



BOISE STATE UNIVERSITY

University Policy 1030

Litigation Hold

Effective Date

March 2015

Responsible Party

Office of the General Counsel, (208) 426-1203

Scope and Audience

Applies to all University personnel and covers all records, regardless of form, made or received in the transaction of University business.

Additional Authority

University Policy 1020 (Public Records Management)

1. Policy Purpose

To establish the authority and process for initiating, implementing, monitoring and releasing Legal Holds.

2. Policy Statement

A Legal Hold will be issued and enforced when circumstances, usually pending or threatened litigation, require the University and Affected University Personnel to (a) suspend the normal and routine destruction of records, (b) preserve hard copy and Electronic Records, including, but not limited to email correspondence, and (c) cooperate with the Office of the General Counsel in collecting, cataloging and maintaining all affected records.

3. Definitions

3.1 Affected University Personnel

All University Personnel who are in possession or control of University records that are the subject of a Legal Hold.

3.2 Electronic Records

All forms of electronic communications, including, but not limited to, email word processing documents, calendars, spreadsheets, voice messages, videos, photographs, text messages, or information stored in any mobile devices.

3.3 Evidence

All records, whether in electronic or paper form, created, received, or maintained in the transaction of University business, whether conducted remotely or on campus. Evidence may include, but is not limited to, paper records and Electronic Records stored on hard drives of University workstation desktops, laptops, personal computers, flash drives, CD-ROMs, memory sticks, tapes, zip disks, diskettes, or on any mobile devices, regardless of location or ownership.

3.4 Legal Hold (Also Known as “Litigation Hold”)

An order to cease destruction and to preserve all records, regardless of form, related to the nature or subject of the Legal Hold. The Legal Hold supersedes any activities otherwise permitted under University Policy 1020 (University Records and Archives).

3.5 University Personnel

Includes all current and former University employees, whether permanent, temporary, full-time or part-time, faculty, or student employees.

4. External Use

- a. A Legal Hold will be issued when either (a) an official discovery order is served on the university requesting the production of the records in question or (b) litigation is pending or reasonably anticipated in the judgment of the Office of the General Counsel.
- b. Any University Personnel who become aware of any University-related litigation, threat of litigation, claim, administrative action, other legal action, or an investigation by any administrative, civil or criminal authority (such as 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 the General Counsel. The Office of the

General Counsel will determine whether to initiate a Legal Hold and will identify Affected University Personnel subject to the Hold.

- c. The Office of the General Counsel will notify Affected University Personnel that a Legal Hold has been initiated. The notice will inform Affected University Personnel of their obligation to identify and preserve all Evidence that may be relevant to the Legal Hold.
- d. Upon notice of a Legal Hold, Affected University Personnel are required to do the following:
 - Immediately suspend deletion, alteration, overriding, or any other destruction of Electronic Records under their control that are relevant to the Legal Hold.
 - Contact the Office of Technology (OIT) for suggested methods for preserving Electronic Records. Methods for storing Electronic Records must be approved in advance by both the Office of the General Counsel and OIT.
 - Preserve hard copies of documents under their control. Affected University Personnel must identify all relevant hard copy documents or files and ensure their retention. Affected University Personnel may make hard copies of electronically stored information; however, as set forth above, the information must also be preserved in its original electronic form.
 - Identify any University Personnel who are not listed on the notice but who should be, and communicate those names to the Office of the General Counsel.
- e. Affected University Personnel must acknowledge receipt, understanding, and compliance with a Legal Hold without undue delay by email or written memorandum to the Office of the General Counsel.
- f. The Office of the General Counsel will notify OIT of a Legal Hold and provide the following information:
 - Official notification of the Legal Hold and its scope;
 - Identification of all Affected University Personnel whose electronic accounts must be preserved, including user names, if known;

- Identification of the employment status of each Affected University Personnel as faculty, staff, student, resigned, terminated, or retired, if known;
 - Identification of the department or unit affiliation for each Affected University Personnel, if known; and
 - Any other information deemed relevant to OIT by the Office of the General Counsel.
- g. OIT must acknowledge receipt, understanding, and compliance with the Legal Hold without undue delay by email or written memorandum to the Office of the General Counsel.
- h. If Affected University Personnel separate from employment during the course of a Legal Hold, department heads unit directors, or another appropriate administrator must take possession of any and all Evidence under the control of the separated personnel and notify the Office of the General Counsel.
- i. Once notice of a Legal Hold has been issued, the Office of the General Counsel will continue to monitor compliance with this policy and any notices required.

5. Violations

It is a violation of law and this policy to destroy, alter, withhold, or obscure Evidence once a Legal Hold has been initiated. Violations of this policy are subject to disciplinary action up to and including dismissal.

6. Release of Legal Holds

The Office of the General Counsel will determine when a Legal Hold is to be released and will notify Affected University Personnel of the release.

Revision History