

## **804.03 E-Mail Retention**

Friday, August 11, 2023

### **E-MAIL RETENTION**

This policy will refer to e-mail using the term electronic messaging, but the policy is also intended to be inclusive of electronic fax and any other electronic methods of transmitting messages, documents and other information. The superintendent is responsible for implementing this policy and serving as the records officer of the district.

Electronic messages transmitted using district resources are records and as such are subject to management under the Records Management Act.

The end-user manages electronic messages. Electronic messages should be managed at the end-user's desktop rather than from a central point. Each end-user who creates or receives electronic messages is responsible for managing his or her own records. Individuals with questions regarding the retention of particular electronic messages should obtain an opinion from their supervisor.

A single copy of a record retained by the originator of that record may serve as the official record retained in accordance with the district's retention schedule. All other copies are duplicate copies, and may be destroyed.

There is no single retention period for all electronic messages. Retention and disposition of electronic messages depends on the function and content of the individual message. The various types of electronic messages require various retention periods and fall within three broad categories:

Transitory messages – There is no retention requirement for these messages. Public officials and employees receiving such communications may delete them immediately without obtaining approval of the State Records Administrator.

Examples are:

- Messages that address routine administrative, curricular and co-curricular matters, announcements of meetings, schedules of events, etc.

- Messages that take the place of informal discussion and which if they were printed would not be retained in school records.
- Messages that transmit generic information and are not specific to a student's educational program.
- Messages that address personal matters unrelated to the district.
- Messages comprised of unrequested, unneeded or unwanted junk mail.
- Sectarian, religious, persuasive, political or commercial messages or advertising.

Less than permanent retention –

These records are governed by the retention period for equivalent hard copy records as specified in the district's records retention schedule. The records should be in hard copy or electronic format which can be retrieved and interpreted for the legal retention period. Individuals creating or receiving such communications may delete or destroy the records only according to an approved retention schedule. Examples are:

- Messages that address significant aspects of a specific student's educational program including, but not limited to, health, discipline, special education program, interaction with child protection agencies and communication with parents relating to specific aspects of the student's interaction with the school district.
- Messages that address and/or provide information used in making policy decisions, concerning curricular or co-curricular activities, personnel actions or that relate to the business transactions of the district.
- Messages that address activities of significant interest in the community relating to the district.
- E-mails that are the subject of investigations or litigation when the district has reasonable notice of the proceeding.

Permanent/archival retention:

Permanent records are often records relating to district governance, finances, budgets, and student educational progress, such as board secretary or district treasurer financial records, minutes of the Board of Education, educational records

of individual students, annual audit reports and annual budgets.

These permanent records are further classified as transferred or non-transferred records:

**Non-transfers** – If the decision is made to maintain the records in the district, it is responsible for making the records accessible to the public in a manner consistent with the way the Nebraska State Historical Society (NSHS) would perform this function. The district is responsible for upgrading the system to current technology standards so that data remain usable over time and for testing at regular intervals any storage medium used for accuracy or loss of data.

**Transfers** – The NSHS is responsible for the care, maintenance and reference use of state records with enduring value, regardless of media. The district may work with NSHS and the State Records Administrator to preserve and access electronic records maintained in the district or to make decisions about the method, frequency and format of the transfer of records to NSHS.

It is important not to rely upon back up servers and media exclusively for retention of electronic messages. Due to storage limitations, electronic messages are routinely deleted from storage media after 60 to 90 days. If non-transitory electronic messages are to be filed electronically, the information systems manager should be consulted and appropriate storage locations should be designated and users should be educated on classification and filing procedures so that the information will not be lost.

Electronic messages should be systematically filed for convenient retrieval following standardized filing rules within the district. Electronic messages needing to be retained should be indexed in an organized and consistent pattern, and reflect the way the files will be used and referenced.

In keeping with state electronic messaging guidelines, the district will create procedures to identify system hardware and software, formalize file naming conventions, back up and security procedures, identify the sources and use of the information, as well as their confidential and non-confidential status, and outline quality control procedures and storage requirements. This documentation should also cover employee training procedures and the verification of employee attendance at training sessions.

## Litigation Holds

As soon as the District is made aware of pending or threatened litigation, the superintendent will issue a litigation hold directive. The directive will be given to all individuals who may have records relating to the litigation issue. At that time the District will take all reasonable action to preserve all relevant documents and records including any that may be subject to federal rules of discovery.

This directive cancels any records retention schedule that would normally lead to the deletion or destruction of the records until the litigation hold is removed. The superintendent, working with the network systems administrator, will preserve the e-mail and computer accounts of separated employees until the end of the litigation hold.

Employees who receive notice of a litigation hold will preserve all records as indicated in the directive. Records that would normally be deleted or destroyed automatically by the network should be converted to hard copy or copied electronically to a safe location to ensure their preservation

It shall be a violation of this policy for any employee to delete, destroy or alter records protected by the litigation hold directive. Violation of the litigation hold may subject the employee to disciplinary actions, up to and including dismissal.

Legal Reference: Electronic Messaging and E-Mail Guidelines (Nebr. Secretary of State)

Nebraska Statutes 84-1201 to 1228 (Public Records)

Cross Reference: 402.10 Employee Political Activity

403.07 Employee Use of Social Networks

606.06 Acceptable Use of Computers