

New Policy

Clearly defines a Legal/Litigation/Preservation Hold and provides direction to employees on what to do when OLA notifies them of a pending or threatened legal claim.



NORTH CAROLINA A&T STATE UNIVERSITY

CHAPTER 1100 – GENERAL POLICIES

UNIVERSITY POLICY 1107, LEGAL HOLDS

SECTION 1107.1 POLICY STATEMENT

This policy establishes the process for initiating, coordinating, and releasing legal hold notices to secure and preserve records until after North Carolina A&T State University (N.C. A&T or University) has fulfilled its obligations relating to potential or threatened legal claims.

SECTION 1107.2 PURPOSE

The purpose of this policy is to ensure that employees preserve and produce University records in the face of actual or threatened litigation.

SECTION 1107.3 SCOPE

This policy applies to all University employees and authorized agents acting on behalf of the University, and covers all records, regardless of location or form made or received in the transaction of University business.

SECTION 1107.4 DEFINITIONS

- (1) “Electronically stored information” or “ESI” means all forms of electronic communications, including, but not limited to, emails, word processing documents, databases, calendars, spreadsheets, voice messages, video recordings, audio recordings, photographs, text messages, information stored in any mobile devices, and information stored or posted online.
- (2) “Legal Hold Notice” or “Litigation Hold Notice” or “Preservation Notice” means an order to preserve all records, regardless of form, issued as the result of current or anticipated litigation, audit, government investigation or other similar matter that suspends the normal process regarding the retention and disposition of University records.
- (3) “Records” mean all documents, papers, letters, maps, books, photographs, films, sound recordings, magnetic or other tapes, electronic data-processing records, artifacts, faxes, calendars, drawings, charts, logbooks, reports, contracts, evaluations, informal or handwritten notes, electronically stored information, or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the

transaction of public business whether conducted remotely or on campus, including but not limited to, paper records and electronic records stored on hard drives of University work station desktops, laptops, personal computers, flash drives, CD-ROMs, memory sticks, tapes, zip disks, diskettes, PDAs or other mobile devices, regardless of location or ownership, by any agency of North Carolina government or its subdivisions. Agency of North Carolina government or its subdivisions shall mean and include every public office, public officer or official (State or local, elected or appointed), institution, board, commission, bureau, council, department, authority or other unit of government of the State or of any county, unit, special district or other political subdivision of government.

SECTION 1107.5 OBLIGATION TO PRESERVE EVIDENCE

- (a) Any employee who receives notice of potential or actual University-related litigation, threat of litigation, claim, administrative action, other legal action, or an investigation by any administrative, civil or criminal authority shall immediately notify the Office of Legal Affairs (OLA).
- (b) A Legal Hold or Litigation Hold will be issued and enforced when circumstances, usually pending or threatened litigation, require the University to (a) suspend the standard of destruction of records, (b) preserve hard copy and electronic records which may include, but not limited to, email correspondence, and (c) cooperate with the Office of the Legal Affairs in collecting, categorization, and maintaining all necessary records.
- (c) Upon receipt of a Legal Hold Notice, employees have the following legal obligations and shall immediately:
 - (1) Suspend the deletion, overriding, or any other destruction of ESI and other information relevant to the matter addressed in the Notice;
 - (2) Confirm receipt of the Notice immediately upon receipt;
 - (3) Immediately take action to locate, preserve, and provide evidence, wherever located and in whatever form;
 - (4) Preserve and safeguard all evidence subject to the Notice even if it would normally be destroyed in accordance with University Policy 1108, Records Retention and Disposition, or the University's Records Retention Schedule; and
 - (5) Preserve and safeguard any new electronic or other information generated after the date of the Notice.
- (d) If an employee subject to a Legal Hold Notice separates from employment while a Legal Hold remains in place, department heads, unit directors, supervisors, or another appropriate administrator must take possession of all evidence under the control of the separated employee and immediately notify OLA.

SECTION 1107.6 RELEASE OF LEGAL HOLD

The Office of Legal Affairs will determine when to release a Legal Hold and will notify relevant employees of the release.

SECTION 1107.7 COMPLIANCE

It is a violation of law and this policy to destroy, alter, withhold, or obscure evidence once the Office of Legal Affairs has communicated or formally issued a Legal Hold. Violations of this policy are subject to disciplinary action up to and including dismissal, and potential legal liability.

POLICY HISTORY: Eff. _____, 2021

AUTHORITY: Board of Trustees

POLICY OWNER: Vice Chancellor for Legal Affairs, Risk and Compliance & General Counsel

RESPONSIBLE OFFICE: Office of Legal Affairs