



Board Agenda Item #	III D: Consent Item
Date:	September 8, 2022
To:	Magnolia Public Schools - Board of Directors
From:	Alfredo Rubalcava, CEO & Superintendent
Staff Lead:	David Yilmaz, Chief Accountability Officer
RE:	Approval of Record Retention and Disposal Policy

#### Proposed Board Recommendation

I move that the board approve the Record Retention and Disposal Policy.

#### Background

This will be MPS' formal policy regarding the retention and destruction of records, including electronic documents. This Policy applies to all physical records generated in the course of MPS' operation, including both original documents and reproductions. It also applies to the electronic documents. The purpose of this Policy is to ensure that necessary records of MPS are adequately protected and maintained, and to ensure that records no longer needed by MPS or that are of no value are appropriately discarded at the proper time.

Appendix A of the Policy provides a schedule of record types and how long each record will be retained, including Corporate Records, Financial Records, Insurance Records, Contracts, Legal Records, Donations/Fundraising Records, Management Plans and Procedures, Personnel Records, Tax Records, Student Records, Correspondence and Internal Memoranda, and Electronic Documents. MPS also has a separate, more detailed policy dedicated to Student Records, as referred to in the Policy.

#### Budget Implications

N/A

#### How Does This Action Relate/Affect/Benefit All MSAs?

This policy will help us implement consistent office procedures regarding maintenance and destruction of our records.

Name of Staff Originator:

David Yilmaz, Chief Accountability Officer

Exhibits (Attachments):

- Record Retention and Disposal Policy

## RECORD RETENTION AND DISPOSAL POLICY

### I. **PURPOSE**

The records of Magnolia Public Schools (“MPS” or the “Charter School”) are important to the efficient and effective operation of the Charter School. MPS records include those produced by MPS’ administrators, employees, volunteers, and board members, both in electronic and paper form, when acting in the course and scope of their roles at MPS, and/or using MPS’ computers, email accounts, or other electronic storages devices owned or controlled by MPS. Items that may seem unimportant, such as interoffice e-mails, desktop calendars and printed memoranda nonetheless may be considered records under this Policy.

The purpose of this Policy is to ensure that necessary records of MPS are adequately protected and maintained, and to ensure that records no longer needed by MPS or that are of no value are appropriately discarded at the proper time. This Policy should also aid administrators, employees, volunteers, and board members of MPS (sometimes referred to herein as “you”) in understanding obligations in retaining electronic documents, including e-mail, web files, text files, sound, and movie files, .pdf documents, and Microsoft Office or other native-formatted files. If you are ever uncertain as to any procedures set forth in this Policy (e.g., what records to retain or destroy, when to do so, or how), it is your responsibility to seek direction from the Administrator of this Policy (defined below).

### II. **POLICY AND SCOPE**

This is MPS’ formal policy (the “Policy”) regarding the retention and destruction of records, including electronic documents. This Policy applies to all physical records generated in the course of MPS’ operation, including both original documents and reproductions. It also applies to the electronic documents.

The goals of this Policy are to:

- Retain important documents for reference and future use;
- Delete or dispose of documents that are no longer necessary for the operation of MPS charter schools;
- Organize important documents for efficient retrieval; and
- Ensure that MPS’ administrators, employees, volunteers, and board members know which documents should be retained, the length of their retention, means of storage, and when and how they should be destroyed.

Federal and state laws require MPS to maintain certain types of records for particular periods. Failure to maintain such records could subject MPS to penalties and fines, obstruct justice, affect evidence, and/or seriously harm MPS’ position in a tax or litigation matters. Thus, it is important that you understand and comply with this Policy and any future records retention or destruction policies and schedules. Notwithstanding anything contrary in this Policy, you should retain and seek direction from the Administrator concerning any records which you reasonably believe:

- (i) are or could be relevant to any future tax or litigation matter;
- (ii) arise from a dispute that could lead to litigation; or
- (iii) pertain to a lawsuit in which MPS is a party. In such situations, MPS must preserve records unless or until MPS’ legal counsel determines that the records are no longer needed.

