

# Board of County Commissioners

Leon County, Florida

## Policy No. 11-5

Title:                    Litigation Hold Policy

Date Adopted:        August 23, 2011

Effective Date:       August 23, 2011

Reference:            N/A

Policy Superseded:   None

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It shall be the policy of the Board of County Commissioners of Leon County, Florida, that a policy entitled "Litigation Hold Policy" is hereby adopted, to-wit:

### Section 1 – Findings

The Leon County Board of County Commissioners hereby finds that it is Leon County's responsibility, in certain circumstances, to maintain potential evidence and information created, maintained, or otherwise stored by the County beyond the limitations of the "Records Retention Schedule." In such situations, a Litigation Hold procedure will be utilized to identify and preserve evidence or information relevant to a specific matter. Information includes both paper documents and electronically stored information (ESI). When implementing the Litigation Hold, the County will attempt to identify individuals in possession or custody of paper documents, ESI and electronic media containing ESI, and inform them of their obligation to preserve the documents and ESI outside the Records Retention Schedule. The County will also identify third parties (i.e., contractors) with custody or control over paper documents, ESI, or electronic media storing ESI, and request them to preserve that information. All information falling within a Litigation Hold, which is under the control of the County, must be preserved in a readily accessible form and cannot be destroyed until the Litigation Hold is lifted. Failure to comply with a Litigation Hold Notice may result in disciplinary action, up to and including possible termination.

### Section 2 – Procedure

- A. If the County Attorney or his/her designee initiates a Litigation Hold, he/she will notify the County Administrator and relevant Department Directors or Division Managers of the reason the Litigation Hold was instituted and its scope.
- B. Upon receipt of a Litigation Hold notification, all public records referenced therein shall not be disposed of until the Litigation Hold is removed by the County Attorney. If there is any question as to whether a document falls within the scope of the Litigation Hold, the County Attorney should be contacted to make this determination.

- C. Instances where the County must maintain information outside the State Records Retention Schedule include:
1. when the County has specific information or written notice from an individual of an intent to file a claim, appeal of a decision, or institute litigation or request for a hearing;
  2. when the County is served with litigation, including, but not limited to, notice of a lawsuit in Federal or State court, or administrative proceeding;
  3. when the County receives specific information or written notification from an employee, labor union, or other person of an intent to file a claim against the County;
  4. when the County receives specific information or written notification from an administrative agency such as the Equal Employment Opportunity Commission (EEOC) regarding a claim against the County, its members, employees or agents;
  5. when the County receives written notification from a third party requesting that the County maintain information that could be at issue in litigation or potential litigation against that third party;
  6. when the County initiates litigation;
  7. in the presence of a Public Records Request, even if the retention has otherwise been satisfied; and,
  8. when there is imminent or pending criminal investigation.

### **Section 3 - Definitions**

Throughout this policy, the singular may be read as plural and the plural as singular. The following terms shall have the following definitions:

- a. **“County”** shall mean Leon County, Florida, its Board of County Commissioners, departments, divisions, officers and employees.
- b. **“Public Records Request”** shall include all documents, writings, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by the County. This also includes data created by private entities acting on behalf of the County.
- c. **“Electronically Stored Information (ESI)”** shall include, but not be limited to, digital media, data and information.