STATE OF TENNESSEE
DEPARTMENT OF EDUCATION
DIVISION OF SPECIAL EDUCATION
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MEMORANDUM

TO: Directors of Special Education

FROM: Bill Wilson, Attorney BW

DATE: March 14, 2008

RE: Destruction and Retention of Records

The purpose of this memorandum is to provide guidance on the matter of destruction and retention of records of children with disabilities.

Records may include test results, evaluations, IEP documents, correspondence, due process hearing transcripts, IEP meeting minutes, teacher-produced records and a variety of other tangible items.

Federal regulations at 34 C.F.R. §300.624 provide that local education agencies must inform parents when personally identifiable information collected, maintained, or used is no longer needed to provide educational services to the child. The regulation further provides that information must be destroyed at the request of the parents. However, a permanent record of a student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed may be maintained by the local education agency without time limitation. 34 C.F.R. §300.611(a) defines destruction as physical destruction or removal of personal identifiers from information so that information is no longer personally identifiable. Therefore, local education agencies may, and should, retain in perpetuity, a permanent record of the student's name, address, and phone number, his or her grades, attendance record, classes attended, grade level completed, and year completed even if the parents request that the entire student record be destroyed.

Federal regulations at 34 C.F.R. §80.42(b) provide that local education agencies receiving federal funds are required to retain for three years records necessary to show compliance with federal and state mandates. Therefore, upon expiration of three years after last expending federal funds on behalf of a child with a disability, local education agencies may begin the destruction of records. Local education agencies may comply with a parent's request for destruction of personally identifiable information prior to the expiration of the three year period by removing any reference which makes the information personally identifiable and still be in compliance with federal regulations.