

District School Board

Clay County

FLORIDA

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Records Management Plan

Florida State University
Institute of Government



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INTRODUCTION

Recognizing the need for a Comprehensive Records Management Plan, and desiring an independent review of existing procedures together with recommendations, Mr. Tom Moore, Chief information Officer, Clay County District Schools (District) requested assistance from Steve M. Lewis, Records Management Consultant (Consultant). This request triggered Consultant's proposal dated June 6, 2007 and an agreement to write a Comprehensive Records Management Plan through the Florida State University Institute of Government. Onsite data collection began September 10, 2007, although some preliminary effort preceded this date and then continued through writing, November 12, 2007.

Data collection methodology included standard techniques: staff interviews, hands on examination of record collections, both active and inactive and a review of related procedures and documentation. Areas of review were coordinated by the Consultant with District staff. The substance of these interviews, data collection and initial recommendations are incorporated into this Plan. The following Plan is legally compliant and represents or exceeds the standard of care in the industry.

Consultant thanks the District for the splendid cooperation he received from all staff at every level throughout the District. Ken Meyer, Programmer/Analyst was especially helpful, dedicating most of his time to assisting with logistics, transportation and proved to be a wealth of significant information. Consultant remains available to discuss the Plan, and to return to the District and deliver a formal presentation to Management. A training module for staff is incorporated and available. These latter efforts are scheduled for November 19 and 20 and include a presentation to the School Board.

PUBLIC RECORDS

Florida Public Records Law, as codified in **Chapter 119, Florida Statutes** (F.S.), provides in part a clear mandate for public agencies to manage public records in a professional manner. Together with the Florida Department of State, Division of Library and Information Services enabling legislation, **Chapter 257, F.S., and the Florida Administrative Code (F.A.C.) Chapters 1B-24 and 1B-26** promulgated pursuant to Statute, a significant body of standards and requirements govern the "life cycle" of Florida's public records. A comprehensive records and information management program is an essential component of any business entity, public or private. It is, therefore, critical to define the scope of the program; and especially to define the *record*.

"Public Records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings or other material, regardless of physical form or characteristics or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any District. It is critical to understand that format, media type or duplication does not affect the public record status of information created or received by a public Agency. The recommendations contained within this Plan apply to hardcopy as well as digital records, unless otherwise noted. Generally, the District should select media types for retention based on economy and efficiency, with lengthy retention implications in mind, as shall be discussed.

Additionally, there is no *unfinished business* exception. If the purpose of the record is to perpetuate, communicate or formalize knowledge, then it is a Public Record regardless of whether or not it is in final form.

Chapter 257, F.S. defines information that has been funded in whole or in part by the Legislature and printed to distribute information to the public as a Public Document and **is not a Public Record**, according to the Florida Department of State. For example, an inventory of promotional information is not a Public Record for scheduling and dispositioning purposes and is actually a Public Document - property - but not a Public Record. However, the camera-ready copy, and the working papers used to create the promotional material are Public Records. In this way, the Public Record is created and managed per Chapter 119, F. S., yet the printed inventory is not. Blank, unused forms are another example of a non-record. Using this same logic, similar printed material *received* by The District may also be exempted from the Public Records Program including magazines, books and other published works, newsletters, advertising (junk mail and even *personalized* junk mail), and catalogues; again according to the Florida Department of State.

Drafts vs. Support Documents and Working Papers

Further, the concept of a *precursor* to the Public Record is a practical solution to the creation of final intended records. Precursors to the Public Record may be thought of as *drafts*. **Precursors are not Public Records** yet must not be confused with *Support documents*. Support Documents or working papers are Public Records. Working papers *support* the final intended record product, whereas drafts *precede* the final intended record product. In the absence of a final intended record product, **drafts are Public Records** (no unfinished business exception). Drafts cease to be Public Records only after the final intended record has been produced.

Support Documents are Public Records from point of creation to destruction regardless of the final intended record produced. For example, a handwritten note created during the normal course of business is a Public Record. However, if that handwritten note is formalized by word processing (for example) into a final intended record, the handwritten note ceases to be a Public Record and may be destroyed as non-record material since the information contained within the handwritten note has been transferred to the final intended record. Yet, to continue the example, a collection of handwritten notes from which information is extracted as a conclusion and represented in some other record is a Support Document. The extracted data does not reflect the entire informational content of the collection of handwritten notes, but merely supports a conclusion represented by another Public Record.

The practicality of a distinction between drafts and working papers is essential to allow for the orderly formulation of final intended records without formal dispositioning, yet also protecting information content used to support other final intended records. Since media is not a criterion for Public Record status, the concept of a draft allows for editorializing at the word processor during the formulation of a final intended (machine-readable intermediate files which are mere precursors of governmental records and not intended as final evidence of the knowledge to be recorded but are utilized by data processing computer equipment to prepare further records are not public records). Support for these ideas is contained within **Rule Chapter 1B-24 of the Florida Administrative Code, Attorney General Opinion 85-87, and a 1980 Opinion by the Florida Supreme Court, *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So. 2d 633 (Fla. 1980).**

Nine Step Test

Section 119.011(2), F.S. defines "Agency" for purposes of the Public Records Law to include a "private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." This, of course has led to questions. The following is the driving Court Opinion on this subject.

The Florida Supreme Court listed a "totality of factors" test in *News and Sun-Sentinel Company v. Schwab, Twitty & Hanser Architectural Group, Inc, supra* at 1031. *Accord, New York Times Company v. PHH Mental Health Services, Inc.*, 616 So. 2d 27 (Fla. 1993) as follows:

- 1. the level of public funding;**
- 2. commingling of funds;**
- 3. whether the activity was conducted on publicly owned property;**
- 4. whether services contracted for are an integral part of the public Agency's chosen decision-making process;**
- 5. whether the private entity is performing a governmental function or a function which the public Agency otherwise would perform;**
- 6. the extent of the public Agency's involvement with, regulation of, or control over the private entity;**
- 7. whether the private entity was created by the public Agency;**
- 8. whether the public Agency has a substantial financial interest in the private entity;**
- 9. for whose benefit the private entity is functioning.**

Consult with the School Board Attorney.

Life Cycle

The concept of a life cycle for records and information implies management from creation to final disposition, or permanent preservation. Successful management of records and information must include each aspect of the life cycle. These include:

1. format and media selection,
2. storage,
3. access and use,
4. retention, and
5. final disposition or preservation.

Utilizing a life cycle approach to records management will assist in the economical, efficient and integrated management of the public record.

To ignore records management or to allow an undisciplined and unregulated system to function invites disaster. Poor records management decisions may cause the loss of rights, loss of time, and certainly represents a waste of precious funds. Such negligence may result in adverse references in litigation, criminal charges, civil charges, sanctions, and even charges of obstruction of justice and contempt of court.

Goals

The District should adopt eight long-term records management goals:

1. retention and disposition of public records in accordance with all state and federal requirements (*especially, but not limited to Chapter 119 and 257, F.S. and Rule Chapters 1B-24 and 1B-26, Florida Administrative Code*);
2. management access to both active and inactive records in an accurate and timely fashion (to include a filing *system* and consideration of imaging potential);
3. retention of all records under secure conditions, preventing unauthorized access by both employees and third parties;

4. protection of all records from physical calamity and decay;
5. provision for the timely destruction of records at the end of their retention period in a secure manner;
6. conversion of long retention records to microfilm;
7. provision for disaster recovery; and
8. achievement of these goals in the most cost-efficient manner available.

CATEGORIES

A successful Records Program requires an understanding of categories - the basic components into which record collections may be parsed for disposition purposes. To be easily understood throughout the District by all staff, these categories should be limited to a very basic *record series title* level. This is also a requirement of the Florida Department of State as outlined in Rule Chapter 1B-24, F.A.C. for Scheduling and Dispositioning purposes. Basic information includes:

1. **Record Series Title.** A record series title is the name applied to a collection of information relating to the same subject or activity. The Record Series Title is determined by the Florida Department of State. For instance, Personnel File is the name of a collection of data about a specific employee. Personnel File is a convenient label for a nearly unlimited variety of information (the Personnel must not contain medical information, see the Federal American's with Disability Act) and is an efficient way to identify that collection rather than attempting to list all documents actually contained within a Personnel File. Record retention schedules are approved by the Department of State per record series title, therefore every effort must be made to conform to existing Record Schedules. Therefore, copies of current General Records Schedule GS1-SL, State and Local Government Agencies, and GS7, Public School records, should be made available to appropriate personnel prior to any disposition effort. In some instances, a match to existing schedules will not be possible or desirable; or a collection of information will be identified that is unique, or specific to one organizational unit; there may also be confusion. In this instance the District Records Management Liaison Officer (RMLO) should be contacted by staff for assistance.

2. **Inclusive dates.** The oldest date within the collection through to the latest date. Most record series titles will accumulate to the present.

3. **Volume** in cubic feet using the following conversions:

10"x12"x15" box	1.0
Letter size drawer	1.5
Legal size drawer	2.0
Letter size 36" shelf	2.0
Legal size 36" shelf	2.5

Records are then separated into four categories in accordance with Florida Department of State retention requirements:

1. Records within retention;

2. Records past retention, eligible for destruction;
3. Records with no approved retention; and
4. Records with sufficient retention or historical significance to justify conversion to microfilm.

Category One records may be further divided by active and inactive status. Active records should remain with the user until the termination of *administrative value*. Administrative value is the value a record series has for day-to-day functions. Inactive (or *less active*) records should be uniformly containerized and computer indexed for high density, low cost, secure storage until retention has been satisfied.

Category Two records should be destroyed without further delay, after inclusion on the District's Records Disposition List.

Records falling into **Category Three** should be submitted to the Department of State through the District RMLO via form 105, Records Retention Schedule. The form 105 is available for downloading as a Word Document from the Department of State web site. Based upon the Department of State approved retention, Category Three records should be reclassified to One, Two or Four.

Category Four records should be scheduled for conversion to microfilm, COM or other storage device in priority order based upon media condition (worst case records stabilized first), series retention value (permanent records first), or administrative value (high reference records first).

An immediate problem will be the identification of copy of record vs. duplicate records. The District should adopt the policy that the office of origin for internally generated documents holds the copy of record while receiving offices have duplicates. Further, for *externally* generated records received by the District, the office, which performs the last administrative act, should be recognized as holding the copy of record. This will prevent accidental destruction of records as misidentified duplicates since the copy of record is maintained per the appropriate schedule. There needs to be a way for staff throughout the District to *know* which the copy of record is and which the duplicate is.

A good way to start the categorization process, and also reduce volume, is to prepare a disposition list. Using the General Schedules listed prepare a Disposition List for every record series listed (except for records not eligible, such as "permanent"), **District wide**, using the oldest possible date for the District through the latest date eligible for destruction. The list needs only one cubic foot figure *per list, not one per series*. Send a copy of the list throughout the District

to each record coordinator as a list of records eligible for destruction. Collect the records so identified, record the volume, including duplicate records, and destroy the records. In this way, volume is reduced immediately. Further, implementation of the File code system described later in this Plan will further enhance the categorization process.

