



University Operating Procedure

Record Preservation Directives ("Litigation Holds")

Overview

Premature or improper disposal or destruction of records may have serious legal consequences. In some circumstances, even the routine, regularly-scheduled destruction of records may be unlawful.

Specifically, when a lawsuit against the University or its officers or employees is filed or threatened or is reasonably anticipated, the law requires the University to preserve all documents and records that pertain to the lawsuit.

Procedures

All units must immediately suspend all disposal and destruction of relevant records, and all deletion of relevant e-mail messages and other electronic records, in the following situations:

- litigation has been commenced or threatened or is reasonably anticipated;
- a state or federal investigation has been commenced or threatened;
- an internal investigation or audit has commenced; or
- senior administrative officials have determined that urgent circumstances require the preservation of records and have issued a record preservation directive.

In all those instances, all involved University officials and employees, whether staff or faculty, must consult with the General Counsel's Office for direction relative to the preservation of relevant records.

No employee who has been formally notified of a record preservation directive may discard, destroy, alter, or delete a record that falls within the scope of that directive. Violation of the directive may subject the individual to disciplinary action, up to and including dismissal, as well as personal liability for civil or criminal sanctions by courts or law enforcement agencies.

Definitions

Records: any and all written or recorded information produced or acquired in the course of University business, including without limitation all papers, documents, e-mail messages, machine-readable materials, and any other written or recorded matters, regardless of their physical form or characteristics.

Record preservation directive (or "litigation hold"): a formal notice issued by the Office of the General Counsel or other senior-level administrator to notify University employees that the University is under a legal obligation to preserve potentially relevant information.

Contacts/Responsible Official

Questions about the day-to-day operational characteristics of this University Operating Procedure may be directed to the General Counsel's Office:

General Counsel
357 Waterman
(802) 656-8585

The Vice President for Legal Affairs and General Counsel is the official responsible for the interpretation and administration of this University Operating Procedure.

Forms

None

Related Documents/Policies

Government Reviews Procedure

http://www.uvm.edu/policies/general_html/govreviews.pdf

Records Management and Retention Policy

http://www.uvm.edu/policies/general_html/recordretention.pdf

Subpoenas, Complaints, Warrants, and other Legal Documents Procedure

http://www.uvm.edu/policies/general_html/subpoenas.pdf

Effective Date

Approved by the Vice President for Legal Affairs and General Counsel January 3, 2013.