



Records and Information Management Program Policy and Procedure

Responsible Office	Office of the General Counsel	Effective Date	04/01/2012
Responsible Official	General Counsel	Last Revision	

I. Rationale For Policy

Farleigh Dickinson University (“FDU”) hereby establishes this program to develop and maintain a comprehensive, consistent and cost-effective records retention program and destruction schedule that:

- (1) ensures compliance with legal requirements imposed by statutes and regulations governing records retention;
- (2) facilitates the organization and retrieval of information when required for legal, regulatory, or operational reasons in support of FDU’s business operations and activities; and
- (3) reduces and manages the overhead cost associated with storage and maintenance of records by limiting the accumulation of records that are not needed for business, regulatory, historical or other reasons.

II. Scope

This Records and Information Management Policy (“FDU’s Policy”) applies to all FDU employees and all those who handle FDU Records and Convenience Documents as defined below. This Policy supercedes any and all prior policies. All FDU employees will receive a copy of this Policy in order to facilitate FDU’s ability to fulfill its goals for the Program and must be aware of the ways in which this Policy impacts their information and data storage practices. This is particularly so with respect to circumstances in which FDU has implemented a Legal Hold (discussed herein and in the Legal Hold Policy attached as Exhibit A) and e-mail management (discussed herein and in the E-Mail Management Policy attached as Exhibit C.) However, this Policy shall not alter or otherwise impact the Records Retention Schedules currently in place in any FDU departments. (Copies of those schedules are attached as Exhibit B.)

NOTICE: Any questions regarding the scope, purpose, or compliance with this Policy shall be directed to the Office of the General Counsel (“General Counsel”).

All of FDU's Records and Convenience Documents, as defined below, are subject to and must be managed in compliance with this Policy. All FDU employees who create, use, receive or manage FDU's Records and/or Convenience Documents are required to comply. Moreover, all FDU e-mail (defined below) that is stored, backed up or maintained by FDU's Office of Information Resources and Technology ("the OIRT") is subject to and must be managed in compliance with this Policy and the E-mail Management Policy attached as Exhibit C.

As used in this Policy, a "Record" is an account of an event or issue originated or received by the University and/or its various departments necessary to their business operations and activities that falls within one of the categories set forth in the current Records Retention Schedules attached as Exhibit B, whether memorialized on paper or electronic form.

In contrast, "Convenience Documents" are those documents created or retained solely for an employee's or the University's convenience and do not have any legal, regulatory, or business requirement for retention. Although Convenience Documents are not Records as defined above, they may be, subject to FDU's Intellectual Property policy and the academic freedoms of the University's faculty, property of the University. Examples include, but are not limited to: drafts; handwritten notes; electronic documents used to create official signed documents; unsigned letters; documents not yet authorized or approved by the appropriate person; most voice mail messages; text messages; materials that document the request for and completion of internal administrative services within the normal course of business; and internal memos or reports of which one is not the author or office of record; and personal documents, *e.g.*, resumes and personal letters.

Finally, for purposes of this Policy, "FDU e-mail" is not a particular document type but, rather, is a delivery method for many document types, and shall be as defined in the E-mail Management Policy, attached hereto as Exhibit C.

Please Note - For ease of complying with this Policy, use of personal email accounts to conduct FDU business is discouraged. If you store FDU business files or emails on a personal computer and/or in a personal email inbox, it shall be your sole responsibility to respond to court order of eDiscovery and Legal Hold and any costs related. The FDU electronic data systems (email and other documents) have certain backup and security processes built-in, use of non FDU systems subjects Records and Convenience Documents to the processes of the third party providers and the possibility of your non-compliance with this Policy.

III. Purpose

As noted above, FDU's Program is designed to develop and maintain a comprehensive, consistent and cost-effective records retention program and destruction schedule that

(1) ensures compliance with legal requirements imposed by statutes and regulations governing records retention;

(2) facilitates the organization and retrieval of information when required for legal, regulatory, or operational reasons in support of FDU's business operations and activities; and

(3) reduces and manages the overhead cost associated with storage and maintenance of records by limiting the accumulation of records that are not needed for business, regulatory, historical or other reasons.

It is critical to understand that this Policy incorporates by reference the Records Retention Schedules of each of the various FDU departments; it does not otherwise establish new retention schedules, nor does it alter any existing schedules for any FDU Records or Convenience Documents with the exception of any Records or Convenience Documents that may become subject to a Legal Hold as discussed below and in the Legal Hold Policy attached as Exhibit A. Except in instances where a Legal Hold has been implemented, employees should continue to retain or destroy FDU Records and Convenience Documents in accordance with the schedules established by the University at large and/or their respective departments. However, to the extent FDU employees utilize FDU's computer systems, specifically e-mail, as well as the servers or backup media maintained by the OIRT to transmit, store, back up or maintain FDU e-mail, they must be mindful of and adhere to the E-Mail Management Policy annexed as Exhibit C.