E-mail

E-mail often engenders considerable confusion relative to Public Records Law. E-mail questions have triggered interesting Attorney General Opinions addressing core understandings related to e-mail, see **Tab 37 and 38**. Retentions are not written for media types. E-mail is a media type and has no specific retention. Retentions are written for informational content by record series title. Some E-mail is *interoffice memoranda* and *correspondence*. Some E-mail (or more often attachments to e-mail) may include record series titles with even greater retention. Most often E-mail is a *transitory message* with an OSA (retain until **obsolete**, **superseded** or **administrative value** have been met) retention. Some e-mail is personal and private, see Florida Supreme Court Opinion, attached (**Tab 47**). See **Tab 34** for an E-mail opinion and a Policy Guideline from the Florida Department of State. **Based on these collective opinions and retention requirements, The District should not view e-mail as a copy of record with retention greater than OSA.** E-mail should be deleted when administrative value has expired. Retention must not be ignored. The retention for e-mail is content driven. Users should print hard copies, or copy data to computer directories/folders as copies of record with retentions greater than OSA for retention purposes. Section 668.6076, F.S. (**Tab 27**) contains language required for website and e-mail communications. Following is an E-mail Categories Policy calculated to aid staff in the identification of record series title/retention:

**CLAY COUNTY DISTRICT SCHOOLS
EMAIL CATEGORIES POLICY**

I. EMAIL CATEGORIES POLICY

II. TABLE OF CONTENTS

III. Scope.....TBD

IV. Purpose.....TBD

V. References.....TBD

VI. Definitions.....TBD

VII. Policy TBD

III. SCOPE

The Clay County District Schools Records Management Program applies to all records, regardless of physical form, characteristics, or means of transmission, created or received by the District in connection with the transaction of official business. The District is charged with ensuring compliance with all State Statutes and Administrative Codes regarding access, the systematic retention, storage and disposition of all District records.

IV. PURPOSE

Section 257.36(5), Florida Statutes (F.S.) directs each public District to establish an active and continuing records management program to include inventorying, scheduling and disposition of records. Public Records Law, Chapter 119, F.S., provides, in part, Agency obligations for the access, control, storage, preservation and disposition of all Public Records. This Policy is calculated to assist Staff in the correct identification of email categories to ensure lawful disposition.

V. REFERENCES

Florida Public Records Law. Chapter 119, F.S.
Records and Information Management, section 257.36(5), F.S.
Public Records Scheduling and Disposition, Rule Chapter IB-24, Florida
Administrative Code (F.A.C.)

Electronic Recordkeeping, Rule Chapter IB-26.003, F.A.C.
General Records Schedule GS1-L for Local Government Agencies
General Records Schedule GS7 for Public Schools
Supreme Court of Florida Opinion Nos. SC02-1694 and SC02-1753
Florida Attorney General Opinion (AGO) 85-87
AGO 2001-20
District Records Management Plan

VI. DEFINITIONS

Section 119.011(1), F.S. defines **Public Records** as, "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any Agency."

Florida Supreme Court of Florida in *Shevin v. Byron, Harless, Shaffer, Reid and Associates, Inc.*, [1] stated that the above definition encompasses all materials made or received by an Agency in connection with official business that are used to perpetuate, communicate, or formalize knowledge. This clearly includes email. The fact that information can be made or received electronically does not change the constitutional rule-mandated obligation of agencies and employees to direct and channel such official business information so that it can be properly recorded as a public record.

Email records created or received in connection with the transaction of Agency business are public, and may be classified as follows:

Copy of Record or Record (Master) Copy means public records specifically designated as the official, retention copy.

Duplicate Record means all reproductions of copy of record or record (master) copies, prepared simultaneously or separately, which are designated as not being the copy of record.

Record Series means a group of related documents arranged under a single filing arrangement or kept together as a unit because they related to the same subject, form or activity.

Intermediate Records (processing files) are temporary records used to create, correct, reorganize, update, or derive output from master data files. Intermediate records are precursors of public records, and are not in themselves public records which must be retained. Intermediate records only exist provided a final product is subsequently generated which perpetuates, communicates, or

formalizes knowledge. In the absence of a final product, processing files constitute final evidence of the knowledge to be recorded and shall not be construed as intermediate files.

Precursors precede or come before the final intended public record and are not in themselves intended as final evidence of the knowledge to be recorded.

Administrative Support Records consists of records accumulated relative to internal administrative activities rather than the functions for which the office exists. Normally these records document day-to-day management. This series does not serve as the official documentation for audit purposes.

Administrator Records: Public Agency/Official consists of office files documenting the substantive actions of elected or appointed official and constitute the official record of an Agency's performance of its functions and formulation of policy and program initiative.

Correspondence and Memoranda: Administrative are routine documentation of a general nature but do not create policy or procedure or document the business of a particular program or act as a receipt. Correspondence and memoranda other than administrative are filed into the related case file or project file.

Supporting Documents means public records assembled or created to be used in the preparation of other records which are needed to trace actions, steps, and discussions covered in the final or master record. Supporting Documents support conclusions in other records.

Drafts and Working Papers are preliminary or developmental before completion as a final product.

Transitory Messages consists of those records created primarily for the communication of information as opposed to communications designed for the perpetuation of knowledge. These data do not set policy, establish guidelines or procedures, certify a transaction or become a receipt. The informal tone of transitory messages might be compared to the communication that might take place during a telephone conversation or a conversation in an office hallway. These communications include, but are not limited to e-mails, text messages, instant messages, voice mails, self-sticking note, telephone messages, routing slips, envelopes, duplicate circulars, etc.

Personal and Private emails include transmissions that are clearly not official business and are, consequently, not required to be recorded as a public record. Although received by a government system, common sense opposes a mere possession rule. Such transmissions are not made or received pursuant to

law or ordinance or in connection with the transaction of official business and are not public records.

Non Records, in addition to the description of personal and private emails, include unsolicited promotional items, spam, jokes, chain letters, advertisements and generally material classified as “junk mail” otherwise.

Attachments to emails are generally more substantive than the email itself. In these instances, the email is merely an envelope for delivery, or a self-sticking note for circulation. Provided the email includes no data that rises beyond the threshold of a transitory message, it is of only administrative, or temporary value. The attachment on the other hand, must be categorized into the appropriate record series and maintained per the District’s Disposition List.

VII. POLICY

It is the policy of the District that all records, including digital and electronic (email) communications be retained and disposed of in accordance with retention schedules as documented on the District’s Disposition List. This List is prepared by the District RMLO and distributed to all Record Coordinators. Email retentions are content driven. There is no media specific retention for Email, or any other digital data or media type.

Based on approved retention, approximately 95-98% of all District e-mails are eligible for destruction after having been read by the recipient. Consider that by number, most e-mails are *received from within the District*. By virtue of this receipt, the e-mail is a duplicate record with OSA retention. OSA means destroy after obsolete, superseded or administrative value is met. For most such e-mails, this is nearly immediately. This concept does not circumvent the law since the copy of record, held by the sender *within the District* is maintained based on content. For example, all the following e-mail categories have OSA retention:

**All duplicate records
Administrative support records
Transitory messages.**

The following categories of e-mails have no retention, as non-records:

**Intermediate files
Personal and Private e-mails
Jokes, spam, chain letters and advertisements
Junk mail of nearly any description.**

All other e-mails, and/or attachments have retentions based on content. These content driven records are listed on the District’s Disposition List by

Record Series Title. Each District Record Coordinator has a copy of the Disposition List and has been trained in its use. Contact your Record Coordinator or the District RMLO for assistances, if necessary.

SCHEDULING

Florida's Records Management Program provides in part, a process whereby Public Agencies can receive minimum retention schedules for all Agency owned record series titles approved by the Department of State. These retention schedules address the **administrative, legal, fiscal and historical values** for public records and constitute a minimum retention period. Agencies may elect to retain records beyond the minimum retention period approved by the Department of State. The procedures for scheduling public records are outlined in Rule Chapter 1B-24 of the Florida Administrative Code. Two scheduling vehicles exist for the District:

1. General Records Schedules, and
2. Clay County District Schools generated Request for Record Retention Form 105.

Retention periods are very fluid. Audit status, pending litigation, Attorney General and Auditor General destruction freezes and changing legislation affect retention requirements. Therefore, ongoing maintenance of the retention database will be required.

For records identified that are not contained within appropriate General Schedules and for which no approved retention exists, form 105 must be utilized.

Mandatory Requirements

Scheduling is the heart of the Records Program, and in order for the Records Program to be legally sufficient, **the scheduling process must be carefully documented and approved.** The **program must be systematic and comprehensive.** It is for this reason, in part, that the Public Record must be so carefully defined and categorized. The Records Program must address all records, regardless of media type or physical characteristics. To selectively apply the program is to invite adverse reference in litigation, for example. **The program must also be developed during the normal course of business** - again, not developed for specific records for specific reasons. **The working papers used to develop the Program, and especially those used to develop the retention schedules must be maintained permanently.** Each retention schedule and disposition document must be **approved and signed** through a regular process. Follow the requirements of Rule Chapter 1B-24, F. A. C. as outlined in this Plan.

As retention periods are met, the **records must be destroyed.** Again, the program must include all records and intent must be followed. Records may be

maintained longer than approved retention schedules, however, for each such instance documentation should exist to justify not destroying records per existing retention schedules. In other words, those individuals or Departments that wish to maintain records beyond the Department of State's approved Retention Schedules should provide written justification for the destruction delay. This justification must be reviewed by the District RMLO for approval or disapproval. If approved, the written justification should be attached to the appropriate Disposition List.

The District must maintain the program and continue to designate a Records Management Liaison Officer (RMLO). **There must be ongoing program control. There must be a way to terminate all records destruction.** Hence the RMLO and a process. The destruction process is described under "Dispositioning."

DISPOSITIONING

Dispositioning is the application of approved retention schedules to record series titles. By far, the most economical solution to public records management is to destroy based on Department of State approved retention schedules. Records should be destroyed as soon as legally possible.

Destruction

The procedures for destroying public records are outlined in Rule Chapter 1B-24, Florida Administrative Code (**Tab 29**). The District continues to be responsible for all records created since the start date of the District until the record has been obliterated, including any relevant records created by private entities acting of behalf of the District. Therefore records that are "missing" remain the legal responsibility of the District. Further, records offered for recycling when disposition warrants same continue as Public Records until obliterated. Therefore, great care should be exercised in the selection of a recycling provider. Consultant recommends the use of a bonded service if recycling is selected.

By written policy, the Department of State has approved the use of landfills for the destruction of records that have met retention. The District may also sell record media (not the informational content) for paper recycling. Public Records may not be sold or given away. The District must maintain Public Records through to destruction. Although copies may be sold, copies are not Public Records unless they are sold to other Florida Public Agencies. The District may loan records, however, this practice is not recommended. Recycling is a good way to destroy records and render the records unreadable, especially where security is an issue.

Spoilation/Spoilation

Spoilation and Spoilation are used interchangeably (probably the result of a typo, spoliation is the correct term) in Florida Case Law to describe the intentional destruction, or significant alteration of evidence. When spoliation is established, the fact-finder may draw an inference that the evidence destroyed was unfavorable to the party responsible for its destruction, the spoliator. This obviously includes "records."

Generally, in order to be "evidence," the party responsible for the destruction must know, or should have known, that the items were relevant to pending or imminent litigation. If the items are not, then they are not evidence and their destruction is not spoliation.

Spoliation can constitute obstruction of justice. Spoliation can result in sanctions in court beyond the inference referred to above. If it rises to the level of attempting to perpetrate a fraud on the court, it may result in the dismissal of an action or other summary judgment. Careful adherence to approved retention schedules, and correct application of the District's Disposition List will virtually eliminate the potential for spoliation.

Statutory and Rule Changes

Effective January 1, 2001 and February 20, 2001, significant changes occurred relative to Public Records Dispositioning. Agencies are no longer required to submit a request for records destruction to the Department of State. Instead, each Agency shall prepare a list of records destroyed based on approved Department of State retention schedules. The list is similar to the now obsolete forms 107 and 108 in that appropriate retention schedule and item numbers are listed for each record series title destroyed together with inclusive dates, volume in cubic feet for each list and a date and method of destruction. A suggested form is available from the Department of State. The form is maintained within the District and is a permanent record. Notify the Department of State Archives of the destruction intent to determine Historical interest. Lists need also to be maintained in a similar fashion for other disposition options to include conversion to microfilm or digital images.

