

Records

RETENTION AND DESTRUCTION OF RECORDS

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Model operating procedures created by



Student Solutions

and

**Thompson
& Horton** LLP
ATTORNEYS | COUNSELORS

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Retention and Destruction of Records

What is Required

District Administration is solely responsible for retaining and destroying District records in accordance with state and federal requirements. Therefore, District and Campus Personnel must maintain the records in their care and work to preserve records in accordance with District policies and procedures to ensure that the records are appropriately retained and are not inadvertently destroyed.

Records Retention Schedules

The director and librarian of the Texas State Library and Archives Commission prepares and distributes the records retention schedules for the District. The records retention schedule will list the various types of District records; state the retention period prescribed by a federal or state law, rule of court, or regulation for records for which a period is prescribed; and prescribe retention periods for all other records. Prescribed retention periods have the same effect as if prescribed by law after the records retention schedule is adopted as a rule of the Texas State Library and Archives Commission. All District Personnel must maintain District records in accordance with the records retention schedules issued by the Texas State Library and Archives Commission and District policy.

Use of Local Schedule SD

Local Schedule SD sets mandatory minimum retention periods for records commonly found in the District. It is commonly used for districts of all types, regional educational service centers, educational cooperatives for special education and other purposes, rehabilitation districts, county industrial training school districts, county vocational districts, and active offices of county superintendents of schools and county departments of education.

Local Schedule SD Abbreviations

The following abbreviations are used in Local Schedule SD:

- AV – As long as administratively valuable;
- CE – Calendar year end;
- CFR – Code of Federal Regulations;
- FE – Fiscal year end;

- TAC – Texas Administrative Code;
- US – Until superseded; and
- LA – Life of asset.

Retention Period

Unless otherwise stated, the retention period for a record is in calendar years from the date of the record's creation and applies only to an official record, not to convenience or working copies created for informational purposes. Certain records are assigned the AV ("As long as administratively valuable") retention period, which provides the District the maximum amount of discretion in determining a specific retention period for a record.

Multiple Copies and the Official Record

If several copies of a record are maintained, the District will decide which copy will be the official record and in which of its divisions or departments it will be maintained. The District's records management program must establish policies and procedures to provide for the systematic disposal of copies.

Multiple Records Maintained Together

Unless otherwise stated, the retention period of a record maintained in a bound volume with pages not designed for removal is from the date of last entry. If two or more records are maintained together and are not severable, the combined record must be retained for the length of time of the component with the longest retention period.

Electronically Stored Data

The retention period for a record applies to the record regardless of the medium in which it is maintained. Electronically stored data that is used to create a record in any manner or the functional equivalent of a record, as described in Local Schedule SD, must be retained, along with the hardware and software necessary to access the data, for the retention period assigned to the record, unless the backup copies of the data generated from electronic storage are retained in paper or on microfilm for the retention period.

Conflicts with Other Local Schedules

Should there be any conflict between retention periods among Local Schedule SD, Local Schedule GR, or Local Schedule TX, the retention periods in Local Schedule SD take priority.

Grant Records

The District will maintain many records includable among the general administrative, financial, and personnel record series in Local Schedule GR, especially those relating to grant allocations, funding, and reporting. As a grantee, the District will keep records that fully show:

- The amount of funds under the grant;
- How the District uses the funds;
- The total cost of the project;
- The share of that cost provided from other sources;
- Other records to facilitate an effective audit;
- Records to show its compliance with program requirements; and
- Records of significant project experiences and results.

Retention of Federal Financial Program Records

The TEA will retain all financial and programmatic records, including supporting documents, statistical reports, and other records pertinent to program regulations or the grant agreement relating to projects or programs funded by the U.S. Department of Education through subgrants using federal funds from the TEA. All such records must be available for audit for three (3) years after the date of submission or last expenditure report by the TEA as the subgrantor—not by the District. As the TEA submits final expenditure reports after all reports from the District are received, a 5-year retention period for many District records is required.

The 5-year retention period will be extended in the following situations:

- If any litigation, claim, or audit is stated before the expiration of the 5-year retention period, the records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken;
- When the District is notified in writing by the federal awarding agency, cognizant agency for audit, oversight agency for audit, cognizant agency for indirect costs, or pass-through entity to extend the retention period;
- Records for real property and equipment acquired with federal funds must be retained for three years after final disposition;

- When records are transferred to or maintained by the federal awarding agency or pass-through entity, the 3-year retention requirement is not applicable to the District;
- Records for program income transactions after the period of performance. The District must report program income after the period of performance in some cases. If there is such a requirement, the retention period for the records pertaining to the earning of the program income starts from the end of the District's fiscal year in which the program income is earned; and
- Indirect cost rate proposals and cost allocations plans, including indirect cost rate computations or proposals, cost allocation plans, and any similar accounting computations of the rate at which a particular group of costs is chargeable, such as computer usage chargeback rates or composite fringe benefit rates. If the District is required to submit the proposal, plan, or other computation to the federal government (or to the pass-through entity) to form the basis for negotiation of the rate, then the retention period for its supporting records starts from the date of such submission. If the District is not required to submit the proposal, plan, or other computation to the federal government (or to the pass-through entity) for negotiation purposes, the retention record for the proposal, plan, or computation and its supporting records starts from the end of the fiscal year (or other accounting period) covered by the proposal, plan, or computation.