“Records” discussed herein refers to all business records of MPS (and is used interchangeably with “documents”), including written, printed, and recorded materials, as well as electronic records (i.e., e-mails and documents saved electronically). All records shall be retained for a period no longer than necessary for the proper conduct and functioning of MPS. No business records shall be retained longer than seven (7) years, except those that: (i) have periods provided for herein; (ii) are in the Record Retention Schedule, found at Appendix A; or (iv) are specifically exempted by the Administrator.

### **III. ADMINISTRATION AND OVERSIGHT**

Attached as **Appendix A** is a Record Retention Schedule (the “RRS”) that is approved as the initial maintenance, retention, and disposal schedule for physical records of MPS and the retention and disposal of electronic documents. The RRS lists several categories of records, as well as specific records that contain specific retention periods. The Executive Director of MPS (the “Administrator”) or her/his designee is the officer in charge of the administration of this Policy and the implementation of processes and procedures to ensure that the Record Retention Schedule is followed. The Administrator is also authorized to: (i) make modifications to the RRS from time to time to ensure that it is in compliance with local, state and federal laws and includes the appropriate document and record categories for MPS and the charter schools it operates; (ii) monitor local, state and federal laws affecting record retention; (iii) annually review the record retention and disposal program; and (iv) monitor compliance with this Policy.

To ensure compliance with this Policy, the Administrator is responsible for the following oversight functions:

- Implementing this Policy;
- Ensuring that administrators, employees, volunteers, and board members are properly informed, understand, and follow this Policy and the RRS;
- Providing oversight on actual retention and destruction/disposal of documents;
- Ensuring proper storage of documents;
- Periodically following-up with counsel to ensure proper retention periods are in place;
- Suspending the destruction of documents upon actual or foreseeable litigation; and
- Keeping administrators, employees, volunteers, and board members apprised of changes in relation to this Policy or the RRS.

The Administrator shall periodically review this Policy and RRS, modify them accordingly, and inform and educate all MPS administrators, employees, volunteers, and board members on any such changes. All questions relating to document retention and/or destruction should be directly addressed to the Administrator.

### **IV. HOW RECORDS ARE STORED**

#### **Tangible Records**

Tangible records are those which you must physically move to store, such as paper records (including records printed versions of electronically saved documents), photographs, audio recordings, advertisements and promotional items. Active records that are retained as set forth in the RRS and need to be easily accessible may be stored in MPS’

administration space or equipment. Inactive tangible records that are retained as set forth in the RRS may be sent to an off-site storage facility.

#### Electronic Records

Electronic mail (“e-mail”) that is required to be retained as set forth in the RRS should be either printed and stored as tangible records or stored electronically. MPS utilizes computer applications that duplicate files, which are then backed-up on central servers or by other means. If you have a notebook computer or other portable device from MPS that you work on out of the office, your computer should contain synchronization software that duplicates and backs-up files when you log into the network. In any event, it is important that all employees take precautionary measures to save work and records on MPS’ network drive(s). If you save sensitive or important records on other drives or memory devices, you should duplicate the information in an alternate format so that records are not lost or damaged.

### **V. DESTRUCTION/DELETION OF RECORDS**

#### Tangible Records

Tangible records that are not required to be retained as set forth in the RRS should be destroyed by shredding or some other means that will render them unreadable. If you have a record that you do not know how to destroy, such as a photograph, compact disk, or tape recording, ask the advice of the Administrator.

#### Electronic Records

E-mail records that you “delete” from a device typically remain in MPS’ system. Thus, MPS information technology (“IT”) staff or vendor will be responsible for permanently removing deleted emails from the computer system that are not required to be retained as set forth in the RRS. Permanently deleting a file is usually sufficient in most circumstances to dispose of a record. However, because electronic records can be stored in many locations, MPS’ IT staff or vendor will be responsible for permanently removing deleted files from the entire system. Keep in mind, where duplicate records are involved, both/all copies should be destroyed/deleted, where proper.

