

## SAN BERNARDINO COMMUNITY COLLEGE DISTRICT ADMINISTRATIVE PROCEDURE 3310 RECORDS RETENTION AND DESTRUCTION

Records of the San Bernardino Community College District (SBCCD) shall be retained, as appropriate, in accordance with applicable provisions of state and federal law.

Additionally, electronic communication, in all its various forms, has become an indispensable tool in the efficient and effective operation of the modern workplace. District Board members, administrators, and employees increasingly rely upon electronic communications technologies such as email, instant messaging and text messaging to enhance SBCCD's internal and external communications. As a result, SBCCD creates and receives a great deal of electronic records, which are also included in this policy.

### **DEFINITION OF RECORDS (5 C.C.R. § 59020)**

Records are defined as all records, maps, books, papers, data processing output, and documents of the District required by Title 5 to be retained, including but not limited to records created originally by computer and "electronically stored information" (ESI), as that term is defined by the Federal Rules of Civil Procedure and the California Code of Civil Procedure.

Student records may be any item of information directly related to an identifiable student, other than directory information, which is maintained by a community college or required to be maintained by any employee in the performance of his or her duties, whether recorded by handwriting, print, tapes, film, microfilm, or other means.

"Records" also includes electronically created records, such as:

- *Electronic Communications* - any information transmitted via *SBCCD electronic technology*, including, but not limited to, email messages, instant messages, and text messages.
- *Electronic Records* - any electronic information, including, but not limited to, *electronic communications*, word processing documents, spreadsheets, and databases, that are created, used or maintained on *SBCCD electronic technology*.
- *SBCCD Electronic Technology* - any SBCCD systems and equipment that are capable of sending or receiving *electronic communications* or capable of creating and storing *electronic records*, including, but not limited to, SBCCD computer workstations, laptop computers, computer servers, backup drives, cellular telephones, personal data assistants, pagers, and other similar electronic technology.

The following documents, listed under California Code of Regulations, Title 5, Section 59020, are not records and may be destroyed at any time:

1. Additional copies of documents beyond the original or one copy. (A person receiving a duplicated copy need not retain it.)
2. Correspondence between district employees that does not pertain to personnel matters or constitute a student record.
3. Advertisements and other sales material received.
4. Textbooks used for instruction, and other instructional materials, including library books, pamphlets, and magazines.

### **SCOPE AND CLASSIFICATION OF RECORDS (5 C.C.R. §59021 and §59022)**

The following provisions apply only in the event that the destruction or retention of records by the district is not otherwise authorized or provided for by law. (5 C.C.R. § 59021).

## 1. Prior Year Records

The Business Manager, in consultation with the Director, Internal Audits, shall review documents and papers received or produced during the prior college year and classify them as Class 1 - Permanent, Class 2 - Optional, or Class 3 - Disposable.

## 2. Records Not Classified Before July 1, 1976

All records not classified prior to July 1, 1976, are subject to the same review and classification as in "1." If such records are three or more years old and classified in Class 3 - Disposable, they may be destroyed without further delay, but in accordance with procedures for destruction.

## 3. Current Year Records

Records originating during a current college year shall not be classified during that year.

## 4. Continuing Records

Records of a continuing nature, i.e., active and useful for administrative, legal, fiscal, or other purposes over a period of years, shall not be classified until such usefulness has ceased.

## 5. Microfilm or Other Reproductive Techniques (5 C.C.R. § 59022)

Whenever an original Class 1 - Permanent record is photographed, micro-photographed, or otherwise reproduced on film or electronically, the copy made is classified as Class 1 - Permanent. The original paper record, unless classified as Class 2 - Optional, may be classified as Class 3 - Disposable. It may then be destroyed in accordance with the California Administrative Code if the following conditions have been met:

- a. The reproduction was accurate in detail.
- b. The Business Manager has attached to or incorporated in the copy or system, a signed and dated certification of compliance with the provisions of the California Evidence Code (Section 1531), stating in substance that the copy is a correct copy of the original, or a specified part thereof, as the case may be.
- c. The copy was placed in an accessible location, and provision was made for preserving permanently, examining and using the same.
- d. In addition, if the record is photographed or microfilmed, the reproduction must be on film of a type approved for permanent, photographic records by the United States Bureau of Standards.

