



UNIVERSITY OF
WEST GEORGIA

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Area Administration/
Governance
(Procedures)
Chief Or Office of
Responsible Legal Affairs
Office

Legal Holds and Records Preservation

Authority for Procedure granted by [UWG Policy 1009, Legal and Regulatory Compliance](#)

~~This procedure outlines how the University of West Georgia (UWG) establishes this procedure for retaining University preserves records subject to and information when a Legal Hold (i.e., Litigation Hold, Spoliation Notice, Request for Preservation of Evidence) is issued. This procedure serves to identify the process to suspend A Legal Hold suspends routine document record destruction to include the identification ensure that potentially relevant information, maintenance paper or electronic, and securing of documents subject to a Legal Hold related to is preserved for pending or anticipated litigation legal action.~~

~~The law requires a party to preserve Evidence – i.e., implement a Legal Hold on information likely to become relevant in a dispute, even before a lawsuit is filed. Because much communication is now electronic, the courts have adapted this requirement to include electronic information. The courts have also ruled that the Litigation Holds doctrine applies equally to electronic and hard copy information.~~

~~A. The Scope of Legal Holds~~

A. Legal Requirements

Federal and Georgia law require the University to preserve Evidence that may be relevant to a dispute, even before a lawsuit is filed. This requirement applies equally to **Electronic Records** and **paper records**.

B. Scope

This procedure applies to all **University Personnel** and **records**, regardless of format, medium, or storage location.

~~All University records~~ Records subject to a Legal Hold may include, but are potential sources subject to a Legal Hold and may include but are not limited to:

1. ~~**Email messages and attachments:** these may be in mailboxes stored on network mail servers, individual archived messages, individual message files, or on mobile devices such as cell phones, or printed hard copies;~~
2. ~~**User-created files** such as word processing documents, spreadsheets, and image files stored on the hard drives (C-Drives) of computers and workstations, network shared drives, or cloud storage (e.g., Google Drives);~~
3. ~~**Hard copy files;**~~
4. ~~**Database systems** (e.g., PeopleSoft, Banner, DocuWare);~~
5. ~~**Other electronic or hard copy information** held or stored in electronic or hardcopy format under the control of the University (these may include, for example, data stored on CD-ROM or DVD, thumb drives, removable hard drives, magnetic media, computers, internet servers, Google drives, etc.);~~

~~Records subject to a Legal Hold may only be considered for destruction once the Legal Hold is removed.~~

~~To ensure that records are not destroyed that are subject to a Legal Hold, the University Records Information Manager shall monitor reports and listings of Certificate of Records Destruction forms.~~

~~**B. Suspension of Retention Schedules**~~

~~When legal action involving the University is commenced or reasonably anticipated, the University must preserve all documents and information that may be relevant. As such, as soon as the Office of Legal Affairs (OLA) is aware of circumstances that give rise to the duty to preserve, a Legal Hold directive will be issued to offices or employees that may have records that fall within the scope of the Legal Hold.~~

1. ~~**Email messages and attachments;**~~
2. ~~**Electronic files** (e.g., WORD, EXCEL, PDF, image, or video files) stored on University systems, or cloud storage, or personal devices used for University business;~~
3. ~~**Paper documents and Hard copy files;**~~
4. ~~Information maintained in **Databases** (e.g., PeopleSoft, Banner, DocuWare);~~
5. ~~**Other media** (e.g., USB, CDs, DVDs, external hard drives).~~

~~**C. Issuing a Legal Hold**~~

~~**1. Authority to Issue**~~

~~UWG Only the **General Counsel** or their **designee** under the direction of the General Counsel or their designee is the ultimate, has the authority to issue or release a Legal Hold that suspends the retention requirements for records directive.~~

~~Employees and offices notified of a Legal Hold shall not transfer, dispose of, alter, or destroy any document or information that falls within the scope of the Legal Hold. Violation of the Legal Hold may subject an individual to disciplinary action, including dismissal and potential legal sanctions by the~~

applicable court or law enforcement agency.