### **VI. SUSPENSION OF RECORD DISPOSAL IN EVENT OF LITIGATION OR CLAIMS**

In the event MPS is served with a document subpoena, or an employee becomes aware of a governmental investigation or audit concerning MPS or the commencement of any litigation against or concerning MPS, such employee shall inform the Administrator and any further disposal of documents shall be suspended until such time as the Administrator, with the advice of counsel, determines otherwise. The Administrator shall take such steps as is necessary to promptly inform all staff of any suspension in the further disposal of documents.

## APPENDIX A: RECORD RETENTION SCHEDULE

The following types of documents will be retained for the following periods of time. At least one copy of each document will be retained according to the following schedule:

## A. CORPORATE RECORDS

Document	Time Period
Articles of Incorporation	Permanent
Corporate Bylaws	Permanent
IRS Form 1023 to file for tax-exempt and/or charitable status	Permanent
IRS Letter of Determination granting tax exempt status	Permanent
State Application for Tax Exempt Status (Form 3500)	Permanent
State Determination Letter granting tax exempt status	Permanent
Board Policies/Resolutions	Permanent
Board and Committee Meeting Minutes	Permanent
Sales Tax Exemption Documents	Permanent
Tax ID Number Designations	Permanent
Annual Corporate Filings	Permanent
Licenses and Permits	Permanent

## B. FINANCIAL RECORDS

Document	Time Period
Chart of Accounts	Permanent
Fiscal Policies and Procedures	Permanent
Audits	Permanent
Financial Statements	Permanent
General Ledger	Permanent
Check Registers/Books	7 years
Business Expenses Documents	7 years
Bank Statements and Bank Deposit Slips	7 years
Cancelled Checks	7 years
Invoices	7 years

Investment Records (deposit, earning, withdrawals)	7 years
Property and Asset Inventories	7 years
Petty Cash Receipts/Documents	7 years
Credit Card Receipts	7 years

#### C. INSURANCE RECORDS

Document	Time Period
Property Insurance Policy	Permanent
Directors and Officers Insurance Policy	Permanent
Workers' Compensation Insurance Policy	Permanent
General Liability Insurance Policy	Permanent
Insurance Claims Applications	Permanent
Insurance Disbursements/Denials	Permanent

#### D. CONTRACTS

Document	Time Period
All Insurance Contracts	Permanent
Employment Contracts	7 years after termination
Construction Contracts	Permanent
Loan/Mortgage and Real Estate Documents	Permanent
Leases/Deeds	Permanent
Vendor Contracts	7 years
Warranties	7 years

#### E. LEGAL RECORDS

Document	Time Period
Legal Correspondence	Permanent
Litigation Files	Permanent
Court Orders	Permanent

## F. DONATIONS/FUNDRAISING RECORDS

Document	Time Period
Grant Dispersal Contract	Permanent
Donor Lists	7 years
Grant Applications	7 years
Donor Acknowledgments	7 years
All requested IRS/grantee correspondence including determination letters and “no change” in exempt status letters	7 years
All evidence of returned grant funds	7 years

## G. MANAGEMENT PLANS AND PROCEDURES

Document	Time Period
Strategic Plan	7 years
Staffing, programs, marketing, finance, fundraising and evaluation plans	7 years
Disaster Recovery Plan	7 years

## H. PERSONNEL RECORDS

**General Principle:** Pension documents and supporting employee data shall be kept in such a manner that can establish at all times whether or not any pension is payable to any person and if so the amount of such pension.