Each Disposition List should be sequentially numbered. Further, each Disposition List must include only one intent and all data elements required per Rule Chapter 1B-24. The List prepared by Consultant meets or exceeds these requirements.

Disposition List

Included with this Plan is a MS Word Document and Print of Disposition List number 69 prepared per the requirements described above. Number 69 is the next sequential number in a range of District generated lists. List number 69 should be viewed as a *Draft*, due for completion July 2008. The RMLO should review the list based on Department of State General Schedules for accuracy, District requirements and any imminent or pending litigation. The List must represent *actual* destruction, hence the need to destroy all present accumulations eligible. This includes all media. If paper records are destroyed, yet digital records of the same information and record series title are maintained, the Disposition List is incorrect. Ending dates must be amended to accurately depict accumulations not destroyed. As new Schedules are approved for the District, add these titles and appropriate dates to the List. If source documents relative to destruction are produced (certificates of destruction from recyclers,

land fill tickets, etc.) attach these and reference in **boxes 6., column f. and box 7.**

There need be only one cubic foot volume figure per list, not per series, **column e.** Each year, the Florida Department of State will send the District RMLO a compliance form to complete and return, including the cubic foot volume of records destroyed for the previous fiscal year, including duplicate records. July 2008, the District RMLO should prepare another list for fiscal year 08/09; again as a draft scheduled for completion July 2009. The List should not be generated by any unit other than the RMLO. The RMLO should take a proactive role and identify records eligible for destruction to the coordinators. The disposition process should not be reactive based on individual accumulations. This process is repeated each fiscal year. The District RMLO should note that some dates are missing and require Record Coordinators to complete. Be sure to read published retentions and note that in many instances, retention proceeds from some action, not merely creation date. Record Coordinators with an intimate knowledge of their records are required to complete the list based in part, on these events that begin retention. The list has been prepared for **District wide** application by the Consultant.

Critical to the success of a Dispositioning program is the ability of record coordinators to identify when retention is complete. For most District records, this occurs at some retention specific date based on *creation* of the record. Some records retention is tied to an *event*, for example, *five years after final disposition*. Most often record coordinators are in a position to determine these events, and therefore, calculate retention.

Duplicates should only be created for administrative or convenience purposes and then discarded when that purpose is terminated, or maintained for preservation of Vital Records as described in the "Vital Records Protection Section." Following is a draft Disposition Procedure:

CLAY COUNTY DISTRICT SCHOOLS RECORDS DESTRUCTION PROCEDURE

I. DESTRUCTION PROCEDURE

II.	<u>TABLE OF CONTENTS</u>	<u>PAGE</u>
III.	Scope	TBD
IV.	Purpose	TBD
V.	References	TBD
VI.	Definitions	TBD
VII.	Procedure	TBD

III. SCOPE

The Clay County District Schools Records Management Program applies to all records, regardless of physical form, that are created or received by and for the Clay County District Schools in the normal course of day-to-day business activities throughout the jurisdiction.

The Clay County District Schools is charged with ensuring compliance with all Federal Laws and State Statutes and Administrative Codes regarding access, the systematic retention, storage and disposition of all Clay County District Schools records.

IV. PURPOSE

Section 257.36 of the Florida Statutes directs each public Agency to establish an active and continuing records management program to include scheduling and disposition of records. Public Records Law, Chapter 119, Florida Statutes, provides in part for access, control, storage, preservation and disposition of all records of a Public Agency. Rule Chapter 1B-24 of the Florida Administrative Code, amended on February 20, 2001, eliminates prior approval of the Bureau of Archives and Records Management for destruction of public records and requires agencies to certify to the Bureau compliance with retention requirements.

V. REFERENCES

Public Records Law. Chapter 119, Florida Statutes

Public Libraries and State Archives, Chapter 257, Florida Statutes

Public Records Scheduling and Disposition, Rule Chapter IB-24, Florida Administrative Code

Clay County District Schools Records Management Plan

VI. DEFINITIONS

Section 119.011, F.S. defines **Public Records** as, “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any Agency.”

Florida Supreme Court further defines public records as “any material prepared in connection with official Agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”

Copy of Record. The retention copy is the Official Record, and does not preclude the existence of other copies of the same record.

Duplicate or Convenience. Duplicate copies of Official Records are Public Records that are transitory in nature, generally with short-term administrative value to the Clay County District Schools. Preservation duplicates may be created or designated from existing copies for safekeeping of the Public Record.

Precursor/Intermediate. Intermediate files and data, such as transitory/temporary notes used to assist in the formalization of data, are precursors of records (“preliminary copies”) not in themselves intended as final evidence of the knowledge to be formalized or perpetuated. In the absence of a final or completed version, the most recent intermediate file or copy of the data shall constitute the Official Record. Intermediate files are the digital equivalent of Precursors.

Non-Records. Data received by the Clay County District Schools that are not business-related are non-records, and are not subject to Public Records Law. Examples of non-records include junk mail

and other printed documents received (or created) by the Clay County District Schools intended for distribution to the public; and personal or private e-mails that are not connected with the transaction of official Clay County District Schools business. Non-records should be destroyed or deleted, and should not be retained or stored together with Public Records.

RMLO. District Records Management Liaison Officer designated in writing to the Florida Department of State. The RMLO coordinates the District's Records Program.

Custodian. The elected or appointed state, county, or municipal officer charged with the responsibility of maintaining the office having public records or his or her designee.

Record Coordinators. Employees of the District responsible for the coordination of Public Records activities for their respective Department.

Record Storage Facility. Any high-density facility, District owned or commercial for the storage of records with remaining retention yet little or no administrative value.

Retention Schedule. A listing of all records created or received by the District and retained based on legal, administrative, fiscal and/or historic value as specified by Florida Department of State General Schedules, or as approved by the Department of State for unique records held by the Clay County District Schools.

Disposition List. A list of records eligible for destruction based on approved Retention Schedules, including Schedule and Item Number, Record Series Title and eligible inclusive dates.

VII. **PROCEDURE**

Performed By:

Step/Action/Responsibility:

District RMLO:

1. Prepare Disposition List in accordance with Rule Chapter 1B-24, Florida Administrative Code each October.

Record Coordinators:

2. Review unit assigned records to identify records eligible for destruction in accordance with District generated Disposition List, verifying

inclusive dates and record series titles. Submit revised List to District RMLO for review.

District RMLO: 3. Revise Disposition List based on Coordinator review, as appropriate and return List to Coordinators.

Record Coordinators: 4. Initiate disposal of Public Records documenting cubic foot volume destroyed using the following conversion chart, and forward List to District RMLO when complete, no later than June 30.

<u>Record Unit</u>	<u>Cubic Foot Volume</u>
10"x12"x15" box	1.0
Letter size drawer	1.5
Legal size drawer	2.0
Letter size 36" shelf	2.0
Legal size 36" shelf	2.5.

Off-site Storage

Next to destruction, the most economical disposition is usually off site storage. Off site storage provides for secure retention and therefore, disaster recovery protection, as well as eliminating records from valuable office floor space. Records should be boxed and removed to off site storage when administrative value is terminated. Hard copy records, magnetic media and security microfilm should all be considered for off site storage and protection.

Storage within the District should not be seen as a safe or appropriate location for hardcopy, security microfilm or magnetic storage environment as recommended by the Department of State or as described by **Rule Chapter 1B-26, F.A.C.** (See **Tab 32 and 33**).

Records stored off site must be monitored for destruction date. The best way to address this problem is with a computer-generated index including anticipated destruction date to generate a destruction report. The rules for retention must be entered in such a way that only records eligible for destruction are identified as such. Consultant advised the RMLO of changes that need to be made to address this specific issue. Three different environments are required, one each for hardcopy records, security microfilm and magnetic tape.

The District is presently continuing a major effort to remove and destroy records eligible for destruction. The use of a high density, low cost storage facility for boxed records is a vital component of this effort. Together with specifications for such a facility and related services (attached, **Tab 17**) the following is offered as a guide to make the most of this facility.

1. Only records with remaining retention, yet virtually no administrative value should be considered for off site storage.
2. Records should be packed into uniform, **one cubic foot boxes** (10x12x15 inches) with a removable or hinged lid, although removal is preferred.
3. Every record within each box must have the same destruction date.
4. Records should be indexed. Only a box number should appear on the box as a *label*.
5. Records Coordinators (see Maintenance, **Tab 15**) are responsible for selecting, boxing and transmitting records to on site or off site storage location as authorized by the RMLO.
6. As records are eligible for destruction, they should be destroyed. Existing boxed records need to be reviewed by staff for destruction eligibility.

Off site storage facilities for vital records should be located away from traditional hurricane paths and above flood zones.

Following is a suggested procedure for high-density storage of records that have met administrative value:

CLAY COUNTY DISTRICT SCHOOLS HIGH-DENSITY RECORDS STORAGE PROCEDURE

I. HIGH-DENSITY STORAGE PROCEDURES

II.	<u>TABLE OF CONTENTS</u>	<u>PAGE</u>
III.	Scope	TBD
IV.	Purpose	TBD
V.	References	TBD
VI.	Definitions	TBD
VII.	Procedure	TBD

III. SCOPE

The Clay County District Schools Records Management Program applies to all records, regardless of physical form or means of transmission that are created or received by and for the Clay County District Schools in the normal course of day-to-day business activities throughout the jurisdiction.

The Clay County District Schools is charged with ensuring compliance with all Federal Laws, State Statutes and Florida Administrative Codes regarding access, the systematic retention, storage and disposition of all Clay County District Schools records.

IV. PURPOSE

Section 257.36 of the Florida Statutes directs each public Agency to establish an active and continuing records management program to include scheduling and disposition of records. Public Records Law, Chapter 119, Florida Statutes, provides in part for access, control, storage, preservation and disposition of all records of a Public Agency. Fundamental to this effort is a comprehensive, systematic program for the off-site storage of inactive District records. This procedure is promulgated to ensure an economical, efficient and disciplined approach for high-density storage of District records.

V. REFERENCES

Public Records Law. Chapter 119, Florida Statutes

Public Libraries and State Archives, Chapter 257, Florida Statutes

Public Records Scheduling and Disposition, Rule Chapter 1B-24, Florida Administrative Code

Records Management - Standards and Requirements, Rule Chapter 1B-26, Florida Administrative Code

Public Records Storage Guidelines, Florida Department of State

Clay County District Schools Records Management Plan.

VI. DEFINITIONS

Section 119.011, F.S. defines **Public Records** as, “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any Agency.”

Florida Supreme Court further defines public records as “any material prepared in connection with official Agency business which is intended to perpetuate, communicate or formalize knowledge of some type.”

Records created or received in connection with the transaction of Clay County District Schools business are public, and may be classified as follows:

Copy of Record. The retention copy is the Official Record, and does not preclude the existence of other copies of the same record.

Duplicate or Convenience Copies. Duplicate copies of Official Records are Public Records that are transitory in nature, generally with short-term administrative value to the Clay County District Schools. Preservation duplicates may be created or designated from existing copies for safekeeping of the Public Record.

Precursor or Intermediate Files. Intermediate files and data, such as transitory/temporary notes used to assist in the formalization of data, are precursors of records (“preliminary

copies”) not in themselves intended as final evidence of the knowledge to be formalized or perpetuated. In the absence of a final or completed version, the most recent intermediate file or copy of the data shall constitute the Official Record. Intermediate files are the digital equivalent of Precursors.