~~C. Initiation of Legal Holds~~

- ~~1. 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 University General Counsel.~~
- ~~2. University Personnel who become aware of any University-related litigation, a 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 OLA. The General Counsel or their designee will determine whether to initiate a Legal Hold and will identify and notify Affected University Personnel of the Hold.~~

~~D. Implementing Legal Holds~~

- ~~1. OLA 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 Hold.~~
- ~~2. 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 records** (paper or electronic) **that are or may be relevant to the Legal Hold under their control.**~~
 - ~~**Preserve all relevant hard copies and digital documents under their control.**~~
 - ~~Information must be preserved in its native format; all information contained within, whether visible or not, is available for inspection – e.g., producing a PDF of an EXCEL or WORD document is unacceptable.~~
 - ~~UWG Information Technology Services (ITS) will attend to preserving electronic information on the server and on backup tapes, if necessary. Affected University Personnel are responsible for the information that is under their control.~~
 - ~~**Identify any University Personnel** (current or former) **who may have relevant documents under their control and/or were not listed on the notice, and communicate those names to OLA.**~~
 - ~~**Preserve any new documentation relevant to the dispute generated after receipt of a Legal Hold Notice.**~~
 - ~~**Communicate all issues with securing or preserving records or meeting the requirements of the Legal Hold Notice to OLA.**~~

3. Documents should be preserved as follows:

- i. **For paper documents:** scan the documents and save them to a folder on your university-issued network drive. In addition, Affected University Personnel should also create hard copies of the documents if an issue arises with electronic storage.
- ii. **For electronic documents:** create a folder in your university-issued network drive and place the documents there.
- iii. **For emails:** create, inside your university mailbox, a folder/tag and place or label all relevant emails.
- iv. **For systems:** place a Hold or Lock on the information from being altered or deleted.

If there is a barrier with preserving these records or meeting the requirements of the Legal Hold Notice, it is permissible to make a copy so that the original may be maintained for business continuity purposes. If a copy can not be made of a paper document, the original copy must be hand-delivered to OLA (see Chain of Custody Log). The points of contact regarding any preservation issues for paper or electronic documents are OLA and Information Technology Services (ITS), respectively.

4. Affected University Personnel must acknowledge receipt, understanding, and compliance with the Legal Hold Notice without delay by email or written memorandum to General Counsel or designee.
5. OLA will notify ITS of a Legal Hold and provide the following information:
 - i. Official notification of the Legal Hold and its scope;
 - ii. Identification of Affected University Personnel whose electronic accounts must be preserved, including user names, if known;
 - iii. Identification of the employment status of each Affected University Personnel as faculty, staff, student, or former employee, if known; Identification of the department or unit affiliation for each Affected University Personnel, if known; and
 - iv. Any other information deemed relevant to ITS by OLA.
6. ITS must acknowledge receipt, understanding, and compliance with the Legal Hold Notice without delay by email or written memorandum to General Counsel or designee.
7. If Affected University Personnel separate from employment during the course of a Legal Hold, the department head or immediate supervisor must take possession of all Evidence under the control of the separated employee and notify OLA.

Chain of Custody Log

A Chain of Custody Log is to prove that the integrity of the Evidence has been maintained from seizure through production in court. Chain of Custody Logs document how the records/information was gathered, analyzed, and preserved for production. This information is important as electronic data can

~~be easily altered if proper precautions are not taken. A Chain of Custody Log for electronic data must demonstrate the following: a) the Evidence has been properly copied, transported, and stored; b) the Evidence has not been altered in any way; and c) all Evidence has been secured throughout the process.~~

- ~~• Affected University Personnel must maintain a Chain of Custody Log throughout the life of the Evidence and be readily available for review at any time. Every instance of contact with the data must be documented throughout the discovery process.~~
- ~~• If transferring Evidence to the Office of Legal Affairs, a Chain of Custody Log is required and shall accompany the Evidence at delivery time.~~

~~E. Violations~~

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

~~F. Release of a Legal Hold~~

~~OLA will determine when a Legal Hold will be released and notify Affected University Personnel of the release. This process will be documented to demonstrate approval from OLA.~~

~~After a Legal Hold is lifted, offices may resume regularly scheduled destruction procedures (See UWG PL 1008, [Records Information Management and Associated Procedure](#))~~

1. Triggering Events

The **Office of Legal Affairs** (OLA) issues Legal Holds when:

- The University receives a discovery order or preservation request; or
- Litigation, investigation, or other legal action is pending or reasonably anticipated.

