SECOND READING BY BOARD

po8315

Vol. 35, No. 2 - Artificial Intelligence (AI) - July 2026 Revised PRESERVATION OF RECORDS AND LITIGATION HOLDS

8315 - **PRESERVATION OF RECORDS AND LITIGATION HOLDS** ~~**INFORMATION MANAGEMENT**~~

~~The Board recognizes its responsibility, in certain circumstances, to maintain information created, maintained, or otherwise stored by the District outside the "Records Retention Schedule" in Policy 8310 - Public Records. In such situations, a "Litigation Hold" procedure will be utilized to identify and preserve information relevant to a specific matter. "Information" includes both paper documents and electronically stored information ("ESI"). When implementing the "Litigation Hold," the District will identify individuals in possession or custody of paper documents, ESI, and electronic media containing ESI, and inform them of their obligation to preserve the documents and ESI outside the "Records Retention Schedule" in Policy 8310. The District will also identify third parties with custody or control over paper documents, ESI, or electronic media storing ESI, and request them to preserve that information. All information falling within a "Litigation Hold," which is under the control of the District, must be preserved in a readily accessible form under the requirements of Policy 8310. Failure to comply with a Litigation Hold notice may result in disciplinary action, up to and including possible termination.~~

The ~~Instances where the~~ Board must preserve records and Electronically Stored Information (ESI) beyond ~~maintain information outside~~ the " Records Retention Schedule " in Policy 8310 - Public Records when: ~~include:~~

A. ~~when the Board has specific information and/or written notice from an individual, parent, or student of an intent to file an appeal of student discipline to State court;~~

B. ~~when~~ the Board receives ~~has~~ specific information and/or written notice that litigation has been commenced or when it is threatened or imminent even though the litigation has not yet been filed in any tribunal. Litigation Hold expectations apply in threatened or imminent litigation in federal or state court, before an administrative agency, or upon service of a notice of circumstances of a claim pursuant to Wis. Stats. 893.80; ~~in Federal or State court~~;

C. ~~when the Board is served with litigation, including, but not limited to, notice of a lawsuit in Federal or State court, or notice of a student disciplinary appeal to State~~

~~court;~~

D. ~~when the Board receives specific information and/or written notification from an employee, labor union, or other person of an intent to file a claim against the Board, its members, employees, or agents at an administrative agency such as the Equal Employment Opportunity Commission, Wisconsin Employment Relations Commission, U.S. Department of Education Office for Civil Rights, or a Wisconsin Equal Rights Divisionregarding a claim against the Board, its members, employees or agents;~~

E. ~~when the Board receives specific information and/or written notification from an administrative agency such as the Equal Employment Opportunity Commission, Wisconsin Employment Relations Commission, U.S. Department of Education Office for Civil Rights, State Personnel Board of Review, or a Civil Service Commission regarding a claim against the Board, its members, employees or agents;~~

F. ~~when~~ the Board receives written notification from a third party requesting that the Board maintain information that could be at issue in litigation or potential litigation against a ~~that~~ third party;

G. ~~when the Superintendent recommends the termination of an employee to the Board;~~

H. when the Board explores, contemplates initiating, or initiates litigation.

All information falling within a Litigation Hold, which is under the control of the District, must be preserved in a readily accessible form under the requirements of Policy 8310 - Public Records. An employee's failure to comply with a Litigation Hold notice and this Policy shall subject the employee to disciplinary action, up to and including termination of employment in accordance with Policy 3139-4139 - Staff Discipline **(X)** and the Employee Handbook.

Any board member or District employee who receives specific information or written notice that may trigger a Litigation Hold shall immediately provide that information or notice to the Superintendent.

When implementing a Litigation Hold, the Superintendent shall notify the District's insurance company or broker, when appropriate, and follow the direction of appointed insurance defense counsel. The District shall take reasonable steps, with the help of the insurance defense counsel, to determine the scope of the hold, including identifying individuals who have relevant information, identifying where relevant records and ESI are stored, and preserving such materials. The Superintendent shall notify individuals in possession or custody of records and ESI, and inform them of their obligation to preserve records and ESI outside the Records Retention Schedule in Policy 8310 - Public Records.

The District shall suspend routine destruction, deletion, overwriting, or automatic retention rules for records and ESI covered by the hold.