Non-Records. Data received by the Clay County District Schools that are not business-related are non-records, and are not subject to Public Records Law. Examples of non-records include junk mail and other printed documents received (or created) by the Clay County District Schools intended for distribution to the public; and personal or private e-mails that are not connected with the transaction of official Clay County District Schools business. Non-records should be destroyed or deleted, and should not be retained or stored together with Public Records.

RMLO. District Records Management Liaison Officer designated in writing to the Florida Department of State. The RMLO coordinates the District’s Records Program.

Custodian. The elected or appointed state, county, or municipal officer charged with the responsibility of maintaining the office having public records, or his or her designee.

Record Coordinators. Employees of the Clay County District responsible for the coordination of Public Records activities for their respective Department/School.

Record Storage Facility. Any high-density facility, District owned or commercial for the storage of records with remaining retention yet no administrative value.

Retention Schedule. A listing of all records created or received by the District and retained based on legal, administrative, fiscal and/or historic value as specified by Florida Department of State General Schedules, or as approved by the Department of State for unique records held by the Clay County District Schools.

Disposition List. A list of records eligible for destruction based on approved Retention Schedules, including Schedule and Item Number, Record Series Title and eligible inclusive dates.

VII. PROCEDURE

<u>Performed By:</u>	<u>Step/Action/Responsibility:</u>
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District RMLO:	1. Prepare Disposition List in accordance with Rule Chapter 1B-24, Florida Administrative Code and District Procedure.
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Record Coordinators:	2. Only records with remaining retention, yet virtually no administrative value should be considered for off site storage.
----------------------	--

	3. Records should be packed into uniform, one cubic foot boxes (10x12x15 inches) with a removable or hinged lid.
--	--

	4. Every record within each box must have the same destruction date.
--	--

	5. Records should be computer indexed. Data elements include: Record title(s), inclusive dates and Department name.
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	6. Records eligible for destruction as provided by the District's Disposition list must be destroyed, or written notification must be provided to the District RMLO sufficient to justify retention beyond retention.
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District RMLO	7. Review and approve or disapprove Record Coordinator requests to delay eligible records destruction (see 6. above).
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	8. Destroy records retained in storage beyond retention for which no justification has been approved.
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Source Document Microfilm

Microfilm continues to be the best long-term (Ten years or more) preservation device, however, resources must be very carefully allocated to the *correct* record to convert to microfilm. Far too many records are converted to microfilm when simple destruction was the correct, legally available solution. Following is a list of record series held by the District that should be considered for conversion to microfilm:

Budget Records: Approved Annual
Building Plans (Record Drawings of Facilities)
Legal Opinions (District Attorney)
Deeds
Endowments/Bequests/Trust Fund Records
Expenditure Plans: Capital Improvement
Final Orders Records
General Ledgers: Annual Summary
Maps: Original
Surveys/Air Photos
Records Management Plans
Records Disposition Forms and Lists
Micrographics Quality Control Records
Records Retention Schedules: Agency Specific
Permits for Environmental Impact Construction
Permits for Rights-of Way
Property Records: Condemned
Access Log: Student Education Records
Agreements: Expunge, Delete or Correct Student Record
Census Records
Millage and Bond Election Records
Student Education Records: Category A

The File code implementation may identify other record series that deserve conversion to microfilm as well. The only hope for permanent retention is through microfilm. The microfilm must meet strict standards as provided by Rule Chapter 1B-26, F.A.C.

Source document microforms should be roll film with sequential numbers and blips, with computer assisted retrieval (CAR) indexing for rapid retrieval. Depending upon retrieval frequency, various reader/printer options are available. For example, reader/printers are available with blip counters greatly increasing retrieval speed. 16mm film should be used for all documents up to 11" x17".

Computer Output Microfilm

Computer Output Microfilm (COM) is a process whereby digitized information is printed directly to microfilm in human readable form. COM may be used in conjunction with or without a corresponding duplicate paper printout; however greatest savings are achieved when duplicate paper printouts are eliminated entirely.

COM generated and stored to Rule Chapter 1B-26, F.A.C. standards has a life expectancy of over 100 years, and "shall in all cases and in all courts and places be admitted and received as evidence," (as for all microfilm), **Section 92.29, F.S.** Further, Attorney General Opinion (**AGO**) **85-87**, Records - Data Processing - Computers - applicability of public records law to machine-readable intermediate files generated during computer data processing (see **Tab 36**).

At a reduction ratio of 42x, 208 pages may be printed to each COM fiche. Readers are generally less than \$200.00 per unit. Significant savings in printing costs, together with less paper volume to manage, increased data security and improved retrieval capability make a COM a very desirable product. Record series regularly printed should be reviewed to identify potential COM applications. For example, with a retention of permanent, **General Ledgers** is an appropriate COM application. *Every* District machine-generated report should be considered. COM is also an excellent preservation device for digital images, utilizing both the retrieval ability of digital imaging and the preservation qualities of microfilm.

Digital Imaging

Digital imaging is a process whereby human readable or analog data is digitized using laser light. Images are created that produce electronic duplicates of text and graphics. A file so created can be indexed in the traditional way using programs and keystrokes, or by using OCR (Optical Character Recognition) to facilitate word searches. This technology is extremely useful for reducing volume, providing short-term security and retrievability (especially for multiple users). However, **this technology should not be viewed as a long-term preservation device**. Lengthy retention requirements will exceed the life of the technology. Digital imaging products are best reserved for large collections, with active retrieval requirements by multiple users, with short retentions. For those collections that meet these requirements, yet have long retentions, optical scanning may be used in conjunction with microfilm, or hardcopy, for preservation purposes. A cost and retrieval analysis should be conducted prior to digital imaging.

For normal office documents a scanning density of 300 dots per inch is sufficient. Documents with background detail like engineering drawings and

maps should also be scanned to a minimum density of 300 dots per inch (perhaps greater, based on specific tests). These and a few additional requirements are found in **Rule Chapter 1B-26, F.A.C.**

Generally, consultant finds digital imaging is greatly overused in the District. **Consultant recommends the practice of digital imaging ESE records be discontinued as it exists at present.** A time motion study will disclose the effort to retrieve ESE as needed is far less than the effort to prepare to retrieve all ESE records. Most ESE secretaries interviewed reported up to eight hours per week imaging ESE records. Some report less, some report 2 hours per day. This *sample* combined effort could, therefore, approach 12,000 hours throughout the District. Further, District ESE (Administration) reports one position spends up to 50% of her time checking these images for omissions related primarily to human error. Guard against work *preparing* to work, do the work instead.

The digital imaging of Student Records is discussed under "Student Records." Again, digital imaging is not the solution for Student Records.

Consultant approves the digital imaging of the School Board Minutes, but recommends COM as well for preservation (see above, Computer Output Microfilm). Relative to Minutes as defined by section 286.011, Florida Statutes (F.S.), the following is offered for consideration:

The retention per GS1-SL item #4 for the record copy is 2 anniversary years after adoption of the official minutes or certification of transcript. **Consultant recommends all such recordings be destroyed per GS1-SL as soon as possible.** This will protect the integrity of the Official Minutes and prevent the agency from violating access should any of the sound recordings be damaged through time or neglect.

Section 286.011, F.S., requires minutes of a meeting of a public board or commission be *recorded*. Recorded does not mean tape recorded, merely recorded as written minutes. However tape recordings *may* be created. **Consultant recommends tape recordings are made only to document actual motions for instructions.** The minutes for a "workshop" meeting are not different **(AGO 74-62)**.

The minutes taken need not be verbatim transcripts, merely summary or brief notes **(AGO 82-47; and see, State v. Adams, No. 91-175-CC (Fla. Sumter Co. Ct. July 15, 1992)**. However, an agency is not prohibited from using a written transcript if it chooses **(Informal Opinion to Richard Fulwider, June 14, 1993)**.

Again, there is no requirement that tape recordings be made, however, if they *are* created they are public records and may only be destroyed two years

after adoption of official minutes as provided by **sections 119.041 and 257.23(7), F.S., and Rule Chapter 1B-24, Florida Administrative Code, and AGO 86-21. The retention is found in general Schedule GS1-L.**

Consultant suggests a review of **AGO 74-294 and AGO 91-26.** These two opinions also deal with minutes and provide for making corrections, etc., and make it clear that the minutes are Public Records even before being officially approved.

Media Options

Records that are photographic reproductions or reproductions through electronic record keeping systems made by any federal, state, Agency, or municipal governmental board, department or Agency in the regular course of business, of any original record, document, paper or instrument in writing or in an electronic record keeping system, which is, or may be required or authorized to be made, filed or recorded with that board, department or Agency, **section 92.29, F.S.** applies. In other words, if the subject is required or authorized by law, in the regular course of business on one of the enumerated public entities, to create and file a reproduction of a record or document with that entity, that reproduction is admissible in any court or proceeding, whether the original still exists or not. Of course, the duplicate would still need to be authenticated as a condition precedent to admission, just as any document must be prior to being received into evidence.

The primary source for determining what is and is not admissible into evidence in trial in Florida is the Florida Evidence Code, found in **Chapter 90, F.S.** There are some other statutory provisions that can apply as well, particularly with regard to "electronic records." The Federal Rule of Evidence is similar.

Administrative hearings pursuant to **Chapter 120, F.S.,** must also be considered. The rules of evidence are generally much broader in those proceedings, the requisite foundation for admission being relevance.

The problem is as discussed: there are too many possible exceptions that can swallow the rules depending upon the innumerable, particularized circumstances that may be attendant to a specific episode. However, the bottom line is, the law has done a good job of recognizing and keeping up with the fast pace of change technology has wrought with regard to the creation, duplication and storage of documents, records and writings. The statutes and rules are very technology friendly. There are probably few instances in which a reliable document, electronic or otherwise, is going to be excluded from the record because of some arcane requirement of an "original" piece of paper. Authenticity is the real issue now, and so long as there is some evidence, testimonial or

otherwise, that the document is what it is purported to be, in most instances, it will be admitted into evidence.

Electronic Signature

Current law allows the District full access to electronic signatures. Section 668.50(17) F.S., which provides in part, "Except as otherwise provided in paragraph (12)(f), each governmental Agency shall determine whether, and the extent to which, such Agency will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures." Further, section 668.50(7)(a) and (b), F.S. provides in summary that a record or contract or signature may not be denied legal effect or enforceability solely because the record or signature is in electronic form. Section 668.50(18)(h), F.S. provides that "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record. Therefore, electronic signatures are legitimate solutions for the District's payroll, employee evaluation and leave form process.

AGO 2005-34 on this subject dated June 1, 2005, answers essentially this question in part and includes extensive legal reference. Attached is a copy of **AGO 2005-34** for review (**Tab 37**). Note the AG's recommendation for a policy.

Vital Records Protection

Vital records are those records critical to the delivery of services on a day-to-day basis. Vital records are necessary to continue operations. Vital records do not necessarily have a long retention, as is the common misconception; nor are vital records necessarily confined to any one unit - all units likely maintain some vital record.

The first step in establishing a vital records program is to identify The District's vital records. Vital records must be identified and protected *before* a disaster. Records to consider include: current contracts, leases and agreements, accounts payable (including payroll) and accounts receivable, current operating budgets, purchase orders; lists of former key personnel (to act as temporary replacements for current employees out of commission as a result of a disaster); current operating procedures; and applications and operating systems. This is by no means a complete list. Inventory and File code implementation data must be used to complete the identification process. The identification process must be ongoing to detect new vital records, or other changes as requirements are adjusted.

After identification, the next step is duplication. The most effective way to safeguard information is by duplication. There is no substitute.

