1.0 PURPOSE

This procedure outlines the steps that must be followed in initiating a legal hold on relevant and discoverable records when the duty to preserve arises or is triggered by legal action or regulatory investigation or proceeding that are reasonably anticipated, threatened, or pending by or against MacEwan University (the “University”) or when a preservation or production order is issued by a competent court or tribunal.

2.0 SCOPE

This procedure applies to members of the University community.

3.0 DEFINITIONS

3.1 “electronic records” means information that:

(i) is recorded or stored on any medium in or by a computer system or other similar device; and

(ii) can be read or perceived by a person or a computer system or other similar device,

and includes a display, printout or other output of that information, other than a printout that has been manifestly or consistently acted on, relied on or used as the record of the information recorded or stored on the printout;

3.2 “individually assigned file storage systems” means local file storage systems, such as electronic folders, external hard-drives, local networks etc., where records may be stored by employees;

3.3 “legal hold” is an instruction to cease the destruction of, preserve and secure all records related to the nature or subject of the legal hold, regardless of form;

3.4 “member of the University community” means those persons involved in conducting University affairs or operations or using University property, including all employees, agents, contractors and volunteers;

3.5 “preservation order” means an order issued by a competent court or tribunal for the cessation of destruction of records;

3.6 “privacy department” means the Privacy and Information Management Department;
3.7 “production order” means an order issued by a competent court or tribunal for the production of records relevant to a litigation or a regulatory investigation or other legal proceedings;

3.8 “record” means a record of information in any form and includes notes, images, audio-visual recordings, x-rays, books, documents, maps, drawings, photographs, letters, vouchers and papers and any other information that is written, photographed, recorded or stored in any manner, but does not include software or any mechanism that produces records.

4.0 Issuance of a Legal Hold

4.1 A member of the University community who:

(i) becomes aware of threatened legal proceedings against the University (whether written or oral); or
(ii) reasonably anticipates legal proceedings by or against the University (“triggering events”),

will, in writing and without undue delay, notify the Vice President, General Counsel and Compliance Officer (“General Counsel”) of the triggering event.

4.2 The General Counsel will, upon receipt of notification of a triggering event, review the facts leading to same and determine whether to issue a legal hold and identify which members of the University community should be subject to the legal hold.

4.3 When a determination is made that a legal hold is required, the legal hold will be issued by the General Counsel to specified members of the University community and affected departments or business units who must identify and preserve all records related to the nature or subject of the legal hold.

4.4 A member of the University community who is subject to a legal hold will, without undue delay:

(i) acknowledge, in writing, receipt of the legal hold to the General Counsel;
(ii) contact the privacy department for assistance in preserving relevant records;
(iii) segregate all paper copies of relevant records; and
(iv) identify and preserve all relevant electronic records, if any.

4.5 The privacy department may be notified of the issuance of a legal hold on specified records in order for the department to temporarily suspend the application of the University’s records retention and disposition schedule as it pertains to the scheduled disposition of relevant records.
4.6 The General Counsel may, if required, notify the Chief Information Officer of the issuance of a legal hold and provide the following information including, but not limited to:

(i) official notification of the legal hold;

(ii) the identities of all members of the University community whose electronic mail accounts must be preserved, including user names, if known; and

(iii) any of the individually assigned file storage systems in which relevant records are stored.

5.0 Release of a Legal Hold

5.1 When the General Counsel determines that a legal hold is no longer required, he/she will issue a notice to the privacy department and to the persons subject to the legal hold lifting the legal hold.
FACT SHEET

Relevant Dates
Approved: 2015.02.26
Effective: 2015.02.26

Source
2015.02.26 This is a new procedure which supports policy D7500 – Privacy – approved by Board Motion 02-02-26-2014/15.

Authorization
Office of Accountability: Vice President, General Counsel and Compliance Officer
Office of Administrative Responsibility: Office of the General Counsel
Approved By: Board of Governors
Contact Area: Office of the General Counsel
Authority: Alberta’s Freedom of Information and Protection of Privacy Act
D7500: Privacy

Related and Associated Matters

Associated Procedures:
D7500-4: Records Destruction

Related Policies:
D7510: Records Management
D7990: Legal Resources
D7500: Privacy
E1050: Student Records