If a staff member's or board member's District-provided device (computer, cell phone, etc.) must be taken out of service to properly preserve the contents due to a Litigation Hold, that individual may not access the device for any reason, including for access to personal items that may have been stored. Once a device is placed on a Litigation Hold, access will be limited to those authorized to access the device pursuant to the advice of legal counsel in consultation with IT professionals involved.

Definitions

"Documents" includes, but is not limited to, writings, drawings, graphs, charts, photographs, blueprints, sound recordings, images, and other data or data compilations stored in any medium from which information can be obtained or translated if necessary.

"ESI" includes, but is not limited to, writings, drawings, graphs, charts, photographs, blueprints, sound recordings, images, and other data or data compilations stored in any electronic media from which information can be obtained or translated if necessary. It includes, but is not limited to, e-mails, e-mail attachments, instant messages, word processing files, spreadsheets, pictures, application program and data files, databases, data files, metadata, system files, electronic calendar appointments, scheduling program files, TIFF files, PDF files, MPG files, JPG files, GIF files, network share files, internal websites, external websites, newsgroups, directories, security and access information, legacy data, audio recordings, voice mails, phone logs, faxes, internet histories, caches, cookies, ~~or~~ logs of activity on computer systems that may have been used to process or store electronic data, and/or Artificial Intelligence (AI) data, including but not limited to prompts, model inputs, generated outputs, and usage logs.~~:~~

"Electronic media" includes, but is not limited to, hard drives (including portable hard disk drives "HDD's"), floppy drives, disaster recovery media, and storage media (including DVD's, CD's, floppy discs, Zip discs/drives, Jazz discs/drives, USB memory drives, jump disc/drives, flash discs/drives, keychain discs/drives, thumb discs/drives, smart cards, micro-film, backup tapes, cassette tapes, cartridges, etc.), accessed, used and/or stored on/in/through the following locations: networks and servers; laptop and desktop work computers; home and personal computers; other computer systems; backup computers or servers; archives; personal digital assistants ("PDAs" – including Palm, Blackberry, cellular phone, tablet PC, etc.); pagers; firewalls; audit trails and logs, printers; copiers; scanners; digital cameras; photographic devices; and video cameras and devices. Electronic media shall also include any item containing or maintaining ESI that is obtained by the District for Board member or employee usage or that an employee uses for such purpose (even if privately owned by the Board member or employee) from the date this policy is adopted into the future.

Initiation and Removal of a "Litigation Hold"

The Board or the Superintendent may initiate a "Litigation Hold" under this policy. Upon initiating a Litigation Hold, the Superintendent or designee shall notify the District Records Custodian to suspend disposal of records potentially covered by the hold. ~~If the Superintendent initiates a "Litigation Hold," s/he or the Board's legal counsel will notify the Board of the reason the Litigation Hold was instituted and its scope. When implementing a Litigation Hold, the Board or Superintendent may utilize an Electronically Stored Information Team ("ESI Team")~~. The Board's legal counsel shall be involved in implementation of the "Litigation Hold Procedure" (X) outlined in AG 8315 - Litigation Hold Procedure. ~~:~~.

A "Litigation Hold" shall remain in place until removed by the Board. A "Litigation Hold" may be removed when the litigation or ~~a dministrative~~ administrative agency matter has been resolved or can no longer be initiated. Any record ~~information~~ maintained under this policy shall fall back under the "Records Retention Schedule" in Policy 8310 - Public Records once the "Litigation Hold" is removed. When a Litigation Hold is removed, the Superintendent or designee shall notify affected individuals, third parties, and records personnel that the hold has ended.

The District shall document reasonable steps taken to initiate, implement, monitor, and remove a Litigation Hold.

Custody of Third-Party and AI-Hosted Information

Records and ESI maintained in third-party hosted systems, including District-contracted AI platforms, shall be preserved in accordance with this policy ( ) and AG 8315 - Litigation Hold Procedure [END OF OPTION].

[X] The Superintendent shall develop administrative guidelines outlining the procedures to be followed by Board members and employees when initiating and implementing a "Litigation Hold." This policy and its related administrative guidelines shall be posted and distributed (X) in the manner described in AG 8315 - Litigation Hold Procedure.

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Legal
Federal Rules of Civil Procedure 34, 37(f)