

BLOOMFIELD PUBLIC SCHOOLS
Bloomfield, Connecticut

ADMINISTRATIVE REGULATION

No. 3543.31(a)

**RE: Electronic Mail Records – Retention, Deletion and Litigation Holds
Personnel**

Approved: October 6, 2015

I. RECORDS CUSTODIAN

These regulations are designed to assist in implementation of Board Policy #4751 regarding the retention and deletion of electronic records and information, and regarding holds on the destruction of electronic information and paper records. These regulations supplement and do not replace Board policy relating to student records.

The Superintendent of Schools shall designate a Records Custodian who will be responsible for implementation of Board policies and regulations for the retention of records, including e-mails and electronically stored information.

II. DEFINITIONS

- A. E-mail is a means of sending messages between computers using a computer network or over a modem connected to a telephone line. This information consists of messages, attachments such as calendars, directories, distribution lists, sound recordings, photographs, images, word-processing documents, spreadsheets, and other electronic documents.
- B. Electronically stored information is information that is fixed in a tangible form and is stored in a medium from which it can be retrieved and examined. It can consist of writings, graphics, photographs, sound recordings, -and other data or data compilations stored in any medium from which information can be obtained useable form.
- C. Public Records are any recorded data or information relating to the conduct of the public's business prepared, owned, used, or received by a public agency, whether such data or information is handwritten, typed, tape-recorded, printed, photostatted, photographed or recorded by any method.

III. E-MAIL CLASSIFICATION

The same record retention policy that applies to paper records applies to electronically stored information, including e-mail communications. Therefore, like paper records, the content and function of an electronic record, including e-mail communications, determines the retention period for that document. The Board will comply with all of the minimum standards set forth in the applicable sections of the Records Retention Schedule established by the Office of the Public Records Administrator for the State of Connecticut.

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The Public Records Administrator has provided additional guidance concerning the retention of E-mail messages. The Retention guidelines for each of these categories are as follows:

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| Transitory | Transitory messages are not essential to the fulfillment of statutory obligations or to the documentation of Bloomfield Public School functions. Employees and Board elected officials who receive or retain transitory communications may delete them at will without obtaining prior approval from the Records Custodian. Such messages include correspondence conducted via E-mail as a substitute for a conversation or meeting, for purposes of convenience. |
| Less than Permanent | Messages that are not transitory in nature but do not require permanent retention as set forth in the Municipal Records Retention Schedules fall into this category. Employees must print out such messages in hard copy format unless the Board's Records Custodian has established an alternative method for retaining them pursuant to section IV below. The less than permanent record shall be retained as long as is required in the applicable section of the Municipal Record Retention Schedule for administrative records, education records, fiscal records and personnel records. |
| Permanent | It would be rare for electronic messages to contain one or more records that the Municipal Records Retention Schedules requires be saved on a permanent basis. Examples of records that are currently designated for permanent retention include physician's standing orders, audit reports and adopted budgets. Employees must retain any e-mail containing such final documents in the form of a hard-copy printout or microfilm that meets microfilm standards issued in GL 96-2. The information must be eye readable without interpretation. |

IV. RETENTION OF ELECTRONIC RECORDS

E-mail and electronically stored information will be archived by the Board for their required retention period using method(s) approved by the Records Custodian, which may include the following:

1. Print message or record and store in appropriate hard copy file.
2. Place in computer folders and save on hard drive.
3. Save to a removable disk which is then stored in an appropriate location.
4. Transfer to an automated records management software application.
5. Manage at the server by an automated classification system.

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The Records Custodian will be responsible for working with the Bloomfield Public Schools' Systems Administrator to implement a schedule and system for reviewing electronically stored information. This review shall occur at least annually.

Additionally, the Records Custodian, working with the Systems Administrator, shall ensure that any process for automatic deletion of electronic information from the system will not delete information stored in folders and/or system locations that have been designated as appropriate for archiving electronically stored information.

Any system wide process for automatic deletion of electronic information will be implemented in accordance with the following procedure:

1. Notice to any individual who may have such information of impending deletion;
2. Verification by each such individual that he or she has reviewed all such information on his/her computer, and retained all documents for which retention is required.
3. Deletion of all e-mails and/or electronically stored information that have not been archived according to Board policies and procedures.

V. LITIGATION HOLD PROCEDURES

The Records Custodian is to immediately take steps to ensure that certain e-mail records are preserved from deletion or destruction once:

1. The school district is involved in litigation as a party to a lawsuit,
2. The school district is issued a subpoena by a party to a lawsuit in which it is not a party, or
3. The school district receives information that would lead a reasonable person to anticipate the possibility of litigation.

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Actions to preserve records and electronically stored information shall include, but are not limited to the following actions:

1. Postponing or canceling any automatic deletion of electronically stored information until relevant information and documents can be identified and stored;
 2. Notification to employees of a “litigation hold” to prevent the deletion and destruction of documents that might be related to the litigation or potential litigation; and
 3. Identification of documents and information that are subject to preservation.
- * Once the Records Custodian indicates that s/he has established a litigation hold, each employee has a duty to preserve all affected documents that could reasonably be covered by the litigation hold, including transitory messages, which could otherwise be deleted in accordance with the Board’s record retention policy.

If a litigation hold is established, the Records Custodian will draft a “litigation hold” memorandum that specifically describes the types of documents and information that must be preserved and describes how those materials are to be identified, maintained and stored. The memorandum will remind recipients that the duty of preservation is ongoing and that it is the responsibility of employees to continue to identify and preserve relevant documents until notified via a subsequent memorandum that the litigation hold is no longer in effect. All employees who are sent a “litigation hold” memorandum are to acknowledge receipt and understanding of the memorandum in writing, which may be in the form of an e-mail response. A copy of any “litigation hold” memorandum shall to be sent to the Superintendent’s office and all information technology employees and/or consultants. The Records Custodian may need to periodically reissue the “litigation hold” memorandum and will ensure that the “litigation hold” memorandum is provided to new employees who may have access to relevant information.

The Records Custodian or his/her designee shall be responsible for the following once a litigation hold is established:

1. Determine the types of electronically stored information that exist and where that information is maintained;
2. Identify where both paper documents and electronically stored information will be stored during the litigation hold;
3. Implement procedures to ensure that school district employees are complying with the litigation hold.

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4. Ensure that all steps taken by the Board to identify and preserve relevant information are documented.

- * Once a litigation hold is in place, only the Records Custodian shall be permitted to authorize any system wide process for automatic deletion of electronic information. Prior to authorizing such a process, the Records Custodian must verify that the deletion process will not destroy documents or information that is subject to a litigation hold.

Legal References:

General Letters 98-1, 96-2 and 2001-1 of the Public Records Administrator
Record Retention Schedules Towns, Municipalities and Boards of
Education Rules 34 and 45 of the Federal Rules of Civil Procedure
Silvestri v. General Motors Corp., 271 F.3d 583 (4th Cir. 2001)
Conn. Gen. Stat. §§ 1-200(5); 1-211; 1-
213(b)(3) Conn. Gen. Stat. § 7-109
Conn. Gen. Stat. § 11-8a et seq