

## SERVICES and OPERATIONS

### Section 9 Records Management

#### A. Records Management and Disposition

1. General Standard. Records should generally be organized, managed, retained and disposed of in accordance with law and the Secretary of State's schedules for retention and disposition of public records.
2. Records Officer. The Administrator is hereby designated as the records officer of ESU #13 for purposes of this policy. Any questions about the type or category of a record or the required retention period for it should be addressed to the Records Officer/designee.
3. Electronic Messages. Electronic messages are communications using an electronic system for the conduct of ESU #13 business internally, between other state and local government agencies, and with parents, students, patrons and others in the outside world. These messages may be in the form of e-mail, electronic document exchange (electronic fax), and electronic data interchange (EDI). In this policy, the terms electronic messages and e-mail are used, depending on the context, to mean the same thing. ESU #13's electronic system in which records are collected, organized, and categorized to facilitate preservation, retrieval, use, and disposition is as follows:
  - a. *End-User Management*. End-user means anyone who creates or receives electronic messages on the ESU #13 electronic system. Electronic messages are to be managed at the end-user's desktop rather than from a central point. Each end-user is responsible for organizing, managing and disposing of records that are part of his or her computer.
  - b. *Categories for Retention*. Electronic messages fall within three categories: (1) transitory messages; (2) records with a less than permanent retention period; and (3) records with a permanent retention period. End-users are to organize, store, retain and dispose of electronic messages according to these three categories. This means determining which electronic messages require long-term retention, determining who is responsible for making this decision, and establishing storage and disposition requirements for electronic messages.
    - i. *Transitory messages*. Transitory messages include copies posted to several persons and casual and routine communications similar to

telephone conversations. For example, as determined on an individual case-by-case basis by the end-user, transitory messages include certain embryonic materials, notes or drafts; unwanted and unneeded “junk” mail; “personal” mail for employees not related to ESU business; unsolicited sectarian, religious, partisan, political or commercial messages, or political advertising or advertisements promoting particular personal or religious beliefs, a specific ballot question, or controversial topics or positions. There is no retention requirement for transitory messages. Employees sending or receiving such communications may delete them immediately without obtaining approval.

- ii. *Less than permanent retention records.* These records are governed by the retention period for equivalent hard copy records as specified in the approved records retention and disposition schedules. These records should be converted to hard copy (printed) or an electronic format which can be retrieved and interpreted (downloaded) for the legal retention period. Employees creating or receiving such communications may delete or destroy the records only according to the applicable retention schedule. Questions relating to the retention or destruction of these records should be referred to the Records Officer/designee.
- c. *E-Mail Deletion Guidelines.* ESU #13 employees are responsible for managing the e-mail inboxes. ESU #13 e-mail is secure and is backed up daily. The only e-mails that are deleted by the network are e-mails that employees have manually deleted and moved into the deleted folder, and the e-mails that are in the junk mail folder. Junk mail is permanently deleted every 21 days and all items in a user deleted folder are permanently deleted every 90 days. All other e-mail messages in a user’s inbox or in any subfolders are retained permanently.
  - d. The retention period for the particular record is the best indicator of which storage medium or format to choose.
  - e. *Proper Use of Electronic Messages.*
    - i. *Non-Discrimination.* Electronic messaging is not permitted to be used to promote discrimination on the basis of any protected status in its programs and activities.
    - ii. *Permissible Use.* Electronic messaging is to be used only for purposes that are consistent with the mission of ESU #13. Electronic messaging is not permitted to be used for personal purposes except for: incidental, intermittent or occasional use which does not interfere with performance of duties as determined by the administration, use that is authorized pursuant to an individual use agreement, and use that represents a form of the employee’s compensation. Electronic messaging is not permitted to be used for personal financial gain or for the purpose of campaigning for or against the nomination or

election of a candidate or the qualification, passage, or defeat of a ballot question. Electronic messaging is not permitted to be used for purposes of assisting a non-profit organization except when and to the extent such use serves a purpose consistent with the mission of ESU #13 or facilitates ESU #13 business.

- iii. *Conduct.* Employees shall not read electronic messages received by another employee when there is no work-related purpose for doing so, send electronic messages under another employee's name without the employee's consent or administrative authorization, or change or alter any portion of a previously sent electronic message without administrative authorization.
  - iv. *Other Regulations.* Electronic messaging is subject to all requirements of ESU #13's computer use policies and may be monitored and accessed at any time without prior notice. ESU #13 has complete authority to regulate all electronic messaging. Electronic messaging is a privilege and not a property right and is not a public forum. Electronic messaging is made available subject to all board policy and regulations, these regulations, administrative guidelines, use agreements, handbook provisions, and all administrative orders or directives as issued from time to time.
4. Electronic Records. All books, papers, documents, reports, and records kept by ESU #13 may be retained as electronic records. Minutes of the meetings of the Board may be kept as an electronic record.
  5. Litigation Holds. When litigation against ESU #13 or its employees is filed or threatened, ESU #13 will take all reasonable action to preserve all documents and records that pertain to the issue. Such action will in particular be taken when the litigation may be filed in federal court or otherwise subject to federal rules of discovery.

As soon as ESU #13 is made aware of pending or threatened litigation, a litigation hold directive will be issued by the records officer or designee. The directive will be given to all persons suspected of having records that may pertain to the litigation issue.

The litigation hold directive overrides any records retention schedule that may otherwise call for the disposition or destruction of the records until the litigation hold has been lifted. E-mail and computer accounts of separated employees that have been placed on a litigation hold will be maintained by the records officer until the hold is released.

Employees who receive notice of a litigation hold are to preserve all records that pertain to the litigation issue. This includes preserving electronic messages that would otherwise be deleted by the computer system; such messages are to be converted by the recipients of the litigation hold to hard copy (printed) or electronic format which can be retrieved and interpreted (downloaded) for the duration of the litigation hold.

No employee who has been notified of a litigation hold may alter or delete an electronic or other record that falls within the scope of the hold. Violation of the litigation hold may subject the employee to disciplinary action, up to and including dismissal, as well as personal liability for civil and/or criminal sanctions by the courts or law enforcement agencies.

6. Settlement Agreements

A public written or electronic record of all settled claims shall be maintained.

The record for all such claims settled in the amount of fifty thousand dollars or more (or one percent of the total annual budget of the School District, whichever is less) shall include a written executed settlement agreement. The settlement agreement shall contain a brief description of the claim, the party or parties released under the settlement, and the amount of the financial compensation, if any, paid by or to the School District or on its behalf. Any such settlement agreement shall be included as an agenda item on the next regularly scheduled public meeting of the School Board for informational purposes or for approval if required.

Any such settled claim or settlement agreement shall be a public record. Nonetheless, specific portions of the record may be withheld from the public to the extent permitted or provided by statute.

The foregoing does not apply to claims made in connection with insured or self-insured health insurance contracts.

Legal Reference:	Nebraska Statutes: 84-712 to 84-712.09; 84-1201 to 84-1227 Laws 2010, LB 742 State Records Administrator Guidelines: Schedule 10: Records of Local School Districts (Feb. 1989) Schedule 24: Local Agencies General Records (March 2005) Electronic Imaging Guidelines (March 2003)
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