2. Notification Obligation

University Personnel who become aware of potential or actual legal action must **immediately notify OLA** (legal@westga.edu).

D. Suspension of Retention Schedules

When a legal hold notice is issued or received, the applicable **records retention schedules shall be immediately suspended** for all records that may be relevant to the matter under investigation or litigation. This suspension applies to all records, regardless of format, location, or storage medium, that fall within the scope of the legal hold.

Departments and Affected Personnel must **preserve all potentially relevant records** and cease any routine destruction, alteration, or deletion of such records until formal notice is received from the Office of Legal Affairs releasing the hold. Retention periods resume only after the legal hold has been lifted.

The University **General Counsel**, in coordination with the **Records Management Officer (RMO)**, is responsible for notifying affected units when a legal hold is enacted and when it is released.

Units are responsible for ensuring that all Affected University Personnel under their supervision comply with the suspension and preservation requirements.

The **RMO** shall review Certificate of Records Destruction forms to ensure that any records subject to a legal hold are preserved and not destroyed.

E. Implementing Legal Holds

Upon receiving a Legal Hold notice, **Affected University Personnel** are responsible for the information under their control and must:

1. **Immediately suspend all record destruction**, including deletion, alteration, or destruction of any potentially relevant records.
2. **Acknowledge receipt and compliance** with the Legal Hold notice in writing.
3. **Preserve all relevant records**, both paper and electronic, in their original format. Do not convert files (e.g., from Word to PDF).
4. **Secure information** stored on University devices, network drives, cloud systems, or personal devices used for University work.
5. **Preserve new related records** created after the Legal Hold notice.
6. **Identify and report** any other University Personnel (current or former) who may hold relevant records and/or were not listed on the notice to OLA.

Information Technology Services (ITS) will assist in preserving relevant electronic data stored on cloud systems, servers/backup systems, or other digital platforms.

1. Record Preservation Methods by Type

Record Type	How to Preserve It
Paper Records	Keep original paper copies. May scan and save a copy to a designated secure Legal Hold folder on the University network drive or OneDrive.
Electronic Files	Create a designated "Legal Hold" folder within your University-issued network drive or OneDrive to place the documents there.
Email	Create a "Legal Hold" folder/tag within your University mailbox and label or move all related messages there.
Database or Systems	Apply data preservation settings, such as "lock" or "hold" flags to prevent modification or deletion. If preservation is not possible in current systems, consult ITS for technical assistance or guidance.

2. Employee Separation During a Legal Hold

If Affected Personnel subject to a Legal Hold separates from the University, the **supervisor or unit head**

must:

- : Secure all relevant records and data under the employee's control; and
- : Notify OLA immediately to ensure continued preservation of the evidence.

F. Handling Barriers to Record Preservation

If record preservation creates a barrier to normal business operations or cannot be completed as directed by the Legal Hold Notice and this procedure, the following steps must be taken:

1. Assess and Report the Barrier

- : Determine the nature of the issue preventing compliance (e.g., system limitation, access restriction, or operational impact).
- : Immediately notify the **Office of Legal Affairs** of any preservation barriers or compliance challenges.
- : Provide details of the affected records, the nature of the barrier, and any steps taken to mitigate the issue.
- : **Do not** alter, delete, or destroy any potentially relevant records while assessing the issue.

2. Create a Copy (if possible)

- : If preserving the **original record** interferes with normal business operations, create a **complete and accurate copy** for preservation under the Legal Hold.
- : The **copy** may be used for business purposes.
- : The **original record** must remain preserved and unaltered.

3. Preserve the Original:

- : Store the **original** securely and keep it accessible for the duration of the Legal Hold.

4. Handle Paper Records Appropriately

- : If a copy of the records cannot be made or preserved, hand-deliver the **original** to the **Office of Legal Affairs** (OLA) for storage.
- : Complete a **Chain of Custody Log Form** when transferring the record to OLA.

