

### **3359-11-11.1 Electronic records retention.**

#### **(A) Purpose.**

In today's university environment, employees create and maintain an increasing portion of their records using computers. Electronic records must be managed alongside traditional records to ensure compliance with state and federal regulations and to preserve institutional history.

The purpose of this rule is to inform university employees and departmental management of the requirements and responsibilities for management and disposition of electronic records.

#### **(B) Scope.**

This electronic records retention rule applies to all employees of the university and applies to all electronic records that are made or received in the transaction of university or public business. All electronic records created at the university of Akron are governed by and subject to this rule.

#### **(C) Definitions.**

- (1) The term "electronic record" means any record that is created, received, maintained or stored on university local workstations or central servers. Examples include, but are not limited to: electronic mail (e-mail), word processing documents and spreadsheets, and databases.
- (2) The term "legal custodian" shall mean the originator of an e-mail message or the creator of an electronic document if that person is a university employee; otherwise it is the university employee to whom the message is addressed or to whom the electronic document is sent. If the record is transferred, by agreement or rule, to another person for archival purposes, then that person becomes the legal custodian.
- (3) "Official" records retention and disposition schedules are the general and departmental program schedules that have been approved by the state and the university through its records officer.

#### **(D) Policy statement.**

##### **(1) General requirements.**

Maintenance and disposal of electronic records, as determined by the

content, is the responsibility of the legal custodian and must be in accordance with guidelines established by the university and also in compliance with state and university approved records retention and disposition schedules.

The department head of an office having public records is responsible for ensuring compliance with this policy and with the Ohio public records law. When an employee leaves a department or the university, the department head is responsible for designating a new custodian and ensuring that any public records in the separating employee's possession are properly transferred to the new custodian. The department head is responsible for contacting information technology services to arrange for the transfer of the electronic records to the new custodian before the accounts are scheduled to be deleted.

(2) Electronic mail.

Work-related e-mail is a university record, and must be treated as such. Each e-mail user must take responsibility for sorting out personal messages from work-related messages and retaining university records as directed in official records retention and disposition schedules. E-mail that does not meet the definition of a public record, e.g., personal e-mail, or junk e-mail, should be deleted from the system.

(3) Retention of records.

University e-mail servers are not intended for long-term record retention. E-mail messages and any associated attachment(s) with retention periods greater than three years are to be printed and filed in similar fashion to paper records. It is important to note that the e-mail message should be kept with the attachment(s). The printed copy of the e-mail must contain the following header information:

- (a) Who sent the message.
- (b) Who received the message.
- (c) Date and time of message.
- (d) Subject of the message.

When e-mail is used as a transport mechanism for other record types, it is possible, based on the content, for the retention and disposition periods of the e-mail and the transported record(s) to differ. In this case, the longest retention period shall apply.

(4) Instant messaging.

The university does not support the use of instant messaging (IM) for university business.

(5) ITS backup files.

Information technology services performs backups on a regular schedule of the e-mail and electronic files stored on central servers for disaster recovery. These backups are to be used for system restoration purposes only. The IT system administrator is not the legal custodian of messages or records which may be included in such backups.

(E) Litigation hold.

When litigation against the university or its employees is filed or threatened, the law imposes a duty upon the university to preserve all documents and records that pertain to the issues. As soon as the office of general counsel becomes aware of pending or threatened litigation, a litigation hold directive will be issued to the legal custodians. The litigation hold directive overrides any records retention schedule that may have otherwise called for the transfer, disposal or destruction of the relevant documents, until the hold has been cleared by the office of general counsel. E-mail and computer accounts of separated employees that have been placed on a litigation hold by the office of general counsel will be maintained by information technology services until the hold is released.

No employee, who has been notified by the office of general counsel of a litigation hold, may alter or delete an electronic record that falls within the scope of that hold. Violation of the hold may subject the individual to disciplinary action, up to and including dismissal, as well as personal liability for civil and/or criminal sanctions by the courts or law enforcement agencies.

(F) Enforcement.

- (1) Failure to comply with the "Electronic Records Retention Policy" and associated guidelines and procedures can result in disciplinary action and penalties applicable by law.
- (2) Questions about this rule should be addressed to the office of general counsel.
- (3) Approval of records retention and destruction schedules should be sent to the university records compliance officer per O.A.C. 3359-07-01.1.

All other (non-electronic) records shall continue to be managed pursuant to O.A.C. 3359-11-11.

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