

RECORDS MANAGEMENT AND RETENTION

Waukegan Community School District

Policy 823.1

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{This sample policy addresses (1) general responsibilities of district officers, employees, and agents regarding records management; (2) administrative responsibility for a district records management program; (3) district adoption of General Records Schedules and state-level approval of other records disposition authority; (4) records retention and disposition practices, including important exceptions to standard records retention periods; and (5) the conversion of district records into different formats.}

I. General Responsibilities of Officers, Officials, Employees, and Agents of the District

The District has a responsibility to maintain records in compliance with relevant state and federal laws. All officers, officials, employees, and other agents of the District are expected to adhere to applicable laws and District policies relating to records management. In carrying out those responsibilities, no such person may:

1. Unlawfully or without having authority to do so access District records, alter District records, or dispose of District records.
2. Unlawfully or inappropriately damage, remove, or conceal District records.
3. Facilitate any person's unlawful or unauthorized access to, or unlawful or unauthorized disclosure of, District records (including the content of such records).
4. Direct or permit another person to unlawfully or inappropriately access, modify, disclose, damage, remove, conceal, or dispose of District records.

II. Administrative Responsibility for a District Records Management Program

The insert applicable position(s)—e.g., "District Administrator and any School Board-designated legal custodian(s) of District records" have has primary administrative responsibility for defining and implementing a program of records management that complies with applicable law and District policies relating to records management. Those responsibilities include, but are not limited to, the following:

1. Overseeing the creation and implementation of any additional rules and operating procedures that may be needed to further govern records management in the District throughout the record life cycle, including protocols for storing District records, appropriately limiting access to records, protecting the personal privacy of record subjects, and maintaining the District's capacity to appropriately retrieve records and respond to requests for access to records.
2. Ensuring that the District utilizes appropriate information systems in connection with records maintained in an electronic format and defines appropriate rules and procedures related to the creation, modification, authority to access, and general management of electronic records. Editor's Note: This item relates to specific mandates defined under Chapter Adm 12 of the Wisconsin Administrative Code.
3. Establishing appropriate protocols (e.g., rules and training) for informing employees who are involved in collecting, maintaining, using, providing access to, sharing, or archiving

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personally-identifiable information of their duties and responsibilities relating to protecting the personal privacy of record subjects.

- Working with other staff and with the School Board President to bring issues and recommendations related to records management to the attention of the School Board, as deemed necessary or appropriate, on a timely basis.

5. ~~Insert if desired: "Maintaining an accurate summary of the current records disposition authority that the District has obtained from the Wisconsin Public Records Board (PRB). Such summary shall be maintained as an Exhibit to this policy and shall include at least an up-to-date listing of the General Records Schedules that the District has formally adopted (in whole or in part) as well as any additional, unexpired District specific records disposition authority that may have been approved by the PRB."~~ ~~Editor's Note: PRG 823.1 Sample Exhibit 1 has been created to implement and coordinate with this directive. However, a district could exclude this mandate from the policy and still use 823.1 Sample Exhibit 1.~~

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6. ~~Insert any other responsibilities the school board wishes to expressly document in this policy.~~

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III. Adoption of General Records Schedules and other State-Level Approval for District Records Disposition Authority

The following apply to the District's adoption and implementation of records disposition authority that is granted by the Wisconsin Public Records Board (PRB):

1. The administration shall obtain advance approval from the School Board prior to submitting any of the following to the PRB on behalf of the District: ~~Editor's Note: The need to make formal submissions to the PRB regarding records schedules and other district-specific disposition authority should arise infrequently. The WASB recommends advance school board approval of these actions. However, it might be sufficient for a policy to further delegate the relevant authority. As an example, if approved by district legal counsel, this paragraph might be replaced with the following: "Although obtaining advance approval via a Board motion is also acceptable, the District Administrator may also administratively authorize, with notice to the School Board, the submission of any of the following to the PRB on behalf of the District:"~~

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- A notice of adoption of a General Records Schedule (in whole or in part).
 - A notification of intent to opt-out of the adoption of a General Records Schedule (in whole or in part).
 - A request for the PRB's approval, renewal, or modification of any District-specific records disposition authority.
- To the extent permitted or required by the rules, policies, and procedures of the PRB and unless the District takes additional steps to formally opt-out of the District's previous adoption of a General Records Schedule, adoption of a General Records Schedule shall be understood to mean adoption of the applicable schedule (or applicable portion of the schedule) as such schedule may be amended from time to time by the Public Records Board.

