

## **Policy # 3.023 – Use of Email and Electronic Communication**

**Policy Statement:** Use of electronic communications must conform to the same standards of confidentiality, judgment, propriety and ethics as other forms of school business-related communications. Consequently, school officials employees and support personnel of Cooperative Educational Services (hereafter referred to as agency), must use discretion when using computers and other electronic technology to send, record or retain electronic communication and information.

Consistent with these expectations, the agency will comply with all state and federal regulations regarding the retention, storage and destruction of electronic information and records. The Executive Director or his/her designee shall be responsible for developing and implementing administrative regulations concerning the retention, storage and destruction of electronic information and the dissemination of such regulations to all employees. This will include the responsibilities for implementing administrative regulations concerning the placing of a “hold” on electronic and paper records that may reasonably be anticipated to be subject to discovery in the course of litigation.

### **Use of Email and Electronic Communications:**

Electronic communication is a transmittal of a communication between two or more computers or electronic devices whether or not the message is converted to hard copy format, whether or not the message is viewed upon receipt or stored for later retrieval and whether or not the transmittal is through a local, district or global computer network. Such communications sent by school officials and employees as part of their work and by using the district’s computer network are not private communications and may be subject to public disclosure and inspection as public records under the Connecticut Freedom of Information Act and discovery in litigation as evidence in support of a claim. School officials, employees and support personnel must understand that the agency reserves the right to monitor these computer/electronic systems and may do so despite the assignment to individual school officials, employees or support personnel of passwords for system security. These assigned passwords do not guarantee privacy to the individual system user and are solely assigned to provide system security from unauthorized users. Consequently, the system’s security aspects, message delete functions and personal passwords may be bypassed for monitoring purposes. Therefore, school officials, employees and support personnel must be aware that they should not have any expectations of personal privacy in their use of agency computer/electronic devices.

Retained messages may be retrieved as part of routine monitoring by the agency, including a school officials, employees or support personnel investigation or a formal discovery process as part of litigation. School officials, employees and support personnel must bear in mind that email messages or

other forms of electronic communications may be retained at different locations within the agency computer network and that these messages are subject to retrieval. Consequently, school officials, employees and support personnel must use discretion when using computer or other electronic technology to send, record or retain communication and information in accordance with agency email guidelines. (See Email Communication Guidelines – C.E.S.)

### **Retention of Electronic Communications:**

Electronic communications on agency computers or electronic communication systems shall be retained only as long as necessary. The same record retention policy that applies to paper records applies to all electronically stored information, including email communication. Therefore, the content and function of an electronic record determines the retention period for the document and will be done consistent with all of the minimum standards set forth in the Municipal Records Retention Schedules of the Connecticut State Library, as issued by the Office of the Public Records Administrator. (Note: This document is available for review at <http://www.cslib.org/publicrecords/retschedules.htm>.)

In addition to these retention guidelines, all school officials, employees and support personnel have a duty to preserve all records and electronic information, including records and electronic information that might otherwise be deleted or destroyed, that relates to any matters that are currently in litigation and may be anticipated to involve future litigation. In such circumstances, the Executive Director or his/her designee shall take steps to place a “hold” on electronic and paper records that may reasonably be anticipated to be the subject of discovery in the course of litigation.

**Adopted by C.E.S. Representative Council on: 11/5/09**

### **Legal References:**

General Letters 98-1, 96-2 and 2001-1 of the Public Records Administrator  
Record Retention Schedules, Towns, Municipalities and Boards of Education  
Rules 34 and 45 of the Federal Rules of Civil Procedure  
Silvestri v. General Motors Corp., 271 F.3d 583 (4<sup>th</sup> Cir. 2001)  
CGS Section 1-200(5); 1-211; 1-213(b)(3)  
CGS Section 7-109  
CGS Section 11-8 et seq.  
6.001 C.E.S. Confidentiality and Maintenance of Student Records and Student Information  
Federal Law: Family Education Rights and Privacy Act (FERPA), 20 U.S.C. Sections 1232g et seq.

## **Use of Email and Electronic Communication Administrative Regulations/Procedures**

### **Definitions:**

**Agency** – refers to Cooperative Educational Services (C.E.S.) or the C.E.S. Representative Council, the governing board of Cooperative Educational Services.

**Custodian of Records** – refers to the administrator designated by the Executive Director to maintain records for C.E.S. educational programs and for ensuring the confidentiality of student records within the agency.

**Electronic Communication** – refers to a transmittal of a communication between two or more computers or elective devices.

**Email** – is a means of sending messages between computer networks or over a modem connected to a telephone line. This information includes the primary message and attachments.