IV. Records Management Program Employee Responsibilities:

All FDU employees are responsible for complying with the procedures for Records and Convenience Documents retention, destruction and for preservation set forth herein. Failure to comply with this Policy may result in disciplinary action up to and including termination.

Consistent with the Program, employees shall

(1) create only those Records that are needed for the operation of their department;

(2) maintain active and inactive Records in appropriate locations for the period of time established by the Policy and their department's Retention Schedule annexed hereto;

(3) comply with prevailing federal and state legal and regulatory requirements, including legal requirements related to litigation, government investigation and audit; and

(4) destroy Records and Convenience Documents that are no longer needed for approved purposes.

Records -- Employees are responsible for determining which of the materials they create or receive are considered Records and ensuring that Records are maintained, used, transferred and disposed of according to this Policy. Immediately after the completion of any matter or transaction, employees should review all documents related to the negotiation or memorialization of the matter or transaction for the purpose of destroying or deleting all Convenience Documents and retaining any original, executed contracts, agreements, leases or similar transaction documents.

Convenience Documents -- As defined above, Convenience Documents are of value to the University for a short period of time and should not be stored or maintained longer than necessary. Unless subject to a Legal Hold Preservation Notice, Convenience Documents should be destroyed once they have served their useful purpose.

FDU E-Mail -- FDU requires the assistance of all FDU employees and personnel in properly managing FDU-e-mail, as that term is defined in the Email Management Policy, whether a Record, contains a Record or is a Convenience Document. Employees are responsible to determine whether an e-mail message is a Record to be retained. If the e-mail is a Record, it should be filed or saved to an appropriate University computer system, or stored in a properly labeled e-mail folder that will be archived and remain available. For clarification purposes, e-mails that have been printed to paper should be treated as paper documents and employees should manage those documents according to their status as Records or Convenience Documents as those terms are defined above. Records and Convenience Documents in hard copy paper format are NOT subject to the E-mail Management Policy

Legal Holds -- Records and Convenience Documents and any FDU data that is relevant to reasonably foreseeable or pending litigation, subpoena or state or federal government investigation or audit cannot be destroyed even when otherwise permitted by the Record Retention Manual. If and when FDU's General Counsel determines there is pending litigation or a credible threat of litigation or other legal duty to preserve information, the General Counsel will, in her/his discretion, implement a Legal Hold in order to preserve these Records and Convenience Documents and FDU data and prevent them from inadvertently being destroyed. In the event of a Legal Hold, employees will be expected to proceed in accordance with the Legal Hold Policy attached as Exhibit A and the directions of the General Counsel in any Legal Hold Notice that may be issued.

Legal Hold Notices -- In the event of a Legal Hold, the General Counsel will issue a Legal Hold Notice. A Legal Hold Notice temporarily sets aside the Records Retention Schedules attached at Exhibit B and suspends destruction for the affected Records, Convenience Documents and/or electronic materials until the Legal Hold is released. Each employee who receives a Legal Hold Notice is responsible for complying with its instructions.

V. Mechanics of Records Retention -- Records, whether hard copy or electronic, should be retained in the manner and for the stated Retention Period. Paper Records should be maintained for the Retention Period by filing them. Electronic Records should be maintained for the Retention Period by either (1) printing to paper and filing (whereupon the electronic version of the Records can then be destroyed) or (2) transferring electronic Records to an appropriate University's computer system.

FDU Property -- FDU Records and Convenience Documents are FDU's property and not the property of the author or custodian of those documents. Except as set forth in FDU's Intellectual Property policy and subject to each faculty member's right to academic freedom, no employee has any personal or property right to Records and Convenience Documents including those Records that the employee helped develop or compile. No FDU Records or Convenience Documents should be kept at an employee's home for extended periods and no employee shall retain Records in his or her personal computer.

Electronic Systems Backup -- The OIRT will periodically back up the on-line computer systems for disaster-recovery purposes. Such back-ups of systems are not part of the Record retention system, and backup media will be recycled in accordance with the OIRT's then current schedule.

Except on the rare occasion of system or network malfunction or scheduled maintenance, as of the date of the adoption of this Policy, backups occur every night on a thirteen week cycle. As a result of, and due to the way in which the system cycles the backup media, restore capabilities can range between eighty-six and ninety-two days at any given time.

VI. The Record Retention Manual

Components -- The Records Retention Schedules established by each unit/department organize that department's Records into appropriate categories by type of Record and set forth the Retention Periods that have been approved for all categories of Records used or maintained by that department. (See Exhibit B.) The Retention Period is the period of time during which Records must be maintained because they may be needed for operational, legal, fiscal, historical, or other purposes as set forth in the Records Retention Schedules or other established record retention directives.

Updates and Interpretation -- The General Counsel has reviewed and approved (and will periodically re-review with the applicable unit/department) the Records Retention Schedules. The General Counsel will be responsible for final interpretation of any elements of this Program. Any proposed revisions, additions, deletions, changes or questions must be directed to the General Counsel to ensure prompt and consistent resolution.

