NEBO SCHOOL DISTRICT BOARD OF EDUCATION
POLICIES AND PROCEDURES

SECTION: **E – Support Services**
POLICY TITLE: **Records Access and Management / GRAMA**
FILE NO.:   **EH**
DATED: **February 11, 2015**

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1. PURPOSE AND PHILOSOPHY

1.1. Nebo School District and its employees receive and produce large amounts of information, most of which can be classified as "Records," "Documents," or "Electronically Stored Information (ESI)" as those terms are defined below. Various laws, along with other legal and managerial obligations as outlined in this policy, govern the retention and disclosure of such information.

     1.1.1. As a governmental entity, Nebo School District is subject to Utah's open Records laws. Specifically, the District complies with the Government Records Access and Management Act (GRAMA) (Utah Code Ann., Section 63G-2-101, et seq.) and the Public Records Management Act (Utah Code Ann., Section 63A-12-100, et seq.). These laws require the District to classify, manage, and provide public access to certain Records as more fully described herein.

     1.1.2. As an educational institution, the District is subject to the federal Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. Section 1232g; 34 CFR Part 99), which governs student educational records. Management of student records is outside the scope of this policy, and references to Records herein does not include student educational records. Nebo School District Policy #JO – Student Records governs student records under FERPA.

     1.1.3. As a body subject to civil lawsuits, the District may at times be required to respond to discovery requests under either the federal or Utah Rules of Civil Procedure. Likewise, the District frequently receives subpoenas requiring prompt production of Records, Documents, and ESI. An effective records management system is essential to upholding these legal obligations.

1.1.4. As a large organization, the District has an interest in the effective management of its Records, Documents, and ESI to avoid unnecessary stockpiles, to free up storage space, and to facilitate rapid acquisition when such information is needed.

1.2. This policy outlines the requirements necessary to properly manage, classify, access, preserve, protect, and dispose of District Records, Documents, and ESI in compliance with applicable laws, regulations, and effective business practices. All employees are expected to follow the provisions set forth herein.

2. DEFINITIONS

2.1. "**Documents**" and "**Electronically Stored Information (ESI)**" are given the meaning ascribed to them in Federal Rule of Civil Procedure 34 and include writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained either directly or, if necessary, after translation into a reasonably usable form. Documents and ESI include Records, as defined below, as well as those items in Section 2.2.1 that are not included in the definition of Record.

2.2. "**Record**" is used in this policy as defined in Utah Code Ann. § 63G-2-103 and includes, but is not limited to, a book, letter, document, paper, map, plan, photograph, film, card, tape, recording, electronic data, or other documentary material regardless of physical form or characteristics that is prepared, owned, received, or retained by the District, and the information is reproducible by photocopy or other mechanical or electronic means.

2.2.1. Consistent with Utah Code Ann., Section 63G-2-103(22), the term Record, as used in this policy, **does not** include the following:

2.2.1.1. a personal note or personal communication prepared or received by an employee or officer of the District:

2.2.1.1.1. in a capacity other than the employee's or officer's governmental capacity; or

2.2.1.1.2. that is unrelated to the conduct of the public's business;

2.2.1.2. a temporary draft or similar material prepared for the originator's personal use or prepared by the originator for the personal use of an individual for whom the originator is working;

2.2.1.3. material that is legally owned by an individual in the individual's private capacity;

2.2.1.4. material to which access is limited by the laws of copyright or patent unless the copyright or patent is owned by the District;

2.2.1.5. proprietary software;

2.2.1.6. junk mail or a commercial publication received by the District or an official or employee of the District;

2.2.1.7. a book that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public;

2.2.1.8. material that is cataloged, indexed, or inventoried and contained in the collections of a library open to the public, regardless of physical form or characteristics of the material;

2.2.1.9. a daily calendar or other personal note prepared by the originator for the originator's personal use or for the personal use of an individual for whom the originator is working;

2.2.1.10. a computer program that is developed or purchased by or for any governmental entity for its own use;

2.2.1.11. a note or internal memorandum prepared as part of the deliberative process by a member of a body charged by law with performing a quasi-judicial function;

2.2.1.12. a telephone number or similar code used to access a mobile communication device that is used by an employee or officer of the District, provided that the employee or officer has designated at least one business telephone number that is a public record as provided in Section 63G-2-301;

2.2.2. "Record Series" means a group of Records that may be treated as a unit for purposes of designation, description, management, or disposition.

3. RECORDS OFFICERS

3.1. The Superintendent shall designate one or more Records Officers.

3.2. The Records Officer(s) shall be trained and certified according to Utah state laws and administrative rules.

3.3. The Records Officer(s) will review and respond to any request for access to Records ("GRAMA request"). All GRAMA requests shall be processed by use of the District's GRAMA forms.

