

Board Policy No. 15
Records Retention Policy and Schedule

**ATTACHMENT 18A -
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Summary

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The legislative body may, by resolution, adopt and comply with a record retention schedule that is consistent with guidelines provided by the California Secretary of State, pursuant to Government Code section 12236, that classifies all of the District records by category and that establishes a standard protocol for destruction or disposition of records. This policy establishes a records retention schedule, by category, for District documents.

Records Retention Schedule

The Records Retention Schedule of the North County Transit District is attached hereto as Appendix "A."

General Guidelines for Records Retention

The District ~~generally~~ shall retain all ~~documents~~official communications in their original form for a minimum of two years, unless a shorter ~~duration~~or longer retention period is specifically authorized by state or federal regulation. The Executive Director or his/her designee(s) may authorize the destruction of any duplicate records, including duplicates less than two years old, if no longer needed. (Gov. Code, §§ 34090, 60200, 53161, Sec. of State Guidelines.)

Except where a longer retention period is required, after two years, the District, with the Executive Director's approval, may destroy any original document without the District retaining a record or copy of these documents. (Gov. Code, § 34090, 60200 et seq., Sec. of State Guidelines.)

The District shall retain original administrative, legal, fiscal and/or historical records with continued value (e.g., records for long-term transactions, pending litigation, and/or special projects) until all matters pertaining to such records are completely resolved or the time for appeal has expired. (Gov. Code, § 60201-).)

The District shall retain indefinitely original documents ~~which~~that are designated as essential to:

- Resuming and/or continuing operations.
- Re-creating the legal and financial status of the District in case of a disaster.
- Fulfilling obligations to bondholders, customers, and/or employees. (Gov. Code, § 60201-).)

Retention and Destruction of Documents

Retention of documents will be based on requirements in the Records Retention Schedule. In the event of any future system reconfiguration or conversion, all records, whether in original hard copy, electronic, or photographically reproduced form, shall be retained in the same form unless otherwise provided by law or by District policy.

The Board of Directors authorizes the Executive Director to interpret and implement this policy and the Records Retention Schedule, and to cause to be destroyed any and all records, papers,

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and documents that meet the specifications set forth in these documents, with the concurrence of District General Counsel.- For the purpose of this policy, electronic records, including, but not limited to, e-mail, which constitute official District records, must be analyzed and retained in the same manner and to the same extent as paper records in accordance with the requirements of law and this Policy.

Preliminary drafts, notes, and memorandums that have been retained for less than 60 days and are no longer needed should be disposed of immediately.- *All records that are kept for more than 60 days for use or reference by an employee, and that are not otherwise exempt, must be treated as a public record.*

Retention of E-mail

The email system is intended as a medium of communication only.- The District's email system should not be used for the electronic storage or maintenance of documentation, including, but not limited to, official District records, which are records required to be retained by the District pursuant to the District's Record Retention Schedule.

It is the policy of the Board that email not defined as District records shall not be retained for more than 60 days. Individual employees are responsible for the management of their mailboxes and associated folders.- To ensure maximum efficiency, staff members should delete email messages that are not District records.- Examples of e-mails that are not District records are as follows:

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- Personal communications that do not relate to District business
- Unsolicited advertisements or similar communications not related to District business
- Preliminary drafts, notes and memorandums that have been retained for less than 60 days and are no longer needed

Examples of e-mails that are designated as District records and which shall be retained consistent with the Records Retention Schedule. Examples of emails that are designated as District records as such include, but are not limited to any records which:

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- Concern official actions or ~~transation~~transactions concerning official public business of the District
- Concern reports or recommendations
- Are kept in connection with the discharge of official duties
- Have legal, fiscal, historical or administrative value
- Provide unique information that contributes to the understanding of major ~~decision~~fiscal, operational, or program decisions of the District

Some messages sent or received on the District's email system will constitute confidential, privileged communications between the District and its attorneys.- Attorney-client communications should not be forwarded to any person without consulting the District Executive Director and/or General Counsel.

Litigation Holds

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In case of litigation or threatened litigation against the District on a specific matter in federal court, the District is legally required ~~by law~~ to keep all records, including electronic communications, related to the dispute. ~~This is what is referred to as a “litigation hold.”~~ A litigation hold suspends the District’s Records Retention Schedule for certain documents, including emails that may be relevant to a lawsuit or a reasonably anticipated lawsuit. ~~Electronic communications must be retained either in the District’s back up system or by printing a copy of the email and placing it into the appropriate file for the matter. (USCS Fed. Rules Civ. Proc. R 26(b)(5)(B)(i)).~~ The Executive Director shall determine which records must be preserved in cases of litigation or threatened litigation and shall provide written notice to District employees. ~~An employee shall not destroy any records that relate to litigation or threatened litigation as such conduct may subject the District and the employee to legal sanctions in court.~~

In order to ensure that the District complies with this requirement, it is the policy of the District that in the event of litigation, or threatened litigation the following procedures shall be followed:

Within one (1) business day of receiving notice that the District is subject to actual or threatened litigation, the Executive Director or General Counsel shall inform all District employees who may have documents relating to the subject of the litigation, including electronic communications, that the District is involved or about to be involved in litigation.

Immediately upon receiving such notice, all employees who have might have documents, or electronic communications relating to the subject of litigation, shall segregate those documents or electronic communications, and either print and retain the documents, or forward the documents to the Executive Director or General Counsel for printing and retention.

Approvals

Board Chair Date

Executive Director Date

General Counsel Date