**Employee** – refers to administrative, instructional and support staff employed by the agency.

**Litigation Hold** – refers to the duty to preserve material evidence that may be needed for a pending litigation.

**Parent** – includes either natural parent, a guardian or any individual acting as a parent of a student in the absence of a parent or guardian.

**Record** – refers to any information or data directly related to a student which is recorded in any medium, including, but not limited to handwritten, print, audio and video tapes, film, microfilm, microfiche or computer file/media.

**School Official** – includes administrators, directors, supervisors, managers or a member of the agency's Representative Council.

**Student** – means an individual who is or has been in attendance at the agency's educational programs.

**Support Personnel** – refers to interns, student teachers and agency volunteers who may be given access to email.

**Student Records** – refers to those on loan to the agency from an LEA and/or those generated or received by an agency program, which are maintained by the agency and are directly related to a student. **Student records** do not include:

1. Personal notes or information generated by the agency’s education personnel which are in the sole possession of the maker thereof and are not accessible to any other individual except the education personnel’s temporary substitute.

2. Records related to a student as an employee of agency which:
- a. are made and maintained in the normal course of business, and
  - b. relate exclusively to the individual in his/her capacity as an employee, and
  - c. are not available for any other purpose

3. Records maintained by a law enforcement unit of the school district that were created by that unit for the purpose of law enforcement.

4. Records on an eligible student (i.e., over 18 or attending a postsecondary educational institution) that are considered “treatment records” as they meet the following criteria: 1) the records are maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity, 2) the records are made in connection with the treatment of the student and 3) the records are disclosed only to individuals providing such treatment (treatment does not include remedial educational activities or activities that are part of the program or instruction of the school district); however, the school district must, upon request, permit an eligible student to have a physician or other appropriate professional of the student’s choice review his/her treatment records.

5. Records created or received by the school district after an individual is no longer a student in attendance and that are not directly related to the individual’s attendance as a student.

6. Grades on peer-graded papers before they are collected and recorded by a teacher.

**General Provisions:**

- These regulations are designed to assist the agency regarding the retention of electronic communications, records and information.
- These regulations supplement but do not replace agency policies/procedures related to the confidentiality of student records.
- Consistent with the confidentiality of students records policy/procedures, the Executive Director of said agency shall designate a Custodian of Records.

- The Custodian of Records will be responsible for implementation of policies/procedures for the retention of records, including emails and other electronically stored information.
- Consistent with agency policy/procedures related to security of agency or student information developed, transmitted or maintained in electronic forms employees shall take appropriate security measures such as use of personal identification passwords and/or encryption codes.
- School officials, employees and support personnel must safeguard the confidentiality of passwords and codes and shall take reasonable steps to ensure that computers do not become available for unauthorized use.
- School officials, employees and support personnel are responsible for appropriate access to and use of electronic mail systems. Illegal or improper use of the electronic mail systems, including but not limited to pornography, obscenity, harassment, solicitation, gambling and violating copyright or intellectual property rights are prohibited.
- Use of electronic email systems for which the agency will incur an expense without written permission of an administrator is prohibited.
- Violation of this policy will constitute just cause for appropriate disciplinary action, up to and including termination.

#### **Email Classification:**

The same record retention policy that applies to paper records applies to electronically shared information including email communications. Therefore like paper records, the content and function of electronic records, including email communications, determines the retention period for the documentation. The agency will comply with all minimum standards set forth in the Municipal Records Retention Schedule, as issued by the Office of Public Records Administrator for the State of Connecticut.

**NOTE:** Consistent with the agency Confidentiality and Maintenance of Student Records and Student Information Policy/Procedures, student records maintained by the agency when no longer needed to provide educational services, will be returned to the LEA of the student for appropriate retention and destruction. This will include any pertinent hard copies of email or electronic communications considered to be student records and that require retention and maintenance or have the potential for a litigation hold.

Further guidance on the retention of email messages sent and received by school officials, employees or support personnel is provided by classifying emails into one of three categories. Retention guidelines for each of these categories will follow in highlighted print:

***Transitory Messages*** including copies posted to several persons, include junk mail or publications, notices, announcements and casual and routine communications similar to telephone or voice mail messages\*. Such messages

may also include routine administrative, curricular or co-curricular matters, announcements of meetings, schedules of events; messages that take the place of informal discussion and without print would not be retained in school records; messages that address personal matters unrelated to the agency and messages that address generic information and are not specific to a student's educational program. **Such messages may be deleted at will without obtaining prior approval of the Custodian of Records.**

**\*Note:** There are times when voice mail messages may require longer retention periods such as is the case where messages may be potentially used as evidence in a trial such as a bomb threat or in some other illegal activity. Voice mail may also be subject to the discovery process in litigation.

