

DEPAUL UNIVERSITY



Legal Hold and Record Preservation

Category: Operations

Responsible Department: General Counsel

Responsible Officer: General Counsel

Effective Date: 3/15/2017

Policy Summary

DePaul University has a duty to preserve documents and information when it has notice that the documents and information may be potentially relevant to legal matters, including litigation or reasonably anticipated litigation.

Scope

This policy affects the following groups of the University:

- Entire University Community

This policy applies to members of the DePaul community who may possess documents and information related to a legal matter and who have been notified that a "Legal Hold" has been placed on these records.

Policy

Under certain circumstances, including when legal action involving the University is commenced or reasonably anticipated, the University must preserve all documents and information that may be relevant to the matter. As soon as the Office of the General Counsel is made aware of circumstances giving rise to this obligation, a "Legal Hold" directive will be issued to the key record custodians.

The Legal Hold directive overrides any records retention or destruction cycle that may have otherwise required or allowed for the transfer, alteration, disposal or destruction of documents and information. Once a Legal Hold directive has been issued, documents and information subject to the Legal Hold may not be transferred, altered, disposed, or destroyed until the Legal Hold is removed by the Office of the General Counsel.

Individuals who have been notified of a Legal Hold may not alter, dispose of, or transfer or destroy any document or information that falls within the scope of the Legal Hold. Violation of the Legal Hold may subject the individual to disciplinary action, up to and including dismissal for employees, as well as potential legal sanction by the applicable court or law enforcement agency.

Procedures

Duty to Preserve Documents and Information

The duty to preserve documents and information can arise in a wide variety of circumstances. Several different events may, under the particular facts and circumstances, trigger the duty to preserve documents and information. These events may include the following:

- (a) the filing of a lawsuit against DePaul (i.e., receipt of a complaint);
- (b) the receipt of a subpoena or summons;
- (c) the initiation of a governmental/regulatory inquiry;
- (d) the filing of a claim with an administrative agency;
- (e) the receipt of a demand letter from a potential adversary;
- (f) the receipt of a "preservation letter" declaring the duty to preserve documents and information in force;
- (g) the good faith determination by DePaul that it may have a claim against another party for which it may attempt to seek recovery;
- (h) any other circumstances by which DePaul believes a duty to preserve has arisen.

All members of the University who become aware of any information that suggests, as described above, the duty to preserve documents and information may be triggered or otherwise implicated must promptly inform the Office of the General Counsel.

The ultimate determination as to whether the duty to preserve documents and information has been triggered, and correspondingly, whether, and to what extent, a Legal Hold will be initiated, is a legal judgment made at the professional discretion of the Office of the General Counsel. In many cases, tailored steps and tailored legal hold notices may be useful to fulfill preservation obligations required by law, or to gather and retain documents and information necessary to support any remedial action, or both.

Scope of Legal Hold and Sources of Documents and Information

The Office of the General Counsel will work with the applicable DePaul areas and employees to identify relevant sources of documents and information related to the subject matter scope. The subject matter scope may be quite narrow or quite broad depending on the particular facts and circumstances.

Potential sources of documents and information could include, but are not limited to:

- (a) Email messages and their attachments: (these may be in mailboxes stored on network mail servers, individual archived messages (PST files) on file servers or personal computers, individual message files stored on file servers or personal computers, or on mobile devices such as blackberries, PDAs and cell phones, or printed hard copies);
- (b) User created files such as word processing documents, spreadsheets, and image files which may be stored on the hard drives ("C Drives") of personal computers and workstations, individual network drives ("U Drives"), or network share drives ("W Drives");
- (c) Hard copy files;
- (d) DePaul database systems (e.g., PeopleSoft);

- (e) Other information held or stored in locations as determined by the results of individually conducted 'Information Surveys': (these may include for example, information stored on CD-ROM or DVD, thumb drives, removable hard drives, magnetic media, home computers, internet servers, etc.); and
- (f) Other electronic or 'hard copy' information stored in electronic or hardcopy format that are under the custody or control of DePaul.

All key record custodians may be asked to complete an Information Survey to assist in identifying sources of potentially relevant documents and information.

Divisional Collaborations

Information Services

Department of Records Management

Contact Information

Office of the General Counsel
312-362-8865

Appendices

Appendix A: [Sample Legal Hold Notice](#)

Appendix B: [Sample Information Survey](#)

History/Revisions

Origination Date: 06/01/2008

Last Amended Date: 03/15/2017

Next Review Date: N/A