Record Retention

UNIVERSITY POLICY #090

Authority: W. Va. Code § 18B-1-6 and § 5A-8-1
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Revision History: None
President's Signature: On File

SECTION 1: Purpose and Scope

1.1 This Policy outlines the review, retention, and destruction of records created, received, or stored at the University. The Policy is designed to ensure compliance with federal and state laws and regulations, to eliminate the accidental or innocent destruction of records, and to ensure that outdated records are properly and timely destroyed.

1.2 This Policy applies to all University records and to all University employees.

SECTION 2: Types of Records

2.1 Not all Records created by University constitute Retainable Records that must be retained for certain periods of time. Rather, only Retainable Records must be kept.

2.2 Generally, a Record is anything that contains information regarding the University made or received in connection with its operations regardless of whether it is a hard copy or electronic, and includes, but is not limited to, written and printed matter, books, drawings, maps, plans, photographs, microforms, motion picture films, sound and video recordings, e-mails, computerized or other electronic data on hard drives or network drives, or copies of these items.

2.3 For purposes of this Policy, there are two sub-types of Records: Incidental Records and Retainable Records.

2.3.1 **Retainable Record.** Any Record that is contained within the University Retention Schedule or is otherwise required by law to be retained by a Unit.

2.3.2 **Incidental Records.** Any Records not contained within the University Retention Schedule or otherwise required by law to be retained by a Unit. Examples include routine communications, internal meeting notices, cover letters or transmittal memoranda, drafts, notes, and duplicate copies of Retainable Records that are not being stored in the official location or with the official custodian. Incidental Records need be retained only so long as is necessary to complete the action or resolve the issue that is the subject of the record.

If there are any questions about whether an item is considered a Record or whether a Record is Retainable or Incidental, please contact the General Counsel.

SECTION 3: Record Retention Schedule

3.1 The University's Record Retention Schedule – Exhibit A to this Policy – details all Retainable Records that must be retained for the specified periods of time necessary to satisfy the University's business and legal obligations as well as to preserve the University's history. All Records (whether Retainable and Incidental) must be retained and/or disposed of in accordance with this Policy and the Record Retention Schedule.

3.2 Each Department or Office is responsible for ensuring that its faculty and staff follow this Policy and the Record Retention Schedule. Individual Departments or Offices may designate an employee that manages the destruction of all Records for that Department or Office, but all employees are expected to comply with this Policy and the Record Retention Schedule.

3.3 If any Department or Office possesses a category of Retainable Records not set forth in the Record Retention Schedule, the General Counsel should be consulted to determine whether supplementation of the Record Retention Schedule is necessary and to ensure compliance with this Policy until a supplementation (if any) is accomplished.

SECTION 4: Email and Electronic Records

4.1 Retainable Records may be records that are electronic. As such, all employees have an obligation to preserve and safeguard information in e-mail and other electronic records that constitute Retainable Records in the same manner as they would records that exist in hard copy.

4.2 If e-mail or other electronic records constitute the Retainable Record, those emails or other electronic records must be retained and then destroyed in accordance with the retention periods set forth in the Record Retention Schedule.

4.3 Unless specifically provided in the Record Retention Schedule, email and other electronic records should not be kept permanently.

4.4 E-mails or other electronic records can be retained in hard copy, by electronic archive, or in removable storage devices. Once the e-mail or electronic record is saved in another format, however, there is no obligation additionally to retain it in multiple forms, unless it is subject to a Litigation Hold, in which case all forms must be retained.

4.5 While not all e-mails and other electronic records are Retainable Records, all University e-mails and other electronic records are property of the University and may be subject to Freedom of Information Act requests and discovery in the event of litigation or other proceedings involving the University.

SECTION 5: Official Records Custodians

5.1 The Record Retention Schedule identifies specific Departments or Offices that serve as the Official Record Custodian for certain categories of Retainable Records.

5.2 Another Department or Office may keep courtesy copies of these records as long as necessary for that Department or Office to address a transaction or issue. However, that Department or Office should not keep courtesy copies of records longer than after the transaction or issue has been completed, subject to that Department or Office ensuring that any records contained in the courtesy copy are provided to the Official Record Custodian and that the courtesy copy does not contain any Records different than those maintained by the Official Record Custodian.

SECTION 6: Storage of Records

6.1 Each Department or Office is responsible for ensuring that all Records (whether Retainable or Incidental) are secured in a way to provide appropriate confidentiality and protection from unauthorized inspection, theft, and/or physical damage. Each Department or Office should assess the risks of damage or destruction to its Records in storage areas and promulgate a retention strategy as needed.

6.2 All Records must be easily retrievable for examination by authorized individuals, including auditors, the President's Office, and the General Counsel (for, among other reasons, responding to Freedom of Information Act requests and litigation requests).

6.3 If a Department or Office needs assistance in developing measures to protect the confidentiality and unauthorized inspection of records, the Unit should contact the University's Information Technology Director.

SECTION 7: Destruction of Records

7.1 Each Department or Office is responsible for periodically ensuring the destruction of all Incidental Records and Retainable Records that have reached the end of their retention period. Retainable Records that have been identified as permanent records must be permanently retained in a designated storage area and/or archived.

7.2 Regardless of whether a Record is Retainable or Incidental, it should be appropriately destroyed at the applicable period of time. Acceptable destruction methods include:

7.2.1 **Recycling.** Recycling is generally appropriate for all paper Records that do not contain personal, certain financial, or confidential information. Examples include public records of other organizations, magazines, annual reports, newsletters, and announcements.