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IV. Records Retention and Disposition

Subject to the exceptions identified below in this Section:

As to any District records that are covered by a District-adopted General Records Schedule or by any other District-specific disposition authority that has been approved by the PRB, the District will implement the schedule or other disposition authority, including (1) by retaining the records for at least the minimum period of time defined in the PRB-approved schedule or other PRB-approved records disposition authority, and (2) if required by law and not waived by the Society, by providing advance notice of the intended destruction of particular records to Wisconsin Historical Society.

Student records (referred to in state law as "pupil records" and in federal law as "education records") shall be maintained as required by applicable state and federal laws and as further detailed in any applicable District-adopted General Records Schedule, in any other applicable District-specific disposition authority that has been approved by the PRB, and in any District policy or procedure that further governs student records.

In the event that a District record covered by section 19.21(6) (i.e., nearly all District records other than student records) has no other applicable retention period established by, or pursuant to, a District-adopted General Records Schedule or any other District-specific retention and disposition authority that has been approved by the PRB, the District will retain the record as required under section 19.21(6) for not less than 7 years and follow any applicable mandatory notice procedures (e.g., notice to the State Historical Society) prior to destruction. In some cases, a specific state or federal law or a District policy or rule that has not necessarily been approved by the PRB may require or direct the retention of a particular type/series of District records for a minimum period that is longer than 7 years, up to and including permanent retention.

To the extent permitted by and consistent with applicable law, and separate from the authority addressed in Section III of this policy (above), the District may establish further local policies, rules, and procedures that govern records retention and records disposition. Such policies, rules, and procedures shall be approved by either the School Board or, to the extent not in conflict with any School Board decision, by insert appropriate position(s) – e.g., "the District Administrator or any Board-designated legal custodian(s) of District records". Insert if desired: "If a local rule or procedure approved under such administrative authority establishes or modifies a minimum or maximum retention period for any District records, the authorizing administrator shall ensure that the School Board receives notice of the administrative rule or procedure."

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The following are important exceptions to the District's standard records retention and destruction schedules, policies, and practices:

- **Litigation Holds, Including for Subpoenas:** When appropriate (e.g., due to imminent litigation, the receipt of a subpoena, the receipt of a formal notice of claim, pending litigation and related appeals, notice of an investigation by or formal proceedings in a state or federal agency, etc.), the District will initiate a litigation-related hold for the purpose of identifying, retaining, and preserving potentially relevant records (including electronically stored information) and other evidence. The District shall maintain records that become subject to

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a litigation hold for the longer of (1) the normal retention period for the record; or (2) the date on which the litigation hold is released.

- **Pending, Unresolved, and Litigated Requests for Access to District Records:** Upon the receipt of a request for access to District records under the Public Records Law or similar legal authority, the District's legal custodian of records shall take steps intended to prevent the destruction of potentially responsive records (including responsive records that the custodian may determine should not be released). The District shall maintain such potentially responsive records for the longer of (1) the normal retention period for the record; or (2) insert if desired: "at least 30 additional calendar days beyond" the expiration of any applicable special minimum retention period specified in section 19.35(5) of the state statutes. The statutory special retention periods apply to public records requests that have been denied and/or over which a court action has been commenced. This process also supports the District's compliance with a federal regulation governing students' personally identifiable education records that states that school districts shall not destroy any such education records if there is an outstanding request of a parent/guardian (or adult student) to inspect and review those records.
- **School District Audits:** Records necessary for any audit conducted at the direction of the Board or with notice from a state or federal authority shall be maintained until the later of (1) the date the records are no longer needed for audit purposes; or (2) the end of the normal retention period.

