



Book	Draft Policies from NYSSBA
Section	1000
Title	SCHOOL DISTRICT RECORDS
Code	1120
Status	First Reading

(X) Required

- Local
 Notice

NOTE: We offer the following updated policy, regulation, and exhibits to replace current policies 3310 (Public Access to Records), 3320 (Confidentiality of Computerized Information), and 5670 (Records Management). We added some recommended enhancements to your current policies. Before any records listed on Schedule LGS-1 may be disposed of, the Board of Education must formally adopt the Schedule LGS-1. Also, included is language to help address the process the district must take to retain electronic records that may be discoverable during litigation. Please consider the new text in bold and accompanying regulation and exhibits.

It is the policy of the Board of Education to inform members of the public about the administration and operation of the public schools in accordance with the Freedom of Information Law of the State of New York. The Superintendent of Schools will develop regulations ensuring compliance with the Freedom of Information Law and setting forth the procedures to be followed to obtain access to district records and submit such regulations to the Board for approval. Such regulations will address ensuring applicable confidentiality and security of district information. The Superintendent will designate, with Board approval, a Records Access and Records Management Officer, pursuant to law.

Retention and Destruction of Records

The Board hereby adopts the Records Retention and Disposition Schedule LGS-1 issued pursuant to Article 57-A of the Arts and Cultural Affairs Law, which contains the legal minimum retention periods for district records. In accordance with Article 57-A, the district will dispose of only those records described in the schedule after they have met the minimum retention periods set forth in the schedule. The district will dispose of only those records that do not have sufficient administrative, fiscal, legal or historical value to merit retention beyond the established legal minimum periods.

The manner of destruction will be determined by the format of the record (i.e., paper, digital, etc.). In addition, destruction will be appropriately documented.

Litigation-Hold

NOTE: The policy should recognize that when litigation commences, the district must take steps to retain electronic records that may be discoverable (but might otherwise be deleted in the normal course of operations). NYSSBA recommends the following approach.

The Superintendent will establish procedures in the event that the school district is served with legal papers. The Superintendent will communicate with applicable parties, including the school attorney and the records management official, to ensure that, when appropriate, a litigation-hold is properly implemented. The litigation-hold is intended to prevent the destruction or disposal of records that

may need to be produced as part of discovery. It is the intention of the Board of Education to comply with applicable rules and regulations regarding the production of necessary documents, data, files, etc. The Board directs the Superintendent to institute such procedures to implement this policy.

In addition, a Records Advisory Board may be created to assist in establishing and supporting the records management program. The district's legal counsel, the fiscal officer, and the Superintendent and/or designee may comprise the Advisory Board.

The Superintendent or designee, with assistance from the Records Management Officer, will be responsible for developing and disseminating department-specific retention schedules and guidance to staff, as necessary, to ensure adherence to this policy.

Cross-ref:

8630, Computer Resources and Data Management

Ref:

Public Officers Law 84 *et seq.* (Freedom of Information Law)

Education Law 2116

Arts and Cultural Affairs Law 57.11

Local Government Records Law, Article 57-A

Federal Rules of Civil Procedure, 16, 26

8 NYCRR 185.15 (8 NYCRR Appendix L) Records Retention and Disposition Schedule LGS-1 for New York Local Government Records

Adoption date: