

**SPECIAL EDUCATION RECORDS AND RECORDS RETENTION POLICY**

**I. Purpose and Scope**

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 "Use of Student Records" Policy (*Policy # 505*).

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.

1. Special education evaluations, Individual Education Programs and due process paperwork (hereinafter "special education documents") must be retained pursuant to the requirements set forth in this policy.
2. 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.
3. A form 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 file.
4. 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.
5. 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.<sup>1</sup> 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.

6. At least one time every grading period and at the end of each school year, special educators and service providers must print or electronically compile messages, including phone messages and e-mails, that they have sent or received specifically referencing their students and provide them to the student's case manager. After reviewing and shredding duplicates, electronic communications which contain information relevant to a student must be transferred to that student's special education file.
7. 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.
8. Special education records shall be filed in chronological order (most recent documents to the front) by each school year. Only one copy of each due process document shall be retained in each student's file.
9. When significant changes are made to an annual IEP, a copy of each version of the IEP must be retained. While the annual review date remains the same, each case manager must note the date on which the draft of the IEP was drafted.
10. All documents greater than one page must be stapled.

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<sup>1</sup> 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.

11. 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.
12. Phone and communication logs must be maintained by each special educator 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.
13. The content of communication notebooks sent between home and school must be copied or electronically scanned by each student's case manager on at least a monthly basis and retained in each student's special education file for three years.
14. Raw student performance/progress data need not be retained once it is compiled and summarized into another format. However, one time per school year, for the last progress report of the school year, each case manager must retain the raw student performance data sheets that have been summarized and reflected on a report and attach them thereto.
15. 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.

1. The District will retain the student's name, address, and phone number, standardized and achievement test results, grades, attendance, and grade level completed without time limitation.
2. 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.

3. Protocols used in completing actual special education evaluation assessment protocols will be destroyed four years after administration, interpretation, and summarization, pursuant to parent notification in the School District’s Annual Newsletter.
4. Individual Education Program (“IEPs”), Evaluation Reports, Independent Medical Reports and supporting due process documents, including Team Meeting Notices, Prior Written Notices, and Progress Reports) will be retained for two years after the Student ages out of special education or graduates.
5. When a Student has transferred to or open enrolled in a different school district, the School District must retain a copy of the Student’s last evaluation and IEP until two years after the Student would have graduated had s/he not transferred school districts.
6. Data sheets used to formulate progress reports generally need not be retained once the data is summarized and transferred to the progress report See Section I.13 above.
7. IEP meeting notes, parent contact and/or telephone logs, copies of communication notebook entries and electronic communications will be retained for three calendar years, unless the “age out” rule noted in Section III., Paragraphs 4 and 5 applies.
8. In addition to being provided yearly notice of the Special Education Document Retention Schedule in the School District’s Annual Newsletter, Parents will receive a copy of the School District’s Special Education Document Retention Schedule at the time of the student’s initial evaluation or IEP and at the time the student is exited from special education or reaches age 22 years. This will constitute notice and no further notice will be provided. Parents 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 permanent special education records.
9. Records may not be destroyed if there is an outstanding request to inspect the records by the parent or eligible student. Records must be destroyed at

the request of the parents if they are no longer needed for educational purposes.

*Legal References:* MN Statute 138.17 Government Records: Administration

*Cross References:* Policy 505 Use of Student Records

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