



UNIVERSITY OF
WEST GEORGIA

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

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) preserves records and information when a Legal Hold (i.e., Litigation Hold, Spoliation Notice, Request for Preservation of Evidence) is issued. A Legal Hold suspends routine record destruction to ensure that potentially relevant information, paper or electronic, is preserved for pending or anticipated legal action.

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.

Records subject to a Legal Hold may include, but are not limited to:

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

Only the **General Counsel** or their **designee** under the direction of the General Counsel, has the authority to issue a Legal Hold directive.

2. Triggering Events

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

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

3. 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 - individuals or units in possession or control of University records subject to a legal hold.

Electronic Records - all forms of electronic records, including, but not limited to, email, documents, calendars, spreadsheets, videos, photographs, text/voice messages, and databases, and other digital content.

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, including faculty, staff, student and temporary employees.

Guidelines/Related material

- **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