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**Revised Policy - Vol. 37, No. 2**

**8315 - INFORMATION MANAGEMENT**

The Board of Education recognizes its responsibility, in certain circumstances, to maintain information created, maintained, or otherwise stored by the District outside the "Records Retention Schedule". 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". 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 and cannot be disposed of under the "Records Retention and Disposal" requirements. Failure to comply with a Litigation Hold notice ( **x** ) may ( ) shall ~~END OF OPTION~~ result in disciplined disciplinary action, up to and including possible termination.

Instances where the Board must maintain information outside the "Records Retention Schedule" include:

- A. when the Board has specific information and/or written notice from a parent/guardian, student, or another person representing the parent/guardian or student ~~an individual, parent or student~~ of an intent to file an appeal of student discipline to State court;
- B. when the Board has specific information and/or written notice that litigation is imminent even though the litigation has not yet been filed 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, Michigan Employment Relations Commission, U.S. Department of Education Office for Civil Rights, Michigan Department of Education Office for Special Education, State Personnel Board of Review, or a Civil Service Commission regarding 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, Michigan Employment Relations Commission, U.S. Department of Education Office for Civil Rights, Michigan Department of Education Office for Special Education, State Personnel Board of Review, or a Civil Service Commission regarding a claim filed 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 involving ~~against~~ that third party;

G. when the Superintendent recommends the termination of an employee to the Board pursuant to a labor contract;

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

## Definitions

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

"ESI" means any type of information that is created, used, and stored in digital form and accessible by digital means. It includes all data, digital documents or files, or other information contained on any media type (e.g., tape, hard disk drive, cloud storage, or some yet-to-be-created storage technology). Specifically, it includes, but is not limited to, writings, drawings, graphs, charts, photographs, blueprints, sound/audio recordings, images, video recordings, and other data or data compilations stored in any electronic media from which information can be obtained or translated if necessary. Examples include: e-mails and their attachments, text and instant messages, communications conducted in ephemeral messaging applications or in workplace collaboration tools, word processing documents, spreadsheets, digital photographs/pictures, videos, application programs and data files, data/information stored in databases, data files, metadata, system files, electronic calendar appointments, scheduling program files, digital scans (including 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, voicemails, phone/call logs, faxes, internet/browser histories, caches, cookies, or logs of activity on computer systems (whether internal to the District or external) that may have been used to process or store electronic data. ESI also includes data/information from cloud applications (e.g., educational or operational services/apps), electronic records of online activity (e.g., social media postings), and data generated or stored by devices connected to the Internet of Things (IoT).  
~~"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.~~

"Electronic media" includes, but is not limited to, computer 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, microfilm~~micro film~~, backup tapes, cassette tapes, cartridges, etc.), accessed, used, and/or stored on/in/through the following locations: networks and servers, whether internal or external (including the cloud); laptop and desktop work computers; home and personal computers; other computer systems; databases; backup computers or servers, whether internal or external (including cloud storage); archives; mobile devices (e.g., mobile/cellular phones and tablet computers, personal digital assistants ("PDAs" - including Palm, Blackberry), etc.); pagers; firewalls; audit trails and logs, printers; copiers; scanners; digital cameras; photographic devices; and video cameras and devices. Electronic media also includes social media websites (e.g., Facebook, Twitter, LinkedIn) and 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 was first adopted into the future;  
~~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. If the Superintendent initiates a "Litigation Hold," the Superintendent~~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 ( **x** ) may ~~( ) will~~ **[END OF OPTION]** utilize an Electronically Stored Information Team ("ESI Team"). The Board's legal counsel shall be involved in the implementation of the "Litigation Hold Procedure" outlined in AG 8315.

A "Litigation Hold" shall remain in place until removed/withdrawn by the Board. A "Litigation Hold" may be removed when the litigation or administrative agency matter has been resolved or can no longer be initiated. Any information maintained under this policy shall fall back under the "Records Retention Schedule" once the "Litigation Hold" is removed/withdrawn.

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 in the manner described in AG 8315.

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

**Last Modified by Chris Rice on April 11, 2023**