Document	Time Period
Recruitment, Hiring and Job Placement Records <ul style="list-style-type: none"> <li>• Job applications</li> <li>• Resumes</li> <li>• Letters of recommendation</li> <li>• Other job inquiries sent to MPS</li> <li>• Job advertisements/postings</li> <li>• Results of non-medical pre-employment tests</li> <li>• Offers of employment</li> <li>• Employment agreements</li> <li>• Signed pre-employment disclosures (employee handbook</li> </ul>	3 years after separation, or for the duration of any claim or litigation regarding hiring practices



<p>acknowledgment, complaint procedures, etc.)</p> <ul style="list-style-type: none"> <li>• Employee training (harassment prevention, mandated reporting, etc.)</li> <li>• Employee certificates, credentials, licenses, and other evidence of qualifications</li> <li>• Certificate of criminal background check clearance (or failure)</li> </ul>	
<p>Employee Performance and Other Personnel Records</p> <ul style="list-style-type: none"> <li>• Job descriptions</li> <li>• Training and testing</li> <li>• Performance goals</li> <li>• Performance evaluations</li> <li>• Written feedback and commendations</li> <li>• Promotions and demotions</li> <li>• Letters of reprimand and discipline</li> <li>• Performance Improvement Plans</li> <li>• Termination, resignation, lay-offs, etc.</li> <li>• Notices and letters</li> </ul>	3 years after separation
<p>Employee Medical Leave Records (PDL, FMLA, CFRA, etc.) *</p> <ul style="list-style-type: none"> <li>• Requests for leave</li> <li>• Health care provider notes</li> <li>• Leave calculations</li> <li>• Records of disputes regarding leave</li> <li>• Employee benefits related to leave</li> <li>• Leave policies</li> </ul>	<p>3 years after separation</p> <p>* Records that contain employee confidential medical information should be retained in a separate, secure file.</p>
<p>Employee Wage Records</p> <ul style="list-style-type: none"> <li>• Employment agreements</li> <li>• Wage rates and calculations</li> <li>• Shift schedules (hours and days)</li> <li>• Time cards</li> <li>• Individual calculations for absences, sick days, vacation days, etc.</li> <li>• Itemized wage statements/pay stubs</li> </ul>	<p>3 years after separation</p> <p>Note: If a record is both a <i>wage record</i> and a <i>payroll record</i>, follow the longer retention period.</p>
<p>Employee Payroll Records</p> <ul style="list-style-type: none"> <li>• Employee name, address, age, and occupation</li> <li>• Individual wage records</li> <li>• Regularly hourly rate</li> <li>• Hours worked (daily/weekly)</li> <li>• Weekly overtime earnings</li> </ul>	Generally, 7 years

<ul style="list-style-type: none"> <li>• Daily and weekly straight time earnings</li> <li>• Deductions from or additions to wages</li> <li>• Wages paid each pay period</li> <li>• Pay dates and pay periods</li> <li>• Unemployment Insurance Records</li> </ul>	
Employment Eligibility (I-9 Forms)	The later of (a) 1 year after separation, or (b) 3 years from date of hire.
<p>Employee Health Records*</p> <ul style="list-style-type: none"> <li>• First-aid records</li> <li>• Job injuries (causing loss of work time)</li> <li>• Drug and alcohol test records</li> </ul>	<p>5 years after separation</p> <p>* Records that contain employee confidential medical information should be retained in a separate, secure file.</p>
<p>Employee Workers' Compensation Records</p> <ul style="list-style-type: none"> <li>• Copies of claim forms</li> <li>• Reports of occupational injury or illness</li> <li>• Letters of denial of benefits</li> <li>• Reports to the Division of Workers' Compensation</li> <li>• Benefits paid</li> <li>• Estimates of future benefits</li> <li>• Applications to the Workers' Compensation Appeals Board</li> <li>• Orders and Awards of the Workers' Compensation Appeals Board</li> </ul>	<p>5 years after date of injury and 2 years after claim has been closed.</p> <p>* Records that contain employee confidential medical information should be retained in a separate, secure file.</p>
<p>Employee Benefit Records</p> <ul style="list-style-type: none"> <li>• Benefits elections</li> <li>• Beneficiary designations</li> <li>• Eligibility determinations</li> <li>• COBRA notices</li> <li>• Summary plan descriptions</li> <li>• Other welfare benefit plan information (life, health, disability, long-term care, post-retirement medical)</li> </ul>	<p>6 years after separation, but not less than 1 year following a plan termination.</p> <p>* Records required to determine retirement benefits, including 401(k) and similar plans, must be kept indefinitely.</p>
Chemical Safety and Toxic Exposure Records	30 years after separation (medical records of employees who have worked for less than (1) year for the employer need not be retained beyond the