The District must retain all copies or records it submits to the TEA in accordance with Local Schedule SD.

Local Schedule SD

The District must comply with the applicable parts and sections of Local Schedule SD when determining retention rate of records, including:

- Academic records;
- Family Educational Rights and Privacy Act ("FERPA") records;
- Records of special populations and services, including special education program records, bilingual and special language program records, Gifted/Talented program records, Section 504 program records, dyslexia program records, Migrant Student Transfer System records, or other special population records;
- Attendance records;
- Health records;
- Instruction and grade reporting records;

- Discipline and counseling records;
- Adult and vocational education records;
- Drivers education records;
- Accreditation records;
- Food service records;
- Textbook records;
- Transportation records;
- School safety records;
- Financial records;
- Personnel and staffing records, including individual employee records and staffing records;
- Miscellaneous reports and surveys;
- Miscellaneous records; and
- Library records.

Retention of Test Administration Documentation

The District must maintain records related to the security of assessment instruments for five years.

Requirement to Retain When Action Pending

The District may not destroy any District record if:

- the subject matter of the record is known by the custodian of the record to be in litigation,
- there is a pending request for disclosure under the Public Information Act (“PIA”);
- there is an outstanding request to inspect and review the record under FERPA;
- the record is subject to a pending audit by a federal or state grantor or subgrantor agency or, if questions remain unresolved from a conducted audit, until audit finds

are resolved; or

- there is a pending claim, administrative review, or other action involving the record.

Destruction

The District may destroy a District record for the following reasons:

- The record is listed on a valid records control schedule and its retention period has expired, or it has been microfilmed or stored electronically;
- The record appears on a list of obsolete records approved by the director and librarian;
- The record is not listed on a records retention schedule issued by the Texas State Library and Archives Commission, and the District provides notice to the Texas State Library and Archives Commission at least ten (10) days before destroying the record;
- An expunction order issued by a court pursuant to state law directs the destruction of the record; or
- The record is defined or listed as exempt from scheduling or filing requirements by Texas State Library and Archives Commission rules.

Subject to any policies developed in the District regarding destruction, the custodian or creator of the document may exercise discretion in disposing of material that is not included in the definition of a local government record and that is not described as:

- Extra identical copies of documents created for convenience of reference or research by officers or employees of the District;
- Notes, journals, diaries, and similar documents created by an officer or employee of the District for the officer's or employee's personal convenience; and
- Blank forms.

Method of Destruction

If public access is restricted to District records, including extra identical copies, under the PIA or other state law, the District should only destroy such records by burning, pulping, or shredding. If public access is not restricted to District records under the PIA or other state law, the District may destroy the records by burning, pulping, shredding, burial in a

landfill, or sale or donation for recycling purposes.

If the District sells or donates records for recycling purposes, the District must establish procedures for ensuring that the records are rendered unrecognizable as District records by the recycler. Through its records management program, the District will establish policies and procedures for the systematic disposal of copies of records. The director and librarian of the Texas State Library and Archives Commission may approve other methods of destruction that render the records unrecognizable as District records.

Damaged Records

If the minimum retention period of a record has not yet expired and is less than permanent, the District may dispose of the record if it has been so badly damaged by fire, water, or insect or rodent infestation as to render it unreadable. The District may also dispose of a record whose minimum retention period of a record has not yet expired and is less than permanent if portions of the information in the record have been so thoroughly destroyed that remaining portions are unintelligible.

However, if the retention period for the record is permanent, the District must obtain authority to dispose the damaged record from the director and librarian of the Texas State Library and Archives Commission. The Request for Authority to Destroy Unscheduled Records (Form SLR 501) should be used to seek such authority.

Alienation of Records

A records management officer or custodian may temporarily transfer a District record to a person for the purpose of microfilming, duplication, conversion to electronic media, restoration, or similar records management and preservation procedures.

Liability and Penalty

A custodian of District records, records management officer, or other District officer or employee may not be held personally liable for the destruction of a District record if the destruction is in compliance with the Local Government Code and rules adopted under it. A District officer or employee commits a Class A misdemeanor if the officer or employee knowingly or intentionally violates the Local Government Code or rules adopted under it by destroying or alienating a District record in violation of the Local Government Code or intentionally failing to deliver records to a successor in office.

Definitions

“Destruction” is physical destruction or removal of personal identifiers from information so that the information is no longer personally identifiable.

“Director and librarian” are the executive and administrative officers of the Texas State Library and Archives Commission, respectively.

“Local government” is a county, including all district and precinct officers of a county, municipality, public school district, appraisal district, or any other special-purpose district or authority.