The insert appropriate position – e.g., "District Administrator and any School Board-designated legal custodian(s) of District records", acting in cooperation with and pursuant to the direction of District legal counsel where applicable, shall have primary responsibility for initiating and ending a litigation hold, the preservation of records due to an audit or a pending public records matter, or the special preservation of District records under other unique circumstances. Under any of these circumstances, the insert appropriate position – e.g., "District Administrator or legal custodian", as applicable, or such person's designee shall initiate prompt communication to the Board, relevant District staff, and any relevant third parties (e.g., contractors holding certain records) regarding the scope of the matter and the procedures that are to be followed. The School Board President, acting in consultation with District legal counsel, may also initiate a litigation hold or other special directives regarding the preservation of records.

No officer, official, employee, or agent of the District may, directly or indirectly, modify, inhibit appropriate access to, or dispose of District records that the person knows or has reasonable cause to believe may be subject to any of the exceptions to the District's standard records retention and destruction schedules, policies, and practices. Indirect conduct includes, for example, conduct that facilitates or causes the unlawful, unauthorized, or untimely modification or disposition of such records.

V. Converting District Records into Different Formats

From time to time, it may be necessary or desirable for the District to convert certain District records from one format to another. Typically, this will involve converting non-digital/electronic records into a digital/electronic format. It may also include, for example, converting records from one digital/electronic format to another digital/electronic format. Provided the process is

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carried out in a manner consistent with applicable laws and regulatory standards, the Board authorizes such records conversions.

Editor's Note: This paragraph relates to requirements established under sections 16.61(7) and 137.20 of the state statutes, as implemented by the Public Records Board's policies and procedures for transferring and changing the format of records. To the extent a records conversion program, process, or procedure includes the intent, after successful conversion, to dispose of any original input record **prior to the end of the minimum retention period** that is applicable to the record, then the following also apply:

1. The program, process, or procedure must be authorized in advance by insert position title—e.g., "the District Administrator or any School Board designated legal custodian of District records";
2. The authorizing administrator must insert if desired: "give notice of the intended conversion of records to the School Board and" ensure that the District complies with any mandatory procedures for giving notice of intent to convert records to the Public Records Board; and
3. The original input records shall not be disposed of until the Public Records Board has acknowledged any related District submission related to the conversion of the records and the District has verified that the records have been successfully converted and stored in the new format.

Legal References:

Wisconsin Statutes

Section 16.61(3)(e)	[authority of the Public Records Board to establish the minimum period of time for retention before destruction of any school district record]
Section 16.61(7)	[standards for reproduction and conversion of records; executing and recording statements of intent]
Section 16.612	[optical disc and electronic storage standards to be set by a state-level rules; see Chapter Adm 12]
Section 19.21	[custody and delivery of official property and records]
Section 19.21(6)	[school district records retention; destruction of obsolete records]
Section 19.33	[legal custodian(s) of records; designation, duties, and duty to identify to district employees]
Section 19.345	[time computations under the public records law]
Section 19.35(5)	[holding records related to a pending public records request]
Section 19.65	[rules of conduct and employee training]
Section 118.125	[student records, generally]
Section 118.125(3)	[retention rules for student records, including a requirement that any such local rules adopted by a school district must be published as a class 1 legal notice]
Section 120.13(28)	[school board power to designate legal custodian(s) of records]
Section 137.20	[retention of electronic records; originals]
Section 146.81 to 146.84	[patient health care records]
Chapters 801 thru 809	[Wisconsin civil procedure]

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[Section 889.08 to 889.10](#) [certification of copies of records and related statutes]
[Section 946.72](#) [criminal statute prohibiting tampering with public records]

Wisconsin Administrative Code

[Ch. Adm 12](#) [electronic records management; standards and requirements]

Federal Laws and Rules

[20 U.S.C. § 1232\(g\)](#) [Family Educational Rights and Privacy Act (FERPA); the federal student records law]

[34 C.F.R. part 99](#) [U.S. Department of Education FERPA regulations]

[34 C.F.R. §300.624](#) [retention and disposition of personally identifiable information in the education records of students with disabilities who receive services pursuant to the IDEA]

[F.R.C.P.](#) [Federal Rules of Civil Procedure]

Cross References:

WASB PRG 823.1 Sample Policy 1

[347, Pupil Records](#)

[823, Access to Public Records](#)

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