	term of employment if they are provided to the employee upon the termination of employment)
<p>Note: For simplicity, MPS may choose to keep the majority of an employee's personnel file and other records <b>for the duration of employment plus four (4) years</b>. This time period covers nearly every law, with the exception of three (3) types of records, as outlined above, that must be removed from a file before it is disposed of and retained for a longer duration:</p> <ul style="list-style-type: none"> <li>• Pension and welfare plan information (6 years)</li> <li>• First aid records of job injuries causing loss of work time (5 years)</li> <li>• Safety and toxic or chemical exposure records, including safety data sheets (30 years)</li> </ul>	

## I. TAX RECORDS

**General Principle:** MPS must keep books of account or records as are sufficient to establish amount of gross income, deductions, credits, or other matters required to be shown in any tax return.

These documents and records shall be kept for as long as the contents thereof may become material in the administration of federal, state, and local income, franchise, sales and property tax laws.

Document	Time Period
IRS Annual Tax Filing Form 990	Permanent
FTB Annual Form 199	Permanent
Payroll Registers	Permanent
IRS Form 1099 Filings	7 years
Payroll tax returns and withholding returns	7 years
Earnings records	7 years
W-2 statements	7 years

## J. STUDENT RECORDS<sup>1</sup>

Document	Time Period
<b>Mandatory Permanent (Original or copy)</b>	Permanent (even after student leaves the charter school)
(A) Legal name of student	

<sup>1</sup> Please see the *Maintenance and Destruction of Student Records Policy* for more detailed information.

<p>(B) Date of birth</p> <p>(C) Method of verification of birth</p> <p>(D) Sex of student</p> <p>(E) Place of birth</p> <p>(F) Name and address of parent of minor student</p> <ul style="list-style-type: none"> <li>- Address of minor student if different than above</li> <li>- An annual verification of the name and address of the parent and the residence of the student</li> </ul> <p>(G) Entering and leaving date of each school year and for any summer session or other extra session</p> <p>(H) Subjects taken during each year, half-year, summer session or quarter</p> <p>(I) If marks or credit are given, the mark or number of credits toward graduation allows for work taken</p> <p>(J) Verification of or exemption from required immunizations</p> <p>(K) Related Master Plan student documents</p>	
<p><b>Mandatory Interim (Original or copy)</b></p>	
<p>(A) A log or record identifying those persons (except authorized school personnel) or organizations requesting or receiving information from the record. The log or record shall be accessible only to the legal parent or guardian or the eligible pupil, or a dependent adult pupil, or an adult pupil, or the custodian of records</p> <p>(B) Health information, including Child Health Developmental Disabilities Prevention Program verification or waiver</p> <p>(C) Participation in special education programs including required tests, case studies, authorizations, and actions necessary to establish eligibility for admission or discharge</p> <p>(D) Language training records</p> <p>(E) Progress slips and/or notices as required by Education Code Sections 49066 and 49067</p> <p>(F) Parental restrictions regarding access to directory information or related stipulations</p> <p>(G) Parent or adult pupil rejoinders to challenged records and to disciplinary action</p> <p>(H) Parental authorizations or prohibitions of pupil participation in specific programs</p> <p>(I) Results of standardized tests administered within the preceding three years</p>	<p>At least 3 school years after the student leaves the charter school or usefulness ceases</p>
<p><b>Permitted Records (Original or copy)</b></p>	
<p>(A) Objective counselor and/or teacher ratings</p>	<p>At least 6 months after the student's completion of or</p>