***Less than Permanent Messages*** are those that are other than transitory and may include messages that address significant aspects of a specific student's educational program (e.g., health, discipline, special education, interactions with state agencies such as DCF, communications with parents regarding specific aspects of their child's education) or messages that address or provide information used in making policy decisions, concerning curricular or co-curricular activities, personnel activities or business transactions. These may also include messages that address activities of significant interest in the communities represented by the agency. **These types of messages are subject to the record retention schedules and may be deleted only after making and retaining a hard copy or after obtaining signed approval from the Office of the Public Records Administrator.**

***Permanent Messages*** are generally those subject to archival retention and may include policy and procedural manuals, physician's standing orders or nursing protocols. **Such messages must be retained permanently and the electronic record may be deleted only after a hard copy is made or is stored on microfilm. The retained copy must be readable without further decoding.**

If a record is permanent or "less than permanent" it is subject to destruction only as it may be permitted under the applicable provisions of the Records Retention Schedule. Additionally, transitory and "less than permanent" emails may still be subject to Freedom of Information Act (FOIA) requests and must not be deleted in order to avoid the agency's duty to comply with an FOIA request. The school officials, employees and support personnel must not delete transitory and "less than permanent email messages after an FOIA request has been made for them", even if such messages would otherwise be subject to destruction under the records retention guidelines.

### **Maintenance/Retention of Electronic Records:**

Records created using an email system and electronically stored information will be archived/saved by the agency for their required retention period by one of the following methods approved by the Custodian of Records:

1. Print message or record and stored in appropriate hard copy file.
2. Placed in computer folder and saved on hard drive.
3. Saved to a removable disk which is then stored in an appropriate location.
4. Transferred to an automated records management software application.
5. Managed at the server by an automated classification system.
6. Provide easy and secure access to retained electronically stored information.

A review will take place periodically but at least annually for the purpose of reviewing electronically stored information. The agency Custodian of Records and the Manager of Information Technology are responsible for this review.

No system-wide process for automatic deletion of electronic information will be implemented without notice to any individual who may have such information and each such individual will verify that they have reviewed and archived information that must be retained.

Following this review, all emails and/or electronically stored information that have not been archived according to agency policies/procedures will be designated for deletion or archiving and the affected agency school officials, employees or support personnel will be notified about the procedures to be followed to implement this process. The Custodian of Records or his/her designee will follow up with notified employees to ensure compliance.

Additionally, the Custodian of Records working with the Manager of Information Technology will ensure that any process for automatic deletion of electronically stored information from the system will not delete information stored in folders and/or systems locations that have been designated as appropriate for archiving electronically stored information.

### **Holds on Destruction of Electronic Information and Paper Records:**

Upon receipt of a notice that the agency is involved in litigation as a party to a lawsuit, or the agency is issued a subpoena by a party to a lawsuit in which it is not a party, or the agency receives information that would lead a reasonable person to anticipate the possibility of litigation, the Custodian of Records will immediately take steps to ensure that paper records and electronically stored information related to the litigation or potential litigation are preserved from deletion or destruction. Action to preserve records and electronically stored

information related to the litigation or potential litigation are preserved from deletion or destruction. Action to preserve records and electronically stored information will include but are not limited to:

- postponing or cancelling any automatic deletion of electronically stored information until relevant information and documents can be identified and stored;**
- notification to applicable employees or support personnel of a “litigation hold” to prevent the deletion and destruction of documents that might be related to the litigation or potential litigation;**
- identification of the documents and information that are subject to preservation.**

This “litigation hold” triggers the duty to preserve documents such as transitory messages, that otherwise could be deleted under the agency’s record retention procedures.

Upon notification of actual or potential litigation, the Custodian of Records will issue a “litigation hold” memorandum (see sample agency memorandum) that specifically describes the types of documents and information that must be preserved and describes how these materials are to be identified, maintained and stored. The memorandum will specifically state that the duty of preservation is ongoing and that it is the responsibility of employees and support personnel to continue to identify and preserve relevant documents until notified via a subsequent memorandum that the “litigation hold” is no longer in effect.

All school officials, employees and support personnel who receive a “litigation hold” memorandum must acknowledge receipt and understanding of the memorandum in writing.

A copy of the “litigation hold” memorandum shall be simultaneously sent to the agency Manager of Information Technology.

The agency Custodian of Records shall be responsible for the collection and coordination of the retention of documents that are subject to the “litigation hold” including electronically stored information. He/she will work with the agency Manager of Information Technology to ensure compliance with the “litigation hold”. No system-wide process for automatic deletion of electronic information will be implemented while a “litigation hold” is in effect without prior notice to the agency Custodian of Records and verification by the Custodian of Records that the deletion process will not destroy documents or information that is subject to a “litigation hold”.