4. RECORDS MANAGERS

4.1. Each Records Manager will assist the Records Officer(s) in performing the duties and responsibilities set forth in Utah Code Ann., Section 63G-2-101, et seq. Specifically, Records Managers will coordinate with the Records Officer(s) in maintaining, classifying, scheduling, and reporting to the Utah State Archives each Record or Record series produced, received, or maintained by the District. Specific Record management and maintenance responsibilities may be designated by the Records Officer(s).

4.2. Records Managers are designated as follows:

4.2.1. The Superintendent is the Records Manager for all Records of the Superintendent's Office.

4.2.2. The Business Administrator is the Records Manager for all business and financial Records, as well as Board of Education Records.

4.2.3. District Legal Counsel is the Records Manager for all Records evidencing the District's real property, water rights, certain procurements, contracts, and other legal documents.

4.2.4. Except as otherwise provided by District policy, the Director of Operations is the Records Manager for all purchasing, procurement, and facilities Records.

4.2.5. The Director of Human Resources is the Records Manager for all employee Records, including personnel files.

4.2.6. The Director of Special Education and Federal Programs is the Records Manager for all special education / federal program Records.

4.2.7. The Director of Secondary Education is the Records Manager for all Records in secondary schools.

4.2.8. The Director of Elementary Education is the Records Manager for all Records in elementary schools.

4.2.9. Each Principal and Supervisor is a Records Manager responsible for managing and maintaining Records at his/her school or department site.

5. RECORDS CLASSIFICATION

5.1. A Record shall be classified under one of the following categories:

5.1.1. "Public Records" as described in Utah Code Ann., Section 63G-2-301;

5.1.2. "Private Records" as described in Utah Code Ann., Section 63G-2-302-303;

5.1.3. "Controlled Records" as described in Utah Code Ann., Section 63G-2-304;

5.1.4. "Protected Records" as described in Utah Code Ann., Section 63-2-305; OR

5.1.5. A Record to which access is restricted as described in Utah Code Ann., Section 63G-2-201(3)(b), including student educational records to which access is restricted by FERPA.

5.2. Public Records. Records defined and described in Utah Code Ann. §63G-2-103(21) and 301 are classified as public.

5.3. Private Records. In addition to the Records described in Utah Code Ann., Section 63G-2-302(1), the following Records are classified as private. The following list of private Records is not exhaustive.

5.3.1. Records concerning a current or former employee of, or applicant for employment with the District, including performance evaluations and personal status information such as race, religion, or disabilities, but not including Records that are public under Subsection 63G-2-301(2)(b) or 63G-2-301(3)(o).

5.3.2. Records in any personnel file, applications, nominations, recommendations, or proposals for public employment or appointment, except information that is otherwise classified as public.

5.3.3. Records describing an individual's finances except Records defined by law as public, and the following:

5.3.3.1. Information provided to the District for the purpose of complying with a financial assurance requirement; or

5.3.3.2. Records that must be disclosed in accordance with another law or administrative rule.

5.3.4. Records containing data on individuals the disclosure of which constitutes a clearly unwarranted invasion of personal privacy.

5.4. Controlled Records. The following Records are classified as controlled:

5.4.1. Records containing medical, psychiatric, or psychological data about an individual.

5.4.2. Records the District believes the release of which to the subject would be detrimental to the subject's mental health or to the safety of any individual, or the release of which would constitute a violation of professional practice and medical ethics.

5.5. Protected Records. Records listed in Utah Code Ann., Section 63G-2-305 are classified as protected, including but not limited to, Records protected by the attorney-client privilege.

6. RECORDS ACCESS

6.1. Access to Public Records

6.1.1. A person may request to inspect or receive copies of Public Records by filing a written GRAMA request. The GRAMA request must contain the requestor's name, mailing address, and daytime telephone number. The request must include a specific description of the Records being requested. All GRAMA requests shall be processed by use of the District's GRAMA forms.

6.1.2. All GRAMA requests shall be submitted to a Records Officer.

6.1.3. Any inspection of a Public Record shall be during normal business hours in accordance with Utah Code Ann., Section 63G-2-201.

6.1.4. Access to Private, Controlled, and Protected Records shall be granted only in accordance with Utah Code Ann., Section 63G-2-202. Requests for Records classified as Private, Controlled, Protected, or otherwise restricted under Utah Code Ann., Section 63G-2-201(3)(b) shall be denied.

6.2. Approved GRAMA requests shall be provided in a timely manner in accordance with Utah Code Ann., Section 63G-2-204.

6.3. All GRAMA requests shall be responded to and processed by use of the District's GRAMA forms.

7. FEES FOR RECORDS REQUESTS

7.1. A fee shall be charged for the District's actual cost of duplicating a requested Record and also for personnel time in compiling and obtaining the Record as follows (Utah Code Ann., Section 63G-2-203):

7.1.1. A copy fee of ten (10) cents per page for each single sided copy.

7.1.2. A copy fee of fifteen (15) cents per page for each double sided copy.

7.1.3. A fee of twenty-two dollars ($22.00) per hour for District personnel time shall be charged for searching, formatting, manipulating, tailoring, summarizing, compiling, or supervising a requestor's access to a Record, when such activities exceed fifteen (15) minutes.