5. Await Further Instruction

- : **Do not** resume normal records management or destruction activities until specific guidance is received from the Office of Legal Affairs confirming how to proceed.

G. Chain of Custody

A **Chain of Custody Form** is **required** when records subject to a Legal Hold are transferred from one individual, unit, or storage location to another to ensure the integrity and accountability of evidence and information.

If records remain secured and under the continuous control of their native unit or Affected University

Personnel, and no transfer or physical/electronic movement occurs, a **Chain of Custody Log is not required**. However, the unit must ensure that:

- : Records are stored in a secure and access-controlled location;
- : No alterations, deletions, or unauthorized access occur during the Legal Hold period; and
- : The Office of Legal Affairs (OLA) is informed of the storage location and responsible unit, and the Affected University Personnel.

1. Requirements

A Chain of Custody Form **must be completed** under the following conditions:

- i. **Transfer of Original Records:**
When original paper or physical records (e.g., personnel files, contracts, or Evidence materials) are transferred to the Office of Legal Affairs (OLA).
- ii. **Custodian Change:**
When the Affected Personnel responsible for maintaining custody of the records changes (e.g., due to reassignment, role changes, or separation from employment).
- iii. **Storage Location Change:**
When records under legal hold are moved to another building, room, cabinet, or any storage environment outside the originating department.
- iv. **Collection of Electronic Records:**
When digital files, emails, or electronic data are exported, copied, or collected from a University system or device for preservation or legal review by ITS or an authorized third party.
- v. **Return or Release of Records:**
When records are returned to a unit, Affected Personnel, or when the legal hold is formally lifted and custody transitions back to normal records management control.

2. Responsibility

Affected University Personnel are responsible for maintaining the Chain of Custody Log (when required) throughout the Legal Hold period and ensuring all Evidence remains secure and unaltered.

H. Release of a Legal Hold

1. **Authority to Release**
Only the **General Counsel** or their **designee** under the direction of the General Counsel, has the authority to **release** a Legal Hold.
2. **Notification of Release**
When a Legal Hold is released, OLA will notify Affected University Personnel in writing.
3. **Resumption of Standard Procedures**
Once released, units may resume routine record retention and destruction in accordance with UWG Policy 1008, Records Information Management.

I. Violations

Destroying, altering, concealing, or withholding Evidence subject to a Legal Hold violates federal and Georgia law, as well as University policy.

Noncompliance may result in disciplinary action, up to and including termination, and may lead to court or enforcement agency sanctions.

Definitions

Affected University Personnel - ~~all individuals or units in possession or control of~~ University ~~personnel in possession or control of~~ University records ~~who are~~ subject to a legal hold.

Electronic Records - all forms of electronic ~~communications~~ records, including, but not limited to, email, ~~word processing~~ documents, calendars, spreadsheets, ~~videos, photographs, text/~~voice messages, ~~videos and databases, photographs, text messages, or information stored on mobile devices and other~~ digital content.

~~**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.~~

~~**Legal Hold (aka 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 destruction of documents as outlined in the Records Retention Schedule.~~

Evidence - all records (electronic or paper), created, received, or maintained, regardless of location or ownership, in the transaction of University business that may related to a legal matter.

Legal Hold (aka Litigation Hold) - a directive requiring the preservation of all records, regardless of form, related to a legal matter overriding retention schedules.

University Personnel - all current and former University employees, ~~whether permanent, temporary, full-time or part-time, including~~ faculty, ~~or~~ staff, student ~~and temporary~~ employees.

Guidelines/Related material

- ~~UWG PL 1008 Records Information Management and associated procedures~~
UWG PL 1008 Records Information Management and associated procedures
- Federal Rules of Civil Procedure (Rules 26 and 37(e))
- O.C.G.A. § 9-11-26 and § 24-14-22 (Duty to Preserve Evidence)

Attachments

 [Legal Hold Chain of Custody Form with instructions.pdf](#)

 [Legal Hold Decision Tree.pdf](#)

Approval Signatures

Step Description

Approver

Date