Duplication is followed by dispersal. Dispersal takes two forms: natural and planned. Natural dispersal already occurs. Information is routinely sent to other agencies in Tallahassee, or other state or county agencies, etc. For example, a copy of the Budget is sent to the Department of Revenue. Additionally, a microfilm operation that produces security film stored off site, and magnetic tapes rotated offsite, are examples of natural dispersal. Therefore, the need for rigorous off-site storage facility specifications is apparent.

Planned dispersal then fills the gap, and providing the identification process has been complete, The District's vital records are protected.

Take a very simple approach to Vital Records Protection:

Identify

Duplicate

Disperse.

Off site storage facilities should be located away from traditional hurricane paths and above flood zones, therefore, away from the coast.

Digital Back Up

Every eligible record, even digital equivalents, must be destroyed if represented as such on the District's Disposition List. **Recommendations, including transportation and storage environment, are offered below as a Policy.** Individual users should take the steps necessary to move information that has not met retention to an appropriate folder as a document, or print to paper for retention. **Backups serve to restore data, and should not be seen as a preservation effort.**

CLAY COUNTY DISTRICT SCHOOLS DIGITAL BACKUP POLICY

I. POLICY INTENT

The Records Management Program applies to all records, regardless of physical form, that are created or received by and for the District in the normal course of day-to-day business activities throughout the District.

The District is charged with ensuring compliance with all Federal Laws, State Statutes and Administrative Codes regarding access, the systematic retention, storage and disposition, and as applicable, the preservation of all Public Records.

The Records Management Program encompasses the District digital backups, as regular Public Records. The primary purpose of digital backups is restoration, not preservation. Record Retention Schedules as approved by the Florida Department of State establish retention of data for Record Series Titles. Based on these retentions, the District creates a Disposition List to document record destruction.

II. REFERENCES

Records Management Plan

Record Retention Schedules as approved by the Florida Department of State

Disposition List prepared as proved by Rule Chapter 1B-24, Florida Administrative Code

Rule Chapter 1B-26, Florida Administrative Code

III. DEFINITIONS

Section 119.011, F.S. defines **Public Records** as, “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any Agency.”

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IV. POLICY

Information Systems will conduct backups of critical data on a Monthly, Weekly and Daily basis. Each month, a full backup will be removed from the District and stored offsite for restoration in the event of a disaster. Transfer of the monthly and weekly backup will be through an independent, bonded commercial courier using a locked storage container designed for magnetic media transfer for storage in an environment that meets or exceeds the requirements of Rule Chapter 1B-26, F.A.C. Operating Systems and applications will be copied and

retained offsite at the same facility storing the monthly and weekly backup for the period of time provided by the District's Retention Schedule. The backup types and frequency are as follows:

Full Backup

One full backup set per month will be run. This set will be removed from the building as described above, **IV. POLICY**. Full backup media together with data will be destroyed or over written after 90 days.

Weekly Backup

A full data backup will be run every Friday with four rotation sets in the full backup rotation. Each week the oldest backup set will be over written. This backup rotation will allow for the restoration of any data up to five weeks old with the addition of the offsite backup set. The weekly backup media will be replaced with new media as required.

Nightly Backup

An incremental backup will be run nightly, Monday through Thursday. This backup records any data that has changed on the server since the last full backup, which occurs during the weekend. Incremental backups provide the ability to restore data from the previous day that has changed since the weekend allowing for the restoration of the most recent version of a given file.

Backup drives will be cleaned on a weekly basis, or as recommended by manufacturer using special tape drive head cleaning tapes. Cleaning frequency shall be amended based on demand as determined by the Information Officer.

Data Processing Recovery

Given the District's dependence on data processing to provide vital services, her geographic location and weather influences, the potential for terrorism, vandalism and accident; a data processing recovery plan should be considered. Provided digital back ups are intact, data processing recovery is possible. Critical applications include:

**Payroll, and
other accounts payable
accounts receivable
Terms
current operating budgets and
accounting/financial data, and
related software and operating systems.**

Critical applications must be duplicated and dispersed as described above. In the event of a data processing emergency, the plan may then be implemented.

Investigate the use of a *Hot Site*, a *Cold Site* and a *combination* of the two. Ensure the selected vendor is not overwhelmed with users from a single geographic location. A Cold Site is located in Winter Haven, Florida. Consultant, with no financial relationship with this vendor, is available to make contact on behalf of the District. Interlocal agreements for mutual aid are not recommended. Rarely, if ever is such an arrangement viable since few, if any government facilities are able to run more than their own obligation. If the District is convinced that such an agreement is viable, Consultant recommends a full blown, unscheduled test as might occur in a real emergency. Any on-site generator should have fuel capacity for at least a five day, and Consultant recommends a ten day, operation.

Student Records

Consultant reviewed the District Policies and Procedures Manual on Students Records, Revised August 2003 (offered to Consultant as the most recent edition). The following recommendations are offered to improve this document and further enhance the District's management of these supremely important records.

The Department of State approved retentions for the Student Record are divided between Category A and B. For A, the retention is Permanent, Media optional; while for B the retention is 3 anniversary years. This disparity between retention begs separation during creation of these two categories for retention purposes. Obviously, the smaller the volume the District must keep permanently,

the greater the cost and administrative avoidance. At present, these two categories are commingled. Consultant's direct experience is the labor to separate these two existing commingled categories will be approximately three times the cost to simply image. Therefore, Consultant recommends that no effort be made to separate these two categories as they exist now. However, a multi-folder method, for each student should be employed as new folders are created in the future.

Student records should remain in the School from which the student leaves the District, either by transfer to another District, withdrawal, graduation or death, for the three year Category B retention. This distributes storage and labor throughout the District and allows for the greater retrieval demand following graduation. Clay High Schools selected for the Consultant as an appropriate sample, reports that following this immediate retrieval demand after graduation, access requests drop significantly; to approximately 3 per day. This low frequency of demand does not justify the cost of digital imaging. Further, digital imaging should not be seen as a preservation device sufficient for the Permanent retention required by the State of Florida. Therefore, Consultant recommends conversion at the end of the Category B retention to microfilm for the entire Student Record as it exists in its commingled form today; and for the Category A record as it shall exist in the future if the multi-folder method is adopted.

Microfilm should be as specified in the Source Document Microfilm Section for roll film. As specified, this application will generate a searchable name file for the District and a Silver original appropriate for off-site storage and preservation, together with a Diazo duplicate for on-site reference. This solution is the most cost effective and adheres to all requirements of law and is the best standard of care in the industry.

Prior to conversion, no effort to interfile should be made. Collections should be left in the order created within year of withdrawal or graduation at each school. Where this recommendation has not been followed, no effort should be made to reorder the collection. Computer indexing will allow for sorting for each field. Fields should include Student Name, Student number where it exists and date of birth. Medical/clinic or disciplinary records should not be commingled into the Student Record.

The District Policies and Procedures Manual on Students Records revised August 2003, Department of Student Services should be updated. Consultant recommends the following text be inserted as *replacement text* beginning on page 4, replacing "1. **CATEGORY A . . .**" through page 5, "B. Storage of Educational Records . . .accessible for convenient use, F.S. 119.031.";

State Board of Education Regulations, 6A-1.0955 Student Records, require that a Student Education Record be maintained for each student enrolled in a school.

This student record shall be under the control of the principal and shall be kept current.

I. DEFINITIONS

- A. **Educational Records (Student Record)** are defined as those records, files, documents, and other materials as defined in 1002.22(2)(c), which contain information directly related to students and which are maintained by an educational agency or institution or by a person acting for such an agency or institution, and which are accessible to other professional personnel for purposes listed in Rule 6A-1.0955(1), FAC. Information contained in education records shall be classified as follows, E 1 and 2.
- B. **RMLO** is the District Records Management Liaison Officer designated in writing to the Florida Department of State. The RMLO coordinates the District's Records Program. The RMLO is available to assist with all aspects of this policy. Users are encouraged to contact the RMLO for all technical, physical and intellectual issues relating to records management.
- C. **Disposition List** is a listing of all records created or received by the District and retained based on legal, administrative, fiscal and/or historic value as specified by Florida Department of State Retention Schedules.
- D. **Retention Schedule** is a Department of State approved period of time a District Record must be maintained. After the approved retention has been satisfied, eligible records are added to the District Disposition List and authorized for disposition by the Superintendent.
- E. **Content of Student Record by Category:**
1. **Category A - Permanent Information**
Verified data of clear educational importance which shall be retained: permanently in the manner prescribed by 1002.22 (2)(c) Florida Statutes.
 - a) student's full legal name and any known changes, such as by marriage or adoption;
 - b) authenticated birth date, place of birth, race and sex;
 - c) last known address of the student or student;
 - d) name and location of last school attended;
 - e) name of student or student's parent or guardian;
 - f) number of days present and absent, date enrolled and date withdrawn;

- g) courses taken and record of achievement, such as grades, units or certification of competence;
- h) date of graduation or date of program completion
 - (1) Category A information listed on Form ESE-386 Grades 9-12 and Adult Permanent Record Card Category A – Education Records, shall be maintained only for students who are enrolled in grades 9-12 and students enrolled in adult education programs which lead to a high school diploma.
- i) school districts shall maintain sufficient information, to include social security number, on adult students enrolled in a postsecondary program so that they can be located after they have either withdrawn or completed a program of study.
- j) copy of score report documenting a passing score on the appropriate section(s) of the Florida Comprehensive Achievement Test (FCAT) at grade 10.
- k) Record of access.

2. **Category B - Additional Information**

A school shall insert additional information in the Student Record in a separate file contained within the cumulative record related to health information, family background data, standardized test scores, educational and career plans, honors and activities, work experience reports, teacher comments, correspondence from community agencies or private professionals, driver education certificate, a list of schools attended, written agreements of corrections, deletions or expunctions as a result of meetings or hearings to amend educational records. The following instructions should be observed in providing additional information:

- a) ESE students should have information relative to their ESE programs filed in a separate file contained within the cumulative record.
- b) Students with other disabilities as determined by a Multidisciplinary Team should have a green tab attached to the cumulative record to make visual identification easy.
- c) If an external file is maintained by the school such as a file for psychological, exceptional education, etc., the presence and location of this file shall be noted on the Permanent Record Card.
- d) Student records related to English for Speakers of Other Languages (ESOL) shall be maintained in a separate file contained within the cumulative record. The retention for ESOL is six years.

3. **Category A and B** is to be physically separated by folders within the Student Record. This will allow for orderly disposition based on retention.
4. **Exceptional Student Education Records.** Although reports of student services or exceptional student staffing committees (including all information required by Section 230.23(4)(m)(7), F.S.) are included in the definition of Category B, these ESE records are scheduled separately and have a longer retention period, 5 years.

II. RECORD RETENTION

A. Location:

1. For high school graduates the school shall store the records after graduation.
2. For withdrawals and early school leavers the educational records of school students who withdraw from the Clay County Public Schools will be filed at the school last attended.

B. Storage within the School shall be in name order in one of two methods as practical:

1. Top tab folders for vertical or lateral file cabinets, or
2. End tab folders for open end shelving with color coded labels.

C. Disposition is the application of approved retention.

1. **Category A:** Category A records has a *Permanent retention*. As District Budgets allow, the RMLO will contact each school to arrange for the transfer of Student Records to an off-site location for storage and conversion to microfilm. Conversion will include a computer index of each student name linked to microfilm location. After conversion, the RMLO, or staff, will provide access as allowed by Law. Schools shall maintain Student Records and provide access for a minimum of three school years.

2. **Category B:** Category B records have a *3 anniversary years provided any applicable audits have been released and resolved retention*.