“Local government record” is any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business. It does not include the following:

- Extra identical copies of documents created only for convenience of reference or research by officers or employees of the local government;
- Notes, journals, diaries, and similar documents created by an officer or employee of the local government for the officer’s or employee’s personal convenience;
- Blank forms;
- Stocks of publications;
- Library and museum materials acquired solely for the purposes of reference or display;
- Copies of documents in any media furnished to members of the public to which they are entitled under the Texas Public Information Act (“PIA”), Texas Government Code, Chapter 552, or other state law; or
- Any records, correspondence, notes, memoranda, or documents, other than a final written agreement associated with a matter conducted under an alternative dispute resolution procedure in which personnel of a state department or institution, local government, special district, or other political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system of organization.

“Records retention schedule” is a document issued by the Texas State Library and Archives Commission under authority of the subchapter on the Preservation and Management of Local Government Records in the Texas Government Code, establishing mandatory retention periods for local governmental records.

“Retention period” is the minimum time that must pass after the creation, recording, or receipt of a record, or the fulfillment of certain actions associated with a record before it

is eligible for destruction.

Additional Procedures

Custodian of Records for Special Education Records

The principal is the custodian of all records for currently enrolled students at the assigned school. The Superintendent of Schools or designee is the custodian of records for students who have withdrawn or graduated. The official responsible for ensuring the confidentiality of any personally identifiable information in records of special education students shall be the principal or the District records management officer.

Special Education Program Records

Special education student records include records of each student referred to or receiving special education services, including: referral, assessment, and reevaluation reports; enrollment and eligibility forms; ARD and transition planning documentation; IEPs and individual transitional plans; parental consent forms for testing and placement; and any other records of services required under federal and state regulation. This also includes records of students receiving School Health and Related Services (“SHARS”). A student record is defined as information about a student recorded in any way, including, but not limited to handwriting, print, computer media, video or audio tape, film, microfilm and microfiche.

Upon the cessation of special education services, the District must retain special education student records for at least 5 years. However, the following information must be permanently retained in some form for each student in grades 9-12 participating in a special education program:

- Name;
- Last known address;
- Student ID or Social Security number;
- Grades;
- Classes attended; and
- Grade level and year completed.

If an academic achievement record is created for the student and maintained among those for students in the general education population, the District does not need to maintain the prescribed information beyond 5 years after the cessation of services,

provided that it is contained in the Academic Achievement Record.

Destruction of Special Education Records

Documents containing personally identifiable information (social security number, date of birth, home addresses, etc.) of special education students must be appropriately and securely destroyed. District employees are expected to maintain the records in their care and carry out the preservation, microfilming, destruction, or other disposition of the records in accordance with the policies and procedures of the District's records management program.

The District must inform parents of students with disabilities when personally identifiable information in education records is no longer needed to provide educational services to the student. At the parent's request, the District must destroy the information. However, parents may not request that the District destroy their student's education records when those records are still needed for educational purposes. Furthermore, the District may still maintain a permanent record of the student's name, address, phone number, grades, attendance record, classes attended, grade level completed, and years completed for an unlimited period of time.

When the District notifies the parent that the student's records are no longer needed for educational purposes, and the parents do not request that the documents be destroyed, the District may choose to destroy the student's education records. The District is not required to provide further notice of the destruction to the parent at this point. However, the records may be needed by the parent or student in the future in connection with applications for Social Security or other benefits. Therefore, a parent may wish to exercise the right to inspect and review the records and request retention of desired portions after being notified that the records are no longer needed. The District may not destroy the records while the request to inspect and review the records is pending.

[ADD ADDITIONAL DISTRICT PROCEDURES AS APPROPRIATE]

Evidence of Implementation

- Records Retention Schedule
- Retention of Official Records
- Policies and Procedures for Disposal of Copies
- Compliance with Policies and Procedures for Disposal of Copies
- Policies and Procedures Relating to Destruction of Records
- Compliance with Policies and Procedures Relating to Destruction of Records
- Notification to Parents Regarding Education Records
- Request for Parent to Destroy Education Records
- [DISTRICT FORMS]

Resources

[The Legal Framework for the Child-Centered Special Education Process: Retention and Destruction of Records](#)

[Local Schedule SD: Retention Schedule for Records of Public School Districts - Texas State Library and Archives Commission](#)

[OSEP Letter to Hoekstra \(Oct. 26, 2000\) - U.S. Department of Education](#)

[OSEP Letter to Breecher \(Sept. 27, 1990\) - U.S. Department of Education](#)

[OSEP Letter to Anonymous \(Jan. 18, 1989\) - U.S. Department of Education](#)

[ADDITIONAL DISTRICT RESOURCES]

CITATIONS

Board Policy FL; 2 Code of Federal Regulations 200.333(a)–(f); 34 Code of Federal Regulations 75.730–75.732, 300.611(a), 300.573; Texas Government Code 441.158(a)–(b), 441.169; Texas Local Government Code 201.003, 201.006(a), 202.001–202.004, 202.006–202.008, 203.041, 203.044, 204.007, 205.008; 19 Texas Administrative Code 101.3031; Local Schedule SD