7.2.2 **Secure destruction.** A shredder or shredder service should be used for all Records that contain personal, financial, or confidential information. This includes, but is not limited to, all Records that contain attorney-client communications, student education records, health-related information, and certain financial information.

7.3 Each Department or Office should consult with the Information Technology Director regarding the destruction of electronic records.

SECTION 8: Litigation Holds

8.1 The University may have the obligation to preserve all Records that might be implicated in litigation, an investigation, or other proceeding. In such an event, the General Counsel will issue a Litigation Hold to notify the specific Departments and Offices and their employees that they must preserve all their Records (including Retainable and Incidental Records) relating to a specific subject matter. This includes any email or electronic records. Email and Electronic information should be preserved in its original electronic form.

8.2 If a Litigation Hold is issued, that Litigation Hold supersedes the Record Retention Schedule, and destruction of all Records (including Retainable and Incidental Records) related to those matters that are the subject of the Hold must immediately stop.

8.3 The employee, Department, or Office that receives a Litigation Hold is obliged to preserve such information effective immediately and, if applicable, notify faculty and staff of the obligation to preserve records. In addition, the employee, Department, or Office that receives a Litigation Hold shall similarly preserve any new information that is generated that may be relevant to the litigation, investigation, or other proceeding.

8.4 Failure to preserve Records in accordance with a Litigation Hold may subject an employee to discipline.

8.5 No Records that are subject to a Litigation Hold shall be destroyed until the Litigation Hold is lifted by the General Counsel. Any questions regarding whether a Record is subject to a Litigation Hold should be directed to the General Counsel.

SECTION 9: Definitions

9.1 The following terms, as used in the Record Retention Schedule, have the following meaning:

9.1.1 **ACA – Health and Basic Life Insurance Documentation.** This includes all enrollment forms, required documentation for ACA (birth certificate, adoption

decrees, etc.), relevant communications with employees; communications with Benefits Billing; and relevant payroll spreadsheets.

9.1.2 **Child Care Assistance Program Files.** This includes applications for child care assistance as well as copies of tax forms, copies of letters for approval or denial, monthly receipts from child care providers, correspondence with providers and employees, and monthly balancing reports.

9.1.3 **Faculty Promotion, Tenure, and Evaluation File.** Subject to the applicable promotion and tenure guidelines and Board of Governors policies, this includes appointment letters, curriculum vitae and bibliography, record of classes since appointment or last promotion, primary supervisor/home department review, past evaluations and written responses, additional information by chair/dean along with written response from employee, pertinent information from faculty members about performance, chronological inventory, professional development, sabbatical, phased retirement, critical year extension/change, salary enhancement, leave of absence, and administrative reviews not otherwise part of the file.

9.1.4 **Medical Management Documentation.** This includes Medical Leave Files, including medical leave documentation, modified duty documentation, FMLA documentation; Catastrophic Leave Files, including applications, medical verification, and donor forms; Maternity Leave Files, including medical verification; Disability Files, including applications, correspondence, other documentation and information contained within the extended disability database; 9 Month Faculty File, including medical verification and correspondence; Workers Compensation Files, including injury documentation, medical verification, and correspondence; and documentation regarding unemployment compensation claims.

9.1.5 **Official Procurement File.** This file will contain the basis on which the award was made, which may include all submitted bids and proposals and all materials related to or prepared in conjunction with evaluation, negotiation and the award process in accordance with procurement rules.

9.1.6 **Personnel File – Benefits Administration.** This includes all general benefits information, including insurance enrollment forms, change-in-status forms, copies of supporting documentation for dependents (marriage certificates, birth certificates, Visas, etc.), copies of supporting documentation for qualifying events, and appeals; disability information (non-HIPAA); retirement information, including retirement database information, CPRB reporting, and relevant correspondence; internal Benefits Administration Forms (Employee Benefits Summary, Authorization for Release of Information); paper refund requests;

medical separation documentation; general leave information, including leave extensions, personal leave applications, parental leave applications (nonmedical), leave information for employee verification, leave audit information, sick leave buyback, and jury duty documentation; benefit reinstatement document; and information contained within Employee absenteeism database.

9.1.7 **Personnel File – General Employment Information.** This includes employment application and supporting documentation; resumes; offer letters; notices of appointments; letters of resignation; documentation regarding termination; notices of non-renewals and information contained within the non-renewal database; agreements related to pay or classification; employment contracts; compensation evaluation records; job description or PIQ documentation; assignment forms; exit interview forms and information contained within the exit interview database; and employee acknowledgment forms of policies, procedures.

9.1.8 **Personnel File – Performance.** This includes self-identification documentation, background check documentation; reference check documentation; confidentiality certifications; copies of job-required certificates and licenses; drug testing records; and performance evaluations or other reviews.

9.1.9 **Personnel File – Years of Service.** This includes all documents pertaining to years of service verification forms (green sheets), initial years of service calculation forms (hard copy and electronic), supporting documentation on years of service, copies of archived files (with other employee names and social security numbers redacted), outside agency verification forms from other WV agencies, and years of service re-verification documents.

SECTION 10: Superseding of Other Guidelines and Schedules

10.1 This Policy supersedes all other record retention guidelines and schedules at the University to the extent that those guidelines and schedules are inconsistent with this Policy.