3. **Exceptional Student Education Records:** Exceptional Student Education Records have a *5 year after graduation, transfer out of*

program, refusal of admittance to the program, or withdrawal from school district provided applicable audits have been released and resolved retention. ESOL records have a 6 year retention

4. **Destruction:** Any District Record destroyed must first be approved by the Superintendent and listed on the District Disposition List. Each Disposition List indicates inclusive dates authorized for destruction. Follow the District's Destruction Procedure available from the RMLO.

End of material recommended for insertion and replacement. Consultant recommends Student Services conduct Student Record training in conjunction with the existing TERMS training for this as well as future issues.

Personnel Files

Personnel Files may be the most sensitive record government creates, due in main part to the *personal* nature of the database. As defined by Florida Law, however, Personnel Files are clearly Public Records open to inspection by any person. Yet, Personnel Files usually also contain information that is specifically exempt from inspection (see **section 119.07, F.S.** for general access requirements and some specific exemptions). Although section 119.07, F.S. provides some specific exemptions to Public Records Access, most Florida statutory access exemptions are spread throughout nearly the entire body of Florida Legislation. The Government-in-the-Sunshine Manual, published by the First Amendment Foundation, and referenced as a source used during the compilation of this report, provides the best current list of exemptions in statutory order; second only to the statutes themselves. In addition, some Federal requirements also must be considered in addition to Florida Law, as a basis for determining access relative to Personnel Files. Following is a general discussion of these access requirements.

Generally, medical information about a specific employee is exempt from general inspection. Although it is perfectly legal to collect such information, it is generally protected. Statistical information about medical or health information is generally open to inspection provided personal identifiable information is withheld. See **section 119.071(4), F.S.**, for a body of information which is exempt from general inspection for a *specific* group of potential District employees.

Title I of the Americans with Disabilities Act precludes filing *disabilities* information (read *medical*) within the Personnel File. Further, **Title VII of the Civil Rights Act of 1964, the Age Discrimination in Employment Act, and the Civil Rights Act of 1991** seems to preclude filing information about race, sex, age and national origin in a Personnel File. *Information about race, sex, age*

and national origin can obviously include a nearly limitless number of specific records and can create a great deal of doubt as to whether or not a specific piece of information should be placed in the Personnel File, and then whether or not it is open to inspection. The problem with many Personnel Files is that they are used as a catch all for information that relates to a specific employee - a case file of sorts. Although this practice is convenient, it usually creates the potential for information that is not open to inspection being seen by unauthorized parties during routine and otherwise legal record reviews.

The best practice is to create only those records about an individual that are directly related to and necessary for work performance. Since November 1, 2006, the Department of State's Retention Schedule GS1-SL requires a rather extensive collection for retention. Every other record commonly found within a Personnel File and identified as another Record Series Title with a far shorter retention should not be commingled with the Personnel File. To file documents with Record Series Title and Retention in mind will greatly mitigate exposure to violations of employee privacy issues by allowing Agencies to legally destroy information within relatively short periods of time as a series other than Personnel File; and by eliminating accidental review since the offending information is not in the Personnel File in the first place. Further, based on retention, place data into personnel files that have the same retention as the personnel file.

Given the low monthly commercial storage rate for a cubic foot of records together with the low retrieval frequency of terminated employees, personnel files do not qualify for imaging. Imaging will produce a cost exposure far in excess of commercial off-site storage. There should be only one personnel file per employee in the District. Consultant reports so called duplicate personnel files are most often employee evaluation files. Do not commingle the terms.

FILING SYSTEMS

Filing systems must address storage and retrieval. Commonly, agencies emphasize storage devices and not retrieval. The most common arrangement is most often alphabetical subject while the most common equipment is vertical file cabinets followed by lateral file cabinets, both utilizing a drawer. Common to the lateral file cabinets are hanging folders, together with manila folders.

District Wide Filing

Arrangement, equipment and supplies should be standardized. A Modified Alpha-Numeric Mnemonic System (*Mnemonic*, which means helping, or meant to help, the memory) is ideal. The key to the system is the coding. The file codes consist of a combination of letters and numbers representing a particular function. Resist the temptation to assign primary codes based on organization. Information is the same regardless of organizational location or creation. There is no reason to code the record differently from one *location* to another. The subjects are assigned file codes to facilitate classifying, sorting and filing. The coding system consists of a three-letter symbol (short title mnemonic symbol) for each major category. The codes also cross year lines. Use the same codes year after year. Use date labels to identify years.

The coding scheme allows for maximum flexibility and permits the addition of new symbols without changing symbols assigned to other subjects and without breaking the continuity of the pattern. Inventory data must be used to identify and therefore, code all record series titles. Codes must be maintained on PC to facilitate the inclusion of new codes and the printing of manuals. The system creates a cross index by subject and provides a measure of security. No index, no access. The system is driven by an application written using Microsoft Access, included. See sample matrix, **Tab 24**.

Each primary code allows for 999 secondary codes. If volume requires later for an existing three letter primary code, the primary code may be shortened to two letters as an *associated* primary code. This will allow an additional 9,000 secondary codes. It is also possible to reverse the arrangement to double capacity. For example, if category ACC 000, accounting records is used 999 times, and additional secondary categories are required; create 000 ACC as an *additional* accounting category.

For each primary code, enter a secondary code of "000" which is also not used as a file label. This serves as a known address for primary code names. For example, BUD-000 is the primary category for Budget Records. Users may enter BUD-000 in the search function to learn that BUD-123 is a budget category. Avoid the use of *General* and *Miscellaneous* as categories.

Dovetail existing, logical arrangements into the system. For example, if purchase orders are coded as PUR-123, arrange purchase orders in numeric order following PUR-123. There is no reason to code *each* purchase order with a unique secondary code. The existing purchase order number is sufficient. The advantage, however, is that users know where purchase orders are located within the system.

Responsibility for writing codes *must* rest with only one person, the RMLO at a time to ensure consistency. Users must have a *read only* version available on the network.

Codes (primary and secondary) may then be linked to record series titles. This will eliminate confusion regarding retention. Use a separate, updateable database for this purpose, also available as read only on the network. Record coordinators should be employed to suggest the code/series title link.

The District should adopt a policy of imposing annual cut offs to facilitate dispositioning standards together with color coded dates or date labels. Do not commingle records with different destruction dates within the same file unless the District is prepared to keep all the records for the longest retention. It would be better in most instances to physically separate records with different retentions for destruction purposes. Destruction, when approved by the Department of State is the most cost effective records management solution the District may employ short of not creating the records in the first place. Do not incorporate duplicate or convenience copies into the filing system. Do not convert existing collections except for active files.

Open shelf lateral filing equipment, as is usually seen for instance in Doctor's is far superior in every way to standard vertical file cabinets as a means of providing access to hard copy files. A fewer number of open shelf units, on less floor space, for less initial equipment cost per cubic foot stored, will provide nearly twice the density of storage per square foot of floor space as compared to standard file cabinets. Further, end tab filing will allow for enhanced systems designed to reduce misfiles, and speed retrieval and refile activities.

Open shelf units come in a variety of sizes, an option between single and double entry, and choice between cantilever and four post configuration. All the choices, including floor plan design, can be quite confusing. Unit and file folder specifications are included with this report to assist the District in the selection of specific equipment and supplies. See State Purchasing Contract. Through the State Contract, a vendor will be available to design a floor plan and provide equipment as discussed to produce a high-density system, see **Tabs 21 and 22**.

Adhere labels using scores or imprints on the folder to ensure that labels line up and create a consistent color bar arrangement. Use labels from one

vendor, also to ensure consistent colors. **Do not overload floor capacity,** especially upper floors. **Confirm floor load capacity in any upper floor location.** Ground floor, monolithic slabs are not an issue. The average cubic foot of records weighs approximately 35 pounds.

ACCESS

Whereas scheduling is the heart of a Records Management Program, access is the heart of Florida's Public Records Law. Florida has the most rigorous Public Records Law in the World, bar none! We have been described as having the most *open* government in the World, also. Government in the Sunshine is not a hollow phrase. In Florida, all Public Records are open to inspection during reasonable times and conditions, to any person for whatever reason; unless specifically exempted by law. Access to Public Records in Florida is the most complicated and challenging aspect of managing information in a Public Agency (for staff *and* for the public). During the 1970's most court cases relative to Florida's Public Record Laws were triggered by the question of whether a particular piece of information *was* a Public Record at all. Following the 1980 Florida Supreme Court Case, *Shevin v. Byron, Harless, Schaffer, Reid and Associates*, (see PUBLIC RECORDS) and through to the present, most Public Record cases concern access. One of the very best sources of information relative to Florida Public Records access available today is the **Government-in-The-Sunshine Manual** published by the **First Amendment Foundation**. The current volume is #29, 2007. A new volume is usually available every January, however ordering, delivery and printing delays often reach into February. The telephone number in Tallahassee to secure a copy is **1-850-224-4555**; Web: www.floridafaf.org.

The District must be concerned with internal administrative access also, hence the need for intelligent filing systems, technology, scheduling and destruction. If in house administrative access is insufficient, then public access obviously suffers, also.

Access not only means a visual inspection, yet also requires that duplicates must be provided if requested and are not limited by statute. Section 119.07, F.S., provides, in part, that the custodian shall furnish a copy or a certified copy of the record upon payment of the fee prescribed by law, or, if a fee is not prescribed by law; for duplicated copies of not more than 14 inches by 8.5 inches, upon payment of not more than 15 cents per one-sided copy, and for all other copies, upon payment of the actual cost of duplication of the record. An District may charge not more than an additional 5 cents for each two-sided duplicated copy of not more that 14 inches by 8.5 inches. Actual cost of duplication means the cost of the material and supplies used to duplicate the record, but do not include the cost of labor or overhead costs associated with such duplication. The District may charge up to \$1.00 per copy for a certified copy of a public record. **See AGO 2005-28, Tab 39.**

However, when the nature or volume of public records requested to be inspected, examined, or copied is such as to require *extensive* use of information technology resources or *extensive* clerical or supervisory assistance by

personnel of the District involved, or both, the District may charge, in addition to the actual cost of duplication, a special service charge, which shall be *reasonable* and shall be based on the cost incurred for such extensive effort.

HIPAA

The Health Insurance Portability and Accountability Act was signed into law in 1996 with a deadline for compliance of April 14, 2003, see <http://www.cms.hhs.gov/hipaa>. This federal legislation includes standards for protecting the privacy of medical and health information and requires these covered entities to limit the use and disclosure of Protected Health Information (PHI). There are civil and criminal penalties.

Relevant Access Limitation Sections, F.S.

The following is offered as a guide, and is not meant to be all-inclusive. Further, the entire section must be read by related record holders since the following is paraphrased for quick reference:

- Section 17.076(5)** Direct deposit records made prior to October 1, 1986 are exempt. Same records made on or after October 1, 1986, names of financial institution, and account numbers of beneficiaries are exempt.
- Section 17.325(3)** A call on the governmental efficiency hotline established by the Comptroller may be anonymous; name is confidential.
- Section 44.102(3)** Except as otherwise provided in this section, communications in a court-ordered mediation proceeding are exempt from Chapter 119.
- Section 69.081(8)** Any portion of an agreement, which conceals information relating to a settlement or resolution of any claim or action against an agency, is void.
- Section 110.1091** Employee assistance program (EAP) records are exempt from inspection.
- Section 110.1127(3)(d),(e)** Makes it a crime to misuse criminal records obtained for security background checks, and to misuse juvenile records.

