

TITLE 5 REGULATIONS: RETENTION AND DESTRUCTION OF RECORDS **12**

ACTION SCHEDULED

Committee of: *The Whole*
Richard H. Leib, President
Board of Governors

Presentation: *Ralph Black, General Counsel*
California Community Colleges

Issue

This item presents a proposal to revise the Retention and Destruction of Records provisions of Title 5, *California Code of Regulations*, to permit districts to convert and store records in electronic format.

Background

Record storage in traditional paper methods can be expensive and space-consuming. Under current law, districts are required to store documents classified as Class 1-Permanent indefinitely. The Title 5 regulations do not allow districts to convert or store Class 1-Permanent documents in electronic format. The Los Angeles Community College District proposed changes to the Retention and Destruction of Records provisions of Title 5 to allow districts to convert paper documents into electronic format and store them electronically to save funds, space, and increase efficiency.

Analysis

The proposed amendments provide districts with the option of storing records in electronic or traditional paper format, as follows:

- Section 59020 is amended to allow districts the option of storing records in electronic form. Nonsubstantive amendments to the language are also proposed for clarification.
- Section 59022 is amended to allow districts the option of reproducing an original Class 1-

Permanent record in electronic form.

- Section 59023 is amended to allow districts the option of storing Class 1-Permanent records in electronic form.

Recommended Action

That the Board of Governors adopt the proposed Title 5 changes, as presented. At the time of this writing, the time for receiving public comments on the regulations had not expired. To date, we have not received any comments. We will inform the Board if any comments are received.

Proposed Revisions to Title 5 Regulations on Retention and Destruction of Records

1. Section 59020 of Article 1 of Subchapter 2.5 of Chapter 10 of Division 6 of Title 5 of the *California Code of Regulations* is amended to read:

59020. Definition of Records.

(a) ~~As used in~~ For purposes of this chapter, “records” means all records, maps, books, paper, data processing output, and electronic documents ~~of that~~ a Community College district is required by law to be prepared or retained ~~or which are prepared or retained as necessary or convenient to the discharge of~~ by law or official duty. “Records” includes “student records” as defined in section 76210 of the Education Code and subsection (c) of section 54606 of this title.

(b) The following documents are not “records” and may be destroyed at any time:

(1) ~~Mimeographed, otherwise duplicated, or carbon copies, except the~~ Additional copies of documents beyond the original or one copy. (A person receiving a duplicated copy need not retain it.)

(2) ~~Any individual memorandum, other than one relating~~ Correspondence between district employees that does not pertain to personnel matters; ~~or other than~~ constitute a student record; ~~between one employee and another employee of the district.~~

(3) Advertisements and other sales material received.

(4) Textbooks used for instruction, and other instructional materials, including library books, pamphlets and magazines.

NOTE: Authority cited: Sections 66700, 70901 and 76220, Education Code. Reference: Sections 76210 and 76220, Education Code.

2. Section 59022 of Article 1 of Subchapter 2.5 of Chapter 10 of Division 6 of Title 5 of the *California Code of Regulations* is amended to read:

59022. Classification of Records.

(a) The governing board of each Community College district shall establish an annual procedure by which the chief executive officer, or other designee shall review documents and papers received or produced during the prior academic year and classify them as Class 1-Permanent, Class 2-Optional, or Class 3-Disposable.

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

(c) Records originating during a current academic year shall not be classified during that year.

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

(e) Whenever an original Class 1-Permanent record is photographed, micro-photographed, or otherwise reproduced on film or electronically, the copy thus made is hereby classified as Class 1-Permanent. The original record, unless classified as Class 2-Optional, may be classified as Class 3-Disposable, and may then be destroyed in accordance with this chapter if the following conditions have been met:

(1) The reproduction was accurate in detail, ~~and on film of a type approved for permanent, photographic records by the United States Bureau of Standards.~~

(2) The chief executive officer, or other designee, has attached to or incorporated in the ~~microfilm~~ copy or system a signed and dated certification of compliance with the provisions of section 1531 of the Evidence Code, stating in substance that the copy is a correct copy of the original, or a specified part thereof, as the case may be.

(3) The ~~microfilm~~ copy was placed in an accessible location and provision was made for preserving permanently, examining and using same.

(4) In addition, if the record is photographed or microfilmed, the reproduction must be on film of a type approved for permanent, photographic records by the United States Bureau of Standards.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Sections, 66700 and 70901, Education Code, Section 1531 Evidence Code.

3. Section 59023 of Article 1 of Subchapter 2.5 of Chapter 10 of Division 6 of Title 5 of the *California Code of Regulations* is amended to read:

59023. Class 1-Permanent Records.

The original of each of the records listed in this Section, or one exact copy thereof when the original is required by law to be filed with another agency, is a Class 1-Permanent records and shall be retained indefinitely, unless copied or reproduced ~~microfilmed~~ in accordance with Subsection (e) of Section 59022.

(a) The following annual reports:

- (1) official budget;
- (2) financial report of all funds, including cafeteria and student body funds;
- (3) audit of all funds;
- (4) full-time equivalent student, including Period 1 and Period 2 reports; and
- (5) other major annual reports, including:

(A) those containing information relating to property, activities, financial condition, or transactions; and

(B) those declared by board minutes to be permanent.

(b) The following official actions:

(1) minutes of the board or committees thereof, including the text of a rule, regulation, policy, or resolution not set forth verbatim in minutes but included therein by reference only;

(2) elections, including the call, if any, for and the result (but not including detail documents, such as ballots) of an election called, conducted or canvassed by the governing board for a board member, the board members recall, issuance of bonds, incurring any long-term liability, change in maximum tax rates, reorganization, or any other purpose, and

(3) records transmitted by another agency that pertain to that agency's action with respect to district reorganization.

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

(d) The following student records:

(1) the records of enrollment and scholarship for each student. Such records of enrollment and scholarship may include but need not be limited to:

(A) name of student;

(B) date of birth;

(C) place of birth;

(D) name and address of a parent having custody or a guardian, if the student is a minor;

(E) entering and leaving date for each academic year and for any summer session or other extra session;

(F) subjects taken during each year, half year, summer session or quarter; and

(G) if grades or credits are given, the grades and number of credits toward graduation allowed for work taken.

(2) All records pertaining to any accident or injury involving a student for which a claim for damages has been filed as required by law, including any policy of liability insurance relating thereto, except that these records cease to be Class 1-Permanent records, one year after the claim has been settled or after the applicable statute of limitation has run.

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

(1) all fixed assets;

(2) an equipment inventory; and

(3) for each unit of property, the date of acquisition or augmentation, the person from whom acquired, an adequate description or identification, and the amount paid, and comparable data if the unit disposed of by sale, loss, or otherwise.

NOTE: Authority cited: Sections 66700 and 70901, Education Code. Reference: Section 70901, Education Code.