7.2. The District shall require pre-payment from a requestor if the fees to produce the Record are expected to exceed fifty dollars ($50.00).

7.3. The District may not charge fees for:

7.3.1. Reviewing a Record to determine whether it is subject to disclosure, except as otherwise permitted by Utah Code Ann., Section 63G-2-203; OR

7.3.2. The requestor's inspecting the Record.

8. APPEALS OF RECORDS REQUEST DENIALS

8.1. If a Records Officer denies a Records request, the requestor may submit a written appeal to the Superintendent by use of the District's Notice of Appeal form according to time limits and provisions of Utah Code Ann., Section 63G-2-401.

8.1.1. If the requestor is dissatisfied with the decision of the Superintendent, the requestor may file an appeal to the State Records Committee in accordance with Utah Code Ann., Section 63G-2-403, or petition for judicial review in the district court as provided by Utah Code Ann., Section 63G-2-404.

8.2. An individual may contest the accuracy or completeness of a Record in accordance with Utah Code Ann., Section 63G-2-603.

9. RETENTION OF RECORDS, DOCUMENTS, AND ESI

9.1. The District shall retain Records according to the schedules established by the State Records Committee in accordance with Utah Code Ann., Section 63G-2-604. The School District General Schedule should be familiar to all Records Managers and is available at archives.utah.gov/recordsmanagement/grs/schoolgrs.pdf.

9.1.1. Each employee of the District is considered the custodian of all Records created or received in his/her official capacity as an employee. Employees must manage, retain, and delete Records for which they are the custodian consistent with state retention schedules.

9.1.2. Records for which no state retention schedule exists should be discarded as soon as the purpose for which they were created has been satisfied.

9.1.3. Except as provided in Section 2.2.1 above, correspondence sent or received by an employee in his/her official capacity, including but not limited to letters, email, voice mail, text messages, and social media postings, may constitute Records and must be managed as follows.

9.1.3.1. Correspondence governed by a state retention schedule must be retained and managed according to the applicable schedule.

9.1.3.2. Correspondence that names or otherwise identifies a student may constitute a student record governed by FERPA. Except where governed by a state retention schedule, correspondence that names or identifies a student should either be destroyed as soon as it is no longer needed by the employee or maintained in the student's file.

9.1.3.3. Employees may delete or destroy any correspondence not governed by 10.1.3.1 or 10.1.3.2 as soon as the purpose of the correspondence is satisfied.

9.1.3.4. The District will configure its email system to delete all emails from employee accounts seven (7) years from the date the email was sent/received.

9.2. Except when under the requirements of a litigation hold as described in District policy, all Documents and ESI that do not fall within the definition of Records shall be discarded as soon as the purpose for which they were created has been satisfied.

10.   SUBPOENAS AND DISCOVERY REQUESTS

Subpoenas and discovery requests for Records, Documents, or ESI should be directed to the Legal Department.

11.   STUDENT RECORDS

All student records are designated as "education records" and the disclosure of such education records is restricted under GRAMA by the Family Educational Rights and Privacy Act of 1974 (FERPA) (20 U.S.C. Section 1232(g); 34 C.F.R. Section 99, et seq.; and 34 C.F.R. Section 300, et seq.).   The District may not release information related to educational records without parental consent, except as otherwise provided in FERPA (see Nebo School District Policy #JO - Student Records).

12.   COPYRIGHTED OR PATENTED MATERIALS

Any Record which is copyrighted, either by formal filing under federal copyright laws or by informal claim of copyright, or which is covered by a patent, trademark, or other protected designation, shall not be copied or provided to any person without a valid order of a court ordering such disclosure or written permission from the author of the Record.

EXHIBITS
None

REFERENCES
Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. Section 1232g; 34 CFR Part 99).
Federal Rule of Civil Procedure 34.
Utah Code Ann., Section 63A-12-100, et seq. - Public Records Management Act.
Utah Code Ann., Section 63G-2-101, et seq. - Government Records Access Management Act (GRAMA).
Utah State Archives School District General Schedule, archives.utah.gov/recordsmanagement/grs/schoolgrs.pdf.
Nebo School District Policy #JO – Student Records

FORMS
Nebo School District Request for a Record Government Records Access and Management Act
Classification of Records Requested
Notice of Denial of Request for Records
Notice of Appeal
Notice Identification Required
Notice of Extended Time for Response to Records Request
Consent for the Release of Information to a Third Party
Terms of Disclosure of a Controlled Record

HISTORY
Revised: 21 November 2022 – made technical change adding new logo to policy and all forms.