(B) Standardized test results older than three years (C) Routine discipline data (D) Verified reports of relevant behavioral patterns (E) All disciplinary notices (F) Attendance records not used for apportionment or compulsory education	withdrawal from the charter school
<b>Miscellaneous</b>	
Individual student injury record for which a claim was filed	1 year after the claim has been settled or after the statute of limitations has run out
Emails	If an email falls into one of the above categories for permanent, interim, or permitted records, it shall be printed, placed in the student's file, and maintained consistent with the time periods above

#### K. CORRESPONDENCE AND INTERNAL MEMORANDA

**General Principle:** Most correspondence and internal memoranda should be retained for the same period as the document they pertain to or support. For instance, a letter pertaining to a particular contract would be retained as long as the contract. It is recommended that records that support a particular project be kept with the project and take on the retention time of that particular project file.

Correspondence or memoranda that do not pertain to documents having a prescribed retention period, or draft correspondence or memoranda, should generally be discarded sooner. These may be divided into two general categories:

- Those pertaining to routine matters and having no significant, lasting consequences may be discarded at any time and at least *within two years*. Some examples include:
  - Routine letters and notes that require no acknowledgment or follow-up, such as notes of appreciation, congratulations, letters of transmittal, and plans for meetings.
  - Form letters that require no follow-up.
  - Letters of general inquiry and replies that complete a cycle of correspondence.
  - Letters or complaints requesting specific action that have no further value after changes are made or action taken (such as name or address change).
  - Other letters of inconsequential subject matter or that definitely close correspondence to which no further reference will be necessary.

- Chronological correspondence files.

Please note that copies of interoffice correspondence and documents where a copy will be in the originating department file may be read and destroyed, unless that information provides reference to or direction to other documents and must be kept for project traceability.

- Those pertaining to non-routine matters or having significant lasting consequences should generally be retained permanently.

#### L. ELECTRONIC DOCUMENTS

- **Electronic Mail:** Not all e-mail needs to be retained, depending on the subject matter.
  - All e-mail—from internal or external sources—may be deleted immediately unless the content of the email requires it to be retained under any sections of this Policy. The length of time that an email should be retained should be based upon the content of the email and the category under the various sections of this Policy.
  - Staff will strive to keep all of their e-mail communication related to MPS issues.
  - MPS will archive e-mail for up to three months after the account user has deleted it, after which time the e-mail will be permanently deleted.
  - You will not store or transfer MPS-related e-mail on non-work-related computers except as necessary or appropriate for MPS purposes.
  - You will take care not to send confidential/proprietary information of MPS to outside sources.
- **Electronic Documents**, including Microsoft Office Suite and PDF files. Retention also depends on the subject matter.
  - PDF documents – The length of time that a PDF file should be retained should be based upon the content of the file and the category under the various sections of this Policy.
  - Text/formatted files – You will conduct annual reviews of all text/formatted files (e.g., Microsoft Word documents) and will delete all those you consider unnecessary or outdated.
- **Web Page Files: Internet Cookies**
  - All workstations: Internet browsers should be scheduled to delete Internet cookies once per month.

MPS does not automatically delete electronic files beyond the dates specified in this Policy but may do so at its discretion otherwise in accordance with this Policy. It is your responsibility to adhere to the guidelines specified in this Policy.

MPS shall regularly run a tape backup copy or equivalent via remote backup of all electronic files (including e-mail) on MPS' server(s). This backup is a safeguard to retrieve lost information within a

one-year retrieval period should documents on the network experience problems. The backup copy is considered a safeguard for the record retention system of MPS but is not considered an official repository of MPS' records. All monthly and yearly tapes are stored offsite.

In certain cases, a document will be maintained in both paper and electronic form. In such cases the official document will be the electronic document.