

**Georgia State University**

**Legal Hold Policy and Procedures**

**I. Purpose**

There are circumstances where the normal and routine destruction of records must be suspended, pursuant to federal and state requirements and University record retention and disposition schedules. Present and future records that are involved in litigation, or reasonably anticipated in foreseeable legal action, must be preserved until the legal hold is released by the Office of Legal Affairs.

The purpose of this document is to set forth the authority and process for initiating, implementing, monitoring, and releasing legal holds.

**II. Scope**

This policy and procedures applies to all University personnel and covers all records, regardless of form, made or received in the transaction of University business.

**III. Definitions and Authority**

As used herein, these terms shall have the following designated meanings.

“Affected University Personnel” means all University personnel who are in possession or control of records, which are the subject of a legal hold.

A “legal hold” is an order to cease destruction and preserve all records, regardless of form, related to the nature or subject of the legal hold.

“Evidence” includes all records, whether in electronic or paper form, created, received, or maintained in the transaction of University business, whether conducted at home or work. Such evidence may include, but is not limited to, paper records and electronic records stored on servers, desktop or laptop hard drives, tapes, flash drives, memory sticks, DVDs, or CD-ROMs.

“Electronic records” includes all forms of electronic communications, including, but not limited to, e-mail, word processing documents, spreadsheets, databases, instant messages, calendars, voice messages, videotapes, audio recordings, photographs, SharePoint files, Wiki materials, telephone or meeting logs, contact manager information, Internet usage files, and information stored in PDAs, Blackberry devices, or removable media (e.g., CDs, DVDs, thumb drives, etc.).

“University personnel” includes all employees, whether permanent, temporary, full-time or part-time, faculty, and student employees.

The authority to place a legal hold is vested in the Office of the Legal Affairs.

**IV. Procedures**

A. Any University personnel who become aware of any litigation, threat of litigation, other legal action, or an investigation by any administrative, civil or criminal authority, through

the receipt of notification or other information identifying the possibility of legal action or upon service of a summons and complaint, must immediately notify the Office of Legal Affairs. The Office of Legal Affairs will determine whether to initiate a legal hold and to identify University personnel subject to the hold.

- B. The Office of Legal Affairs will notify Affected University Personnel in writing that a legal hold has been initiated (See Exhibit A for a sample litigation hold notice). The notice will inform Affected University Personnel of their obligation to identify and preserve all Evidence that may be relevant to the legal hold.
- C. Upon notice of a legal hold, Affected University Personnel must do the following:
  - 1. Immediately suspend deletion, purging, overwriting, or any other destruction of electronic information relevant to this dispute that is under their control. This includes electronic information wherever it is stored, including, but not limited to, on hard drives of University work station desktops or laptops, on flash drives, CD-ROMs, DVDs, memory sticks, tapes, zip disks, diskettes, PDAs, etc. This electronic information must be preserved so that it can be retrieved at a later time and must be preserved in its original electronic form, so that all information contained within it, whether visible or not, is also available for inspection – i.e., it is not sufficient to make a hard copy of electronic communication. Affected University Personnel are encouraged to contact the Division of Information Systems and Technology (“IS&T”) with any questions concerning suggested methods for preserving electronic records.
  - 2. Preserve any new electronic information that is generated after receipt of the legal hold notice that is relevant to the subject of the notice. This should be done by creating separate mailboxes and files and segregating all future electronically stored information in these separate mailboxes and files.
  - 3. Preserve hard copies of documents under their control. Steps should be taken to identify all relevant paper files and to ensure the retention of such files. Affected University Personnel may make hard copies of electronically stored information; however, as outlined in item 1 above, the information must be preserved in its original electronic form.
  - 4. If Affected University Personnel use their home computers for University-related business (including email on their University email accounts or on personal accounts such as AOL, Yahoo Mail, gMail, etc.), they must preserve the data on those computers.
- D. University personnel subject to a legal hold must acknowledge receipt, understanding, and compliance with a legal hold without undue delay by returning a signed copy of the notice to the Office of Legal Affairs. Any University personnel subject to a legal hold should consult IS&T for assistance in securing and preserving their records.
- E. The Office of Legal Affairs will notify IS&T of a legal hold and provide the following information including, but not limited to:
  - 1. Official notification of the legal hold;

2. Identification of all Affected University Personnel whose electronic accounts must be preserved, including user names, if known;
  3. Identification of each person's status as faculty, staff, student, or retired, if known;
  4. Identification of department affiliation for each person, if known.
- F. IS&T must acknowledge receipt, understanding, and compliance with the legal hold without undue delay by e-mail to the Office of Legal Affairs.
- G. If Affected University Personnel separate from employment during the course of a legal hold, Department heads or Directors must take possession of any and all Evidence under the control of the separated personnel and notify the Office of Legal Affairs.
- H. Once notice of a legal hold has been issued, the Office of Legal Affairs will continue to monitor compliance with this policy and any notice. The Office of Legal Affairs will take steps to see that the information that is legally protected will not be disclosed to outside parties.

**V. Violations**

Violations of this policy and procedures are subject to disciplinary action up to and including dismissal.

**VI. Release of a Legal Hold**

The Office of Legal Affairs will determine and communicate in writing to Affected University Personnel when a legal hold may be lifted and Evidence need no longer be preserved.