**Sample Memorandum**

**Cooperative Educational Services**

**NOTICE REGARDING A LITIGATION HOLD  
CONCERNING PAPER AND ELECTRONIC DOCUMENTS**

This memorandum places a "litigation hold" on all documents, both paper and electronically stored information, concerning **[identify the matter that is subject to the litigation hold]**. Materials that fall under this litigation hold include, but are not limited to, email, word processing documents, spreadsheets, databases, calendars, voice mail, internet usage files and network access information **[the agency can be more specific in the identification of documents if that information is available]**. All agency employees are to immediately suspend any and all document destruction, including any scheduled document destruction or electronic information deletion programs, for any materials that might fall within the parameters of this memorandum. If you have questions as to what materials are subject to the litigation hold, you are to contact the Custodian of Records **[insert name and contact information]**.

If you are in possession of materials subject to this litigation hold take steps to preserve and store these materials. Paper documents are to be copied and segregated in a separate hard copy file. Electronic information is to be stored in computer folders and saved on the network drive and/or saved to a removable disk which is to be clearly marked and stored in a safe and appropriate location **[the agency can develop its own set of storage guidelines for identified materials]**. Under no circumstances are you to destroy or delete materials, documents or electronic information that might be subject to this litigation hold without the written permission of the Custodian of Records.

You must give prompt attention to the issues addressed in this memorandum, specifically the responsibility to identify and preserve documents and electronic information concerning **[the matter that is subject to the litigation hold]**. Serious consequences may result from the failure of agency employees to take immediate and reasonable precautions to properly preserve information. Therefore, you must acknowledge your receipt and understanding of this memorandum by signing below and returning to the Custodian of Records.

The restrictions put into place by this memorandum are ongoing until you receive notice in a memorandum from the Custodian of Records that the litigation hold is no longer in effect. You are encouraged to direct any questions concerning this memorandum to the Custodian of Records.

Person Receiving Memorandum: \_\_\_\_\_

Signature Reflects Receipt of Memorandum: \_\_\_\_\_ Date: \_\_\_\_\_

Return original copy to Custodian of Records: \_\_\_\_\_

## **Email Communication Guidelines – C.E.S.**

In support of the Representative Council's ongoing goal of improving relationships through communication, that is, responsive, clear, timely and inclusive, the following district email guidelines have been established. Email is used within C.E.S. to enhance teaching and learning, to support organizational productivity, and to facilitate the delivery of services to our students.

These guidelines are not all-inclusive and are intended to clarify the expectations regarding email use. Staff members should reference the C.E.S. Policy No. 3.023 and the C.E.S. Acceptable Technology Use Policy Nos. 5.018/6.033. Email falls under C.E.S. Policy 3.023 and the C.E.S. Acceptable Technology Use Policy Nos. 5.018/6.033 and C.E.S. Policy 6.001 Confidentiality and Maintenance of Student Records and Student Information. All email messages are subject to be relevant to C.E.S. and not to be used for personal email communications.

Email, like other written forms of communication, relating to the conduct of the public business are generally subject to the Freedom of Information Act and subject to disclosure. If the content of a communication should remain confidential, do not use email unless you are certain it is not subject to disclosure under the Freedom of Information Act.

1. Keep email correspondence professional and brief.
2. Some topics due to their private and sensitive nature, are better discussed via telephone or in person, rather than in email. Examples include:
  - a) Discipline
  - b) Grades
  - c) Specific student academic/social issues/health issues
  - d) Professional disagreements
  - e) SPED program discussions
3. Student names should be abbreviated to initials.
4. Replies to voice mail messages and email messages should be timely, within 24 hours. If you expect to be out of email communication for more than a day, it is recommended that staff activate an "out of office" reply.
5. Email from parents should not be accepted in lieu of written permission where written permission is required by district policy or school practice, except under exigent circumstances.
6. If you have received an email that may be problematic, it is best to seek counsel from an administrator before replying.
7. The following professional expectations exist for all communications:
  - a) Always include a subject; this should be a keyword that can be used in a search or file function.
  - b) Use proper spelling and grammar.
  - c) Use conventional sentence case. "All caps" is usually perceived as "shouting" and/or intended to convey anger.
  - d) Avoid emotional language.

- e) Graphics and background images affect readability and efficiency of the network. Use only when necessary.
- f) Nuance, humor or tone do not always transfer in email accurately. Re-read messages before sending to ensure you have conveyed your message clearly and as intended. (When in doubt have a colleague or administrator read).
- g) Be aware of your audience (colleagues, parents, administrators, students, etc.) as content, language and context may need to be adjusted accordingly.
- h) Double check the recipients of your email before clicking "send". be aware of "Reply" or "Reply to All."
- i) If you do not wish your email to be forwarded or the message is not appropriate to be forwarded, use "Confidential" or "Private" indicators. This is only a suggestion, not a legal statement.