

# Board of County Commissioners

## Leon County, Florida

### Policy No. 11-5

Title: Litigation Hold Policy

Date Adopted: May 9, 2023

Effective Date: May 10, 2023

Reference: N/A

Policy Superseded: Policy No. 11-5, Litigation Hold Policy, adopted August 23, 2011

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It shall be the policy of the Board of County Commissioners of Leon County, Florida, that Policy No. 11-5, titled “Litigation Hold Policy”, adopted by the on August 23, 2011, is hereby amended and a revised policy is hereby adopted in its place, 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 Records created, maintained, or otherwise stored by the County beyond the timeframe specified in an otherwise applicable records retention schedule. In such situations, a Litigation Hold procedure will be utilized to identify and preserve evidence and Records relevant to a specific matter. When initiating a Litigation Hold, the County will attempt to identify individuals in possession, control, or custody of potential evidence and Records, and inform them of their obligation to preserve the evidence and Records beyond the timeframe specified in an otherwise applicable records retention schedule. The County will also identify third parties (i.e., contractors) in possession, control, or custody of potential evidence and Records, and require that the third party preserve that information or provide the evidence and Records to the County for preservation. All potential evidence and Records falling within the scope of a Litigation Hold must be preserved in a readily accessible form and cannot be disposed of 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, or appropriate action against the third party.

#### Section 2 – 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. **“Electronically Stored Information (ESI)”** shall include, but not be limited to, digital media, data, and information.

- C. **“Records”** shall include all documents, writings, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, ESI, or other material, regardless of physical form, characteristics, or means of transmission, made or received in connection with the transaction of official business by the County. This also includes Records created by private entities acting on behalf of or under contract with the County.

### Section 3 – Procedure

- A. When the County receives information/notice, as outlined in paragraph C. of this section, the receiving staff person shall forward said notification to the County Attorney’s Office immediately. If the County Attorney or designee initiates a Litigation Hold, the County Administrator and relevant Department Directors or Division Managers will be notified of the reason the Litigation Hold was instituted and its scope. If the County is aware of any third party that may be in possession of evidence and Records within the scope of a Litigation Hold, the County Attorney or designee will notify the third party of the obligation to preserve such evidence and Records.
- B. Upon receipt of a Litigation Hold notification, all potential evidence and Records within the scope of the Litigation Hold shall not be disposed of until the Litigation Hold is removed by the County Attorney or designee. If there is any question as to potential evidence or whether a Record falls within the scope of the Litigation Hold, the recipient of the Litigation Hold is required to contact the County Attorney for a determination.
- C. Instances where the County must preserve potential evidence and maintain Records beyond the timeframe specified in an otherwise applicable records retention schedule include:
1. When the County has specific information or written notice from an employee, labor union, or other person or entity of an intent to file a claim, appeal a decision, institute litigation, or request a hearing adverse to the County (e.g., bid protest notices, workers’ compensation claims, dangerous dog petitions, or contested citations).
  2. When the County is served with litigation, including, but not limited to, notice of a lawsuit in Federal or State court, or an administrative proceeding.
  3. 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.
  4. When the County receives written notification from a third party requesting that the County maintain potential evidence or Records that could be at issue in litigation or potential litigation against a third party.
  5. When the County initiates litigation.
  6. When there is specific information or written notification that a criminal investigation is imminent or pending.