- Section 110.123(5)(a)** Physician's fee schedule used in health and accident plan exempt, except to persons involved in administration of state group insurance program.
- Section 112.08(7)** Medical records and medical claims records exempt.
- Section 112.21(1)** Records identifying government employees participating in any contract or account relating to tax-sheltered annuities or custodial accounts and the account activity is exempt from inspection.
- Section 112.215(7)** Records identifying individual participants in any deferred compensation plan are exempt from inspection.
- Section 112.3188(1)** Protects information relating to the violation by public officials or independent contractors of certain crimes.
- Section 112.324(2)** Protects information relating to investigation of a sworn complaint of a violation of this section.
- Section 112.533(2)(a)** Complaints and information obtained pursuant to investigation of complaints against law enforcement officer exempt from inspection.
- Chapter 119** **Read entire Chapter, See Tab 25**, however note the following:
- Section 119.105** A person who comes into possession of exempt or confidential information contained in a police report may not use that information for any commercial solicitation of the victims or relatives of the victims of the reported crimes or accidents and may not knowingly disclose such information to any third party for such purposes as long as that information is exempt. Violation of this section is a **third degree felony**.
- Section 121.031(5)** Retirees' names and addresses are exempt from inspection as authorized by this subsection.
- Section 121.4501(19)** Personal identifying information regarding a participant in Optional Retirement Program in FRS is exempt.

- Section 125.585** Employee Assistance Program and employee participation - communication and records exempt.
- Section 163.01(15)(m)** Information received by a public agency in connection Florida Interlocal Cooperation Act that is proprietary is confidential.
- Section 163.64** Participation in the creation or administration of a collaborative client information system may share information as long as restrictions are observed relative to confidential information.
- Section 215.322(6)** Credit card account numbers in the possession of a unit of local government or the judicial branch are exempt from inspection.
- Section 252.88(2) and (3)** Specific hazardous chemicals location withheld.
- Section 259.041(8)(c)** Offers and counteroffers for land acquisition are exempt, until . . .
- Section 282.318(2)(a)** Protects from inspection information relating to risk-analysis, results of internal audits and evaluations relating to data security and information technology and related internal policies and procedures (see section).
- Section 288.712(7)** Personal financial records relating to black business enterprise guaranty programs exempt.
- Section 316.066(3)(c)** Specific data contained in Motor Vehicle crash reports exempt.
- Section 322.126(3)** Disability reports exempt and used only to determine qualification to operate motor vehicle.
- Section 322.142(4)** Restricts reproduction of color photographic or digital licenses.
- Section 381.004(3),(4),(5),(6)** HIV test results and the identity of the person tested are exempt from inspection except as other provided.

- Section 382.013(4) and (5)** Birth certificate information exempt from inspection.
- Section 382.025(1)** Except for those over 100 years old and not under court ordered seal, all birth records of this state are exempt from inspection, except as provided.
- Section 384.287(6)** Information relating to HIV infection shall remain confidential as provided by law.
- Section 395.1025** Notification to EMT of patient infectious disease done in a manner to protect confidentiality and not include patient's name.
- Section 440.102(8)** Drug testing records exempt.
- Section 443.1715(3)** Unless otherwise authorized by law, information received by an employer through a drug-testing program or by a public employee under this chapter is exempt from inspection.
- Section 447.307(2)** Petitions and dated statements signed by employees regarding whether employees desire to be represented in a proposed bargaining unit are exempt from inspection except to verify and challenge signatures as provided by the subsection.
- Section 447.605(3)** All work products developed by the public employer relating to collective bargaining negotiations shall be exempt from inspection.
- Section 624.311(2)** Records of insurance claim negotiations are exempt from inspection until termination of litigation and settlement of all claims.
- Section 744.708(2)** Personal or medical records of a ward of a public guardian are limited access.
- Section 760.40(2)(a)** DNA analysis results held by a public entity are exempt from inspection except as provided in the subsection.
- Section 760.50(5)** Information relating to employee medical conditions covered by health or life insurance provided or administered by the employer are exempt from inspection.

- Section 768.28(16)(b)** Claim files maintained by risk management programs are exempt from inspection except as provided by this subsection, until final determination (see section).
- Section 768.28(16)(d)** Minutes of certain meetings and proceedings (see section) of a risk management program are exempt from inspection until termination of all litigation.
- Section 815.04(3)(a)** Data, programs or supporting information, which is a trade secret as, defined in s. 812.081, which is part of a computer system held by an agency as defined in Chapter 119, is exempt from inspection.
- Section 1002.22** Student and Parental Rights and Educational Choices. **Read Entire Chapter, See Tab 28.**
- Section 1003.25(1)** The cumulative records is confidential except as provided by Chapter 1002, F.S.
- Section 1003.53(6)** Student and juvenile justice records shall be used only for official business.
- Section 1003.57(5)** Hearings on exceptional student placement or denial are exempt from section 286.011, F.S. as well as related records.
- Section 1006.07(1)(a)** Student expulsion hearings are exempt from section 286.011, F.S.
- Section 1008.345(8)(h)** Tests and related documents developed to measure and diagnose student achievement of college-level communication and math skills is exempt.

Further,

Federal Regulations 45 CFR 121 a. 572(d) provides in part, “each participating agency shall maintain for public inspection, a current listing of the names and positions of those employees with the agency who may have access to personally identifiable information.” And,

Family Educational Rights to Privacy Act, FERPA

IMPLEMENTATION

Implementation Steps

Managing Public Records efficiently and economically requires implementation of very specific products and activities - steps. These steps must then be implemented in stages and monitored continually. Some steps are comprised of a multitude of increments, spread across months. The speed and thoroughness of implementation is therefore, driven by the motivation of management, together with staffing standards and resources. The following is offered as a guide to implementing a records management program, or improving one, in terms of these steps:

1. Prepare District wide Disposition List. This document should list all scheduled records since the start date of the District through the latest date eligible for destruction. This request is for destruction only. Such a request accounts for records that may already have been destroyed before the present administration. *Complete* destruction should follow. Each year a new accumulation should result in the creation of a new, sequentially numbered list.

Draft List Number 69 compiled by Consultant, attached.

2. Designate a Records Management Liaison Officer (RMLO) in writing to the Florida Department of State, Division of Library and Information Services, Bureau of Archives and Records Management. This designation should be updated as necessary.

3. Select Records Coordinators for each unit throughout the District. These Coordinators then work with the RMLO and help ensure a comprehensive, systematic program.

4. Conduct Training. The disposition list described above should already be approved and in hand together with copies of relevant Schedules. The training should educate coordinators in the proper use of the disposition list and educate them in the proper use of record series titles. Training needs to be ongoing, especially as coordinators, procedures and requirements change. See recommended training outline and training manual (**Tab 49**).

5. Destroy all eligible, approved records.

In Process.

Category One records may be further divided by active and inactive status. Active records should remain with the user until the termination of

administrative value. Administrative value is the value a record series has for day-to-day functions. Inactive (or *less active*) records should be uniformly containerized and computer indexed for high density, low cost, secure storage until retention has been satisfied.

Category Two records should be destroyed without further delay, after inclusion on the District's Records Disposition List.

Records falling into **Category Three** should be submitted to the Department of State through the District RMLLO via form 105, Records Retention Schedule. The form 105 is available for downloading as a Word Document from the Department of State web site. Based upon the Department of State approved retention, Category Three records should be reclassified to One, Two or Four.

Category Four records should be scheduled for conversion to microfilm, COM or other storage device in priority order based upon media condition (worst case records stabilized first), series retention value (permanent records first), or administrative value (high reference records first).

6. Schedule records series titles not already scheduled as described in the "Scheduling" Section.

7. Prepare another Disposition List for newly scheduled records for destruction, as necessary.

8. Destroy all eligible, approved records.

9. Prepare Request for Proposals as required, or use existing contracts, see "Specifications."

10. Select records for conversion to source document film and Computer Output Microfilm (COM).

Appraisals: Land (Purchased)
Bond Administration Records
Bond Registers
Bond Resolutions
Minutes and Agendas (Section 286.011(2), F.S. Meetings)
Ordinances
Resolutions
Budget Records: Approved Annual
Building Plans (Record Drawings of Facilities)
Legal Opinions (District Attorney)
Deeds
Endowments/Bequests/Trust Fund Records

Expenditure Plans: Capital Improvement
Final Orders Records
General Ledgers: Annual Summary
Maps: Original
Surveys/Air Photos
Records Management Plans
Records Disposition Forms and Lists
Micrographics Quality Control Records
Records Retention Schedules: Agency Specific
Permits for Environmental Impact Construction
Permits for Rights-of Way
Property Records: Condemned
Access Log: Student Education Records
Agreements: Expunge, Delete or Correct Student Record
Census Records
Millage and Bond Election Records
Student Education Records: Category A

11. Prepare Disposition List to convert records to source document film and destroy (not required for COM).

12. Select records for conversion to electronic images.

13. Prepare Disposition List to convert hardcopy records to electronic images.

14. Transfer inactive hardcopy records to Off-Site Storage Facility.

1. Only records with remaining retention, yet virtually no administrative value should be considered for off site storage.

2. Records should be packed into uniform, one cubic foot boxes (10x12x15 inches) with a removable or hinged lid, although removal is preferred.

3. Every record within each box must have the same destruction date.

4. Records should be indexed. Only a box number should appear on the box as a *label*.

5. Records Coordinators (see Maintenance, **Tab 15**) are responsible for selecting, boxing and transmitting records to off site storage location as authorized by the RMLO.

6. As records are eligible for destruction, they should be destroyed. Existing boxed records need to be reviewed by staff for destruction eligibility.

15. Transfer security microfilm and magnetic media to Off Site Storage Facility.

16. Implement File Code System (MS Access, File Code) as described in the "Filing System" Section.

17. Design and Implement Data Processing Disaster Recovery Plan.

MAINTENANCE

The entire records management plan outlined above requires constant monitoring to ensure continuing legal compliance, economy and efficiency. **Florida Law (Chapter 257, F.S.) requires each public Agency designate a Records Management Liaison Officer (RMLO) in writing** to ensure that the records management program remains viable.

Training options are limited. There is only one course in records management certified by the Florida Institute of Government. The course is usually offered colleges and universities throughout Florida. The course may also be conducted on site to allow more employees to attend and reduce travel expenses. The Department of State also provides training. However, five professional associations offer training, publications, technical standards and/or assistance in the area of information management and archives. The RMLO should investigate each:

ARMA

Association of Records Managers and Administrators
4200 Somerset Drive
Suite 215
Prairie Village, KS 66208
(913) 341-3808
Journal: *Records Management Quarterly*

AIIM

Association for Information and Image Management
1100 Wayne Avenue, Suite 11000
Silver Spring, MD 20910-5699
(301) 587-8202
(800) 477-2446
Fax: (301) 587-2711
Journal: *Inform*

Society of Florida Archivists

R. A. Gray Building
500 South Bronough
Tallahassee, FL 32399
(850) 487-2073
Journal: *The American Archivist*

Florida Records Management Association

P. O. Box 938844
Margate, FL 33093-8844
www.frma.org

Brechner Center for Freedom and Information

3208 Weimer Hall
College of Journalism and Communications
University of Florida
Gainesville, FL 32611
(904) 393-2273

See also:

Address

What's there

http://dlis.dos.state.fl.us/records_managers

Public Record Information goldmine. See other related links

www.law.com

Legal articles, often about records

www.leg.state.fl.us/statutes

Florida Statutes

<http://myfloridalegal.com/opinions>

Attorney General Opinions

www.ethics.state.fl.us

Florida Commission on Ethics

www.myflorida.com

Florida Government, including purchasing contracts and SNAPS

www.supremecourtus.gov

Federal Supreme Court, including opinions

www.edocmagazine.com

AIIM

Further, training for the RMLO alone is not enough. The RMLO cannot perform all activities described within this report alone. Beginning with the inventory, staff at all levels must provide input, assistance and cooperation. Therefore, Management support for the RMLO and the Records Management Program is mandatory.

