transitory messages” –consist of communications that do not relate to an official’s or employee’s job responsibilities, along with records that have short-term administrative value (e.g., transmittal faxes/memos and out-of-office replies). Include hard copy and electronic formats. If the message is “Transitory”, delete at will.
  - b. “Routine Correspondence”-Consists of any communication that is part of or relates to commonplace tasks or duties within an office and is done at regular or specified intervals, other routine incoming correspondence, and copies of outgoing correspondence for internal and external audiences, such as general information requests and FOIA requests. If the message is Routine Correspondence, retain for 2 years.
  - c. If the message is “All Other Correspondence,” retain for the equivalent records series, based upon the state records retention schedule guidelines for “hard copy” records.

The District must maintain the records for any required retention period under the equivalent “hard copy” records series from the state records retention schedule guidelines. Once the retention period has been satisfied, the District via its Records Custodian may submit a Records Disposal Authorization to the State Library/Public Records Administrator. Any destruction of such records will be in strict accordance with the authorization and the state records retention schedule guidelines. Records must be maintained in hard copy or electronic format which can be retrieved and interpreted for the legal retention period. When there is a doubt about the retrievability of an electronic record over the life span of that record, the record should be printed out.

## MANAGEMENT OF ELECTRONIC MESSAGES

In accordance with state records retention guidelines, the following provides detailed information about characteristics unique to electronic messages and guidelines on how to manage/retain electronic messages:

- Record Copy: The record copy is the original or official copy of a record.
- Records Custodian: The records custodian is responsible for retaining the record copy. Generally, the sender is the person responsible for retaining the messages sent within an organization such as the District. However, if the sender is from outside an organization (e.g., a member of the public), the recipient is the custodian for that specific record.
- Copies/Duplicates: Many electronic messages are disseminated to groups of personnel, which results in the proliferation of multiple copies of the same communication (a key

indicator is the use of ‘CC’ or ‘BC’ in e-mail). Because the sender of the message is usually responsible for the record copy, the recipient(s) may destroy their copy at will.

- **Threads:** Similar to conversations, a thread is a string of electronic messages. After a thread is completed, the records custodian may retain only the last message (as long as it includes the prior messages) as the official record copy.
- **Metadata:** Metadata (data about data) is used to ensure authenticity, reliability, and integrity of electronic records. An example of metadata is the transmission information describing an e-mail (date and time the message was sent, sender/recipient). If electronic messages are printed to hard copy for permanent retention, the associated metadata should be included with the hard copy.
- **Attachments:** If the electronic message is a record and contains attachments, the attachments should be retained as part of the record. In these cases, the retention period should be the retention requirements of the message, or the retention requirements of the attachment, whichever is longer.
- **Deletion vs. Destruction:** In most computer operating systems, the deletion of a record does not physically erase the record. Likewise, simply emptying the trash or recycle folder does not permanently remove the record. In addition, other copies of the message may reside on backup storage tapes after the record should have been destroyed (the media upon which the record resides should be destroyed or overwritten).
- **Backups:** Backup systems or tapes are not acceptable for the retention of electronic messages.

Backups should only be used to protect vital records in the event of a disaster or to retrieve a record due to loss of data.

## EXCEPTIONS TO DISPOSAL/DELETION REQUIREMENTS

A record may not be destroyed if any litigation, claim, audit, FOIA request, administrative review, or other action involving the record is initiated before the record has been disposed of (even if it is a transitory message or if the message’s retention period has expired and approval for its destruction has been granted). The record must be retained until the completion of the action and the resolution of all issues that arise from the action. Requirements under federal court and evidentiary rules (in particular, the Federal Rules of Civil Procedure) apply to electronic messages.

Upon receipt of 1) notice that the District is involved in litigation as a party to a lawsuit, or 2) a subpoena from a party to a lawsuit in which the District is not a party, or if the District receives information that would lead it to reasonably anticipate the possibility of future litigation, the District must take steps to ensure that both paper and electronic records are preserved from deletion or destruction. Regardless of whether such records would otherwise be eligible for destruction under the routine guidelines and records retention schedules, the District must put in place a “litigation hold” to ensure the preservation of relevant documents.

The District shall designate a Records Custodian, who will be responsible for ensuring implementation of these requirements.

The above-mentioned retention and deletion requirements apply to all employees of the District, along with members of the Board and its subcommittees.

Legal References:

Connecticut General Statutes §1-200 The Freedom of Information Act. Definitions.  
Connecticut General Statutes §1-210 Access to public records. Exempt records.  
Connecticut General Statutes §1-211 Disclosure of computer-stored public records.  
Connecticut General Statutes §7-109 Destruction of Documents.  
Connecticut General Statutes §1-18 Disposition of Original Documents.  
Connecticut General Statutes §11-8 Records Management Program.  
Connecticut General Statutes §11-8a Retention, destruction and transfer of documents.  
General Letter 2009-2, Advisory Opinion of Public Records Administrator on Management of E-mail and other Electronic Messages.  
Rules 34 and 45, Federal Rules of Civil Procedure (as amended).

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