## **RETENTION OF RECORDS (5 C.C.R. § 59027)**

Each fiscal year, and before January 1, the College President, Vice Chancellor, or appointed designee, shall classify and review every record originated during the prior fiscal school year. The retention period for Class 3-Disposable Records should be designated and such records should be physically segregated by the fiscal year in which they are scheduled for destruction. In the inventory process, copies which are no longer useful to the District (except one copy of an original required by law to be filed with another agency), may be destroyed without making an inventory record.

With respect to college records, the President or designee, and with respect to the District, the Vice Chancellor or designee shall:

### 1. Personally supervise the classification of records.

2. Using only District approved, standard-sized, record storage boxes, mark each label as to classification, record title, and the school year in which records originated. If the records are classified as Class 3-Disposable Records, the officer or designee shall also mark the school year which such records are to be destroyed. Do not mix different years or Class 1-Permanent Records and Class 2-Optional records with Class 3-Disposable Records because when the destruction occurs, the entire box of records will be destroyed.

### 3. Supervise the destruction of records.

## **PERIOD OF RETENTION OF RECORDS**

### 1. Class 1 - Permanent Records (5 C.C.R. § 59023)

The original of each of the types of records listed below or one exact copy, when the original is required by law to be filed with another agency, is a Class 1 - Permanent record. It shall be retained indefinitely, unless reproduced in accordance with #5 (Microfilm Copy) above. Class 1 – Permanent records may not be stored solely on local desktop computers. They shall be stored on the District's network server.

#### a. Annual Reports:

- 1) Official budget;
- 2) Financial report of all funds, including cafeteria and student body funds;
- 3) Audit of all funds;
- 4) Full-time equivalent student, including Period 1 and Period 2 reports; and
- 5) Other major annual reports, including those containing information relating to property, activities, financial condition, or transactions; and those declared by board minutes to be permanent.

#### b. Official Actions:

- 1) Minutes of the board or committee thereof, including the text of a rule, regulation, policy, or resolution not set forth verbatim in minutes but included therein by reference only;
- 2) Elections, including the call, if any, for and the result (but not including detail documents, such as ballots) of an election called, conducted, or canvassed by the governing board for a board member, the board member's recall, issuance of bonds, incurring any long-term liability, change in maximum tax rates, reorganizations, or any other purpose; and
- 3) Records transmitted by another agency that pertain to that agency's action with respect to district reorganization.

#### c. Personnel Records of Employees.

- 1) All detail records relating to employment, assignment, employee evaluations, amount, and dates of service rendered, termination or dismissal of an employee in any position, sick leave record, rate of compensation
- 2) Salaries or wages paid, deduction or withholdings made, and the person or agency to whom such amounts were paid. In lieu of the detail records, a complete proven summary payroll record for each employee of the school district containing the same data may be classified as Class 1 - Permanent, and the detail records may then be classified as Class 3 - Disposable.

#### d. Student Records:

- 1) The records of enrollment and scholarship for each student. Such records of enrollment and scholarship may include but need not be limited to:
  - a) name of student;
  - b) date of birth;
  - c) place of birth;
  - d) name and address of a parent having custody or a guardian, if the student is a minor;
  - e) entering and leaving date for each academic year and for any summer session or other extra session;
  - f) subjects taken during each year, half year, summer session, or quarter; and
  - g) if grades or credits are given, the grades and number of credits toward graduation allowed for work taken.
- 2) All records pertaining to any accident or injury involving a student for which a claim for damages has been filed as required by law, including any policy of liability insurance relating thereto, except that these records cease to be Class 1 - Permanent records, one year after the claim has been settled or after the applicable statute of limitations has run.

e. Capital Construction Projects – the record for capital projects including bid conditions (advertised), capital outlay bids (successful bidder), notice of completion, construction change orders and lease agreements.

f. Property records:

All detail records relating to land, buildings, and equipment. In lieu of such detail records, a complete property ledger may be classified as Class 1 - Permanent, and the detail records may then be classified as Class 3 - Disposable, if the ledger includes:

- 1) All fixed assets;
- 2) An equipment inventory; and
- 3) For each unit of property, the date of acquisition or augmentation, the person from whom acquired, an adequate description or identification, and the amount paid, and comparable data if the unit is disposed of by sale, loss, or otherwise.