Section 257.36, F.S., (**Tab 26**) requires in part the RMLO to cooperate with the Department of State and act as liaison for all District records functions. Duties include, but are not limited to: an analysis of inventory data; generation of disposition forms; establishing service priorities; coordinating equipment selection and procurement; coordinating systems implementation throughout the District to include files; coordinating off site storage selection and activities; coordinating microfilm conversion and vendor selection; vital records protection; training unit contacts; keeping abreast of current technologies, techniques and legal requirements.

Additionally, the RMLO should be involved in the procurement of all information technologies and equipment, and systems for the District. The purpose being to ensure that such technologies, equipment and systems merge properly with the District Records Management Plan and with all appropriate Federal, State and Local legal requirements. Therefore, no such procurement should proceed without approval of the RMLO.

LIST OF PUBLISHED SOURCES USED DURING THE COMPILATION OF THIS REPORT

Section 92.29, Florida Statutes (F.S.), Photographic Copies as Evidence

Chapter 119, F.S., Public Records

Chapter 120, F.S.

Chapter 120, F.S.

Section 257.36, F.S., Public Libraries

Section 668.6076, F.S.

Rule Chapter 1B-24, Florida Administrative Code (F.A.C.), Public Records
Scheduling and Dispositioning

Rule Chapter 1B-26, F.A.C., Records Management - Standards and
Requirements

Legal Requirements for Business Records,
Donald S. Skupsky, JD, CRM

General Records Schedule GS1-L, and GS7
Florida Department of State

Public Records Storage Guidelines, Florida Department of State

Electronic Records and Records Management Practices,
Florida Department of State

Practice for Operational Procedures/Inspection and Quality Control
of First-Generation, Silver Microfilm of Documents, ANSI/AIIM
MS23-1991

Government-in-the-Sunshine Manual, First Amendment Foundation,
Volume 29, 2007 Edition

“Job Discrimination Handbook,” Bureau of Business Practice,

“Laws Enforced by the U.S. Equal Employment Opportunity Commission,”
EEOC

“The Practical Guide to Employment Law,” Bureau of Business Practice, Inc.,

Provided by District:

Organization Chart, 7/1/2007

District Policies and Procedures Manual on Students Records

Minute Book One and Information Relative to District Start Date

District Disposition History

AS400 Tape Log

MS Server Tape Log

Scanning Status Report, 9/5/2007

IS Media Retention Policy and Procedure

School District Record of Access to Cumulative Folder, Blank Form

Sample Board Minutes, 9/6/2007

Enrollment Counts by School and Grade

District School Construction/Opening Data

Interview data from District staff together with on-site examination of record collections sufficient to analyze the District's current record status.

SPECIFICATIONS

The following Specifications are offered as a guide for writing an RFP, or for securing bids, quotes, etc. The District may also attach to competitively bid contracts by other Florida Public Agencies, or State Contracts. Consultant will be happy to provide to the District copies of such contracts, which, in the experience of the Consultant, offer superior service at fair rates. Consultant has no financial relationship with any service provider tethered to endorsement or service procurement or opportunities. The existing contract with Martin District School Board, used also by Collier and Osceola DSB is enclosed for review, **TAB 35**. Consultant's experience with this vendor/DSB relationship is excellent.

SPECIFICATIONS FOR HARD COPY RECORDS STORAGE FACILITY

Hard copy records shall be stored in a freestanding, single tenant, concrete or masonry structure of Type 4 protected, non-combustionable heavy resistant construction as specified by the Standard Building Code, SBCCI. It shall meet or exceed the recommendations of the Florida Department of State found in Public Records Storage Guidelines; and shall be equipped with intrusion and fire alarms and a water sprinkler fire suppression system, monitored 24 hours by UL approved agencies. Documentation to verify present monitoring agreements must be attached to the bid response.

HARD COPY RECORDS STORAGE SERVICES:

Vendor shall provide:

1. Records storage containers;
2. Pick-up and delivery via a bonded courier;
3. Computer indexing to include destruction dates,
4. Access to records 24 hours a day, seven days a week;
5. A written, quarterly index of record holdings;
6. Destruction services in accordance with Rule Chapter 1B-24, Florida Administrative Code.
7. A written statement of confidentiality from each applicable employee.

Retrieval/Refile

Regular Business Hours _____ per item

Emergency/After Business Hours _____ per item

Delivery/Pick-up

Regular Business Hours _____ per item

Emergency/After Business Hours _____ per item

Storage Boxes (outside volume, used to calculate billing, shown)

1.2 cubic foot box	_____	each
0.6 cubic foot box	_____	each
1.7 cubic foot box	_____	each
Monthly Storage	_____	per cubic foot
Facsimile Transmission	_____	per page
Research Charge	_____	per hour
Destruction Date Change	_____	each
Permanent Deletion	_____	each
Repackaging Damaged Containers	_____	per item
Data Entry	_____	per line
Customer Delivery/Pick-up	_____	per transaction
Photocopies	_____	per page
Accession Fee	_____	per item
Computer Indexing	_____	per line
Fumigation	_____	per cubic foot
Destruction	_____	per cubic foot

SPECIFICATIONS FOR VAULT STORAGE FACILITIES FOR SECURITY MICROFILM AND MAGNETIC MEDIA

Security microfilm and magnetic media shall be stored in a free standing, single tenant, concrete or masonry structure of Type 4 protected, non-combustionable heavy resistant construction as specified by the Standard Building Code, SBCCI. It shall meet or exceed the recommendations of the Florida Department of State found in Public Records Storage Guidelines and shall be equipped with intrusion and fire alarms, monitored 24 hours by UL approved agencies. Documentation to verify present monitoring agreements must be attached to the bid response.

SECURITY MICROFILM AND MAGNETIC MEDIA SERVICES

Vendor shall provide:

1. Media storage containers;
2. Pick-up and delivery via a bonded courier;
3. Computer indexing;
4. Access to records 24 hours a day, seven days a week;
5. A written, quarterly index of record holdings;
6. Destruction services in accordance with Rule Chapter 1B-24, Florida Administrative Code;
7. Inert gas fire suppression equipment;
8. Storage to meet or exceed requirements of Rule Chapter 1B-26, Florida Administrative Code;
9. Magnetic media transport containers shall be used for all pick-up and deliveries of magnetic media.
10. A written statement of confidentiality from each applicable employee.

Retrieval/Refile

Regular Business Hours _____ per item

Emergency/After Business Hours _____ per item

Delivery/Pick-up

Regular Business Hours	_____	per item
Emergency/After Business Hours	_____	per item
Monthly Storage	_____	per cubic foot
Destruction Date Change	_____	each
Permanent Deletion	_____	each
Data Entry	_____	per line
Customer Delivery/Pick-up	_____	per transaction
Accession Fee	_____	per item
Computer Indexing	_____	per line
Destruction	_____	per cubic foot

**SPECIFICATIONS FOR COMPUTER OUTPUT MICROFILM (COM)
and
SOURCE DOCUMENT MICROFILM SERVICES**

Vendor shall provide:

1. 16mm source document, roll services w/blip and sequential document numbers;
2. 35mm source document, roll services with sequential document numbers;
3. Hard copy pick-up and preparation services;
4. 16mm COM recording;
5. Processing for all microforms;
6. Duplication services for all microforms;
7. Computer indexing for all microforms;
8. All microforms shall meet or exceed the requirements of Chapter 1B-26, Florida Administrative Code;
9. Hard copy destruction services in accordance with Chapter 1B-24, Florida Administrative Code;
10. Vendor will conduct and document appropriate resolution, density and Methelyne Blue tests at intervals sufficient to ensure microfilm products meet or exceed the requirements of Rule Chapter 1B-26, Florida Administrative Code.
11. A written statement of confidentiality from each applicable employee.

All microfilm prices shall be for a finished product, to include processing.

16mm Planetary Filming	_____	per image
16mm Continuous Feed Filming	_____	per image
35mm Planetary Filming	_____	per image
Computer Output Microfilm	_____	per image
Single Level Blip	_____	each

Sequential Number	_____	each
Computer Programming	_____	per hour
Computer Indexing	_____	per entry per field
Document Preparation	_____	per hour
16mm Diazo Duplication	_____	per 100 ft roll
35mm Diazo Duplication	_____	per 100 ft roll
Silver Duplication	_____	per 100 ft roll
COM form slides	_____	each

SPECIFICATIONS FOR OPEN SHELF LATERAL FILE UNITS

(see State Contract)

1. Starter and add on units as required.
2. 22 gauge, single entry shelves.
3. 36" wide, 12" deep, and 76" high.
4. Baked enamel finish.
5. 2.0" base.
6. 8 shelves, 7 openings. Shelves placed 10.5" on center with 9.75" vertical filing spacer per opening.
7. 4 post, with adjustable shelves.
8. 4 adjustable dividers per opening.
9. Each shelf to include a slotted backstop.
10. Wall mounts or factory produced "clothes pins" for back-to-back placement to be installed to prevent tipping of units, if required.
11. Price to include delivery and installation.

Vendor will need to know:

- a. Is the file location above grade?
- b. Is there an elevator, if so?
- c. Is there a loading dock?
- d. What is the floor load capacity?
- e. And are there multiple locations to set up?

SPECIFICATIONS FOR FILE FOLDERS AND LABELS

File Folders:

1. 11 point manila, with
2. full end, double tab,
3. letter size,
4. scored or imprinted for label application.

Labels:

1. .5 inch.
2. Wrap around (visible from both sides of end tab).
3. End tab.
4. Color coded.
5. Alpha and Numeric (each file folder coded with 3 letters and 3 numbers).
6. Year Labels.
7. Self adhesive.

LIST OF ATTACHMENTS

TAB
No.:

- 24 File Codes and Files Names matrix.
- 25 Chapter 119, Public Records.
- 26 Section 257.36, F.S., Records and information Management.
- 27 Section 668.6076, F.S. website notice.
- 28 Section 1002.22, F.S. Student records.
- 29 Rule Chapter 1B-24, F.A.C., Public Records Scheduling and Dispositioning.
- 30 Public Records Storage Guidelines
Florida Department of State.
- 31 Records and Document Recovery Techniques.
- 32 Rule Chapter 1B-26.003, F.A.C., Electronic Record keeping.
- 33 Rule Chapter 1B-26.0021, F.A.C., Microfilm Standards.
- 34 Department of State E-mail Opinion.
- 35 Martin County District School Services Contract.
- 36 AGO 85-87: Machine-readable files, public records.
- 37 AGO 96-34: Records, e-mail made or received by public agency.
- 38 AGO 2001-20: E-mail as a public record and as a meeting.
- 39 AGO 2005-28: Public Records, fees for copying records.
- 40 AGO 2005-34: Records, county property appraiser (as related to electronic signature).
- 41 AGO 2006-21: Schools/Public Records, student Identifying Information

- 42 AGO 2006-30: Public Records, access by static website.
- 43 AGO: INFORMAL, November 21, 2006: School Bd
Member requesting records
- 44 Disposition List Number 69, Hardcopy.
- 45 General Schedule GS1-SL, State and Local Government Agencies
With changes.
- 46 General Schedule GS7 Public Schools.
- 47 Supreme Court of Florida, Florida v. City of Clearwater,
Times Publishing Company v. City of Clearwater, Florida. (*Personal/
Private e-mail*) Nos. SC02-1694 & SC02-1753.
- 48 United State District Court for the Southern District, Miami
Division, Case No. 90-1913.
- 49 Recommended Training Outline.

Draft Training Manual.
- 50 CD

MS Word, Plan.

MS Word, Draft Training Manual.

MS Access, File Code Application.

MS Access, Box Index Application.

MS Word, Disposition List.