## 2. Class 2 - Optional Records (5 C.C.R. § 59024)

Any record worthy of further preservation but not classified as Class 1 - Permanent, may be classified as Class 2 - Optional. It shall then be retained until reclassified as Class 3 - Disposable. If the Business Manager determines that classification should not be made annually, all records of the prior year may be classified as Class 2 - Optional, pending further review and classification within one year.

## 3. Class 3 - Disposable Records (5 C.C.R. § 59025)

All records, other than continuing records not classified as Class 1 - Permanent or Class 2 - Optional, shall be classified as Class 3 - Disposable. Generally, a Class 3 - Disposable record, unless otherwise specified, should be destroyed during the third school year after the school year in which it originated (e.g., 2002 - 03 plus three equals 2005 - 06). A Class 3 - Disposable record shall not be destroyed until after the third July 1 succeeding the completion of the audit required by the Education Code or of any other legally required audit. This also applies after the ending date of any retention period required by any agency other than the State of California, whichever date is later. Federal programs, including various student aid programs, may require longer retention periods and such program requirements shall take precedence over the requirements contained herein. A continuing record shall not be destroyed until the third year after it has been classified as Class 3 - Disposable.

## 4. Statute of Limitations

In addition to periods of retention required by the Board of Governors, a district may desire for its own benefit to maintain some records at least beyond the statutory period for bringing suits upon these records. If the district has any particular inquiry in placing any records in the proper classifications, the doubt should be resolved in favor of the longer retention period.

## **STORAGE OF RECORDS**

Records may be stored offsite with a vendor the District contracts with for such purposes. Documents stored off campus must follow all requirements set forth in this policy. Contracts with vendors for the offsite storage of District documents must also reflect the requirements noted in this policy as well as compliance with all applicable laws.

## **DESTRUCTION OF RECORDS (5 C.C.R. § 59029)**

The Vice Chancellor of Fiscal Services or his or her designee, in coordination with the College Presidents, or designee, will submit a list of records recommended for destruction once each year to the Board of Trustees and will certify that no records are included in the list which are in conflict with the above procedures.

After the Board of Trustees has approved the recommendation for destruction, those records ordered for

destruction shall be permanently destroyed by such foolproof methods as shredding, burning, pulping or demagnetizing (complete removal of information from the medium must be verified); and such destruction shall be supervised by the Vice Chancellor of Fiscal Services or his or her designee.

## **ESI AND THE FEDERAL RULES OF CIVIL PROCEDURE (FRCP) AND CALIFORNIA CODE OF CIVIL PROCEDURE (CCP)**

Under the FRCP and CCP the District is required to take steps to preserve all ESI that relates to any federal or California state civil lawsuits in which the District is, or may become, involved. The District shall comply with the FRCP and the CCP and produce relevant ESI in the form in which it is ordinarily maintained or readily usable. As soon as the District learns that it may be involved in a federal or California state lawsuit, all measures will be taken to preserve ESI, to include notifying individual employees, if necessary, individuals responsible for managing certain computer programs/software for the District, as well as the Associate Vice Chancellor of Information Services, whose department will be required to act immediately to preserve pertinent information

### Reference:

Title 5, Sections 16022, 16026, 16035, 54608, 59020 – 59029  
California Education Code, Sections 76220 – 76225, 76230 – 76234  
California Evidence Code 1531  
California Code of Civil Procedure Sections 2019.040, 2020.410, 2031.280, 2031.285, 2010.310]  
California State Administrative Manual, Section 1602  
Federal Rules of Civil Procedure, Rules 16, 26, 33, 34, 37, and 45.

Approved: [REVISE DATE]