Training -- FDU will be responsible for the implementation, resourcing, and administration this Policy and will conduct training designed to notify all personnel of the existence, scope, purpose, and importance of the FDU's records management program and educate all affected employees regarding their recordkeeping responsibilities. Training will be available to all FDU employees. In the event substantive changes are made to this policy in the future, employees will be notified and trained on those changes.

Exhibit A
LEGAL HOLD POLICY

Introduction: In certain appropriate circumstances as set forth below, FDU's Office of the General Counsel may, in its discretion, implement a Legal Hold and may apply the following policies and procedures to preserve documents and data for legal purposes when warranted. This Legal Hold Policy

- (i) shall apply to all Records and Convenience documents regardless of form or storage medium, and specifically includes FDU-email, electronically stored information and paper documents,
- (ii) shall take priority over the Records and Information Management Policy and associated Records Retention Schedules any time FDU's General Counsel issues a Legal Hold Notice,
- (iii) shall not impose any duty or obligations beyond those imposed by applicable law or regulations, and
- (iv) may be reviewed or revised at any time by FDU's Office of the General Counsel.

The Legal Hold Process: Employees shall immediately suspend to the extent necessary ordinary course compliance with FDU's Records and Information Management Policy when FDU's Office of the General Counsel issues a Legal Hold Notice. FDU's Office of the General Counsel will issue a Legal Hold Notice when the General Counsel:

- (i) learns of pending litigation,
- (ii) is notified of a credible threat of litigation, or
- (iii) learns of another legal duty to preserve documents or data.

As used herein, "Legal Hold" means a directive to preserve (and not destroy) Records and/or Convenience Documents as identified by the Office of the General Counsel.

Managing The Legal Hold: FDU's Office of the General Counsel, will take reasonable actions to enforce and achieve reasonable compliance with each Legal Hold, which may at the Office of the General Counsel's discretion include

- (a) taking reasonable steps to ensure receipt and acknowledgment of the Legal Hold Notice,
- (b) issuing updates or Reminder Notices to the extent necessary under the circumstances,
- (c) engaging the OIRT to assist the General Counsel and/or the employee receiving the Legal Hold with the implementation of an electronic means to affect the applicable Legal Hold;

In the case of inactive records, this may mean utilizing an off site storage provider's records management inventory system, which has the capability to apply retention holds to selected records. Similar methods may be used in electronic inventory systems, e-mail facilities, file servers, and backup media throughout FDU. The General Counsel or President are the only persons authorized to place e-mails on hold, and/or

- (d) periodically communicating with key custodians to verify that records subject to the Legal Hold are being preserved.

Releasing A Legal Hold: Legal Holds are not to be used to designate Records or Convenience Documents as permanent or to permanently deviate from this Policy.

When FDU's Office of the General Counsel determines that the basis for a Legal Hold ceases to exist, and the General Counsel will issue a Legal Hold Termination Notice or similar directive to affected custodians and departments instructing them to return to normal record retention procedures, employees should return to adherence to the Retention Schedules attached to FDU's Records and Information Management Policy.

Exhibit B
FDU Retention Schedules

Note: No document list can be exhaustive. Questions regarding the retention period for any specific document or class of documents not included in the attached schedules should be addressed to the Office of General Counsel.

Exhibit C
E-mail Management Policy

Introduction

FDU understands that an organization need not retain all electronic information ever generated or received and, absent a legal requirement to the contrary, may discard electronic information it no longer deems as having any business value. FDU also understands that it must develop reasonable polices and procedures to manage its electronically stored information, including but not limited to e-mail. In this regard, FDU has developed a Records and Information Management Policy (“RIMP”) that it believes is realistic, practical and tailored to its specific business needs. In connection with the RIMP, FDU also hereby establishes this E-mail Management Policy designed to govern maintenance of FDU E-mail.

As set forth in the RIMP, “FDU e-mail” is defined as any and all e-mail communications sent, received, stored or maintained in an FDU employee’s FDU e-mail account, including any and all Records and Convenience Documents that may be attached or appended thereto, and that is transmitted, stored, backed up or maintained or otherwise resides on the University’s computer systems, servers or backup media maintained by the OIRT.

In implementing this E-mail Management Policy, FDU has proceeded with the utmost good faith, has consulted with the Office of the General Counsel, and has, to the best of its knowledge and understanding, accounted for any and all existing preservation obligations before implementing the E-mail Management Policy set forth herein. FDU expects this policy will evolve over time in response to the needs of the University.

E-mail Defined

E-mail is not a particular document type but, rather, can serve as a delivery method for many document types. FDU-email is defined as any and all electronic mail sent, received, created, stored, backed up or maintained in an FDU employee’s FDU e-mail account or that is stored, backed up or maintained or otherwise resides on the University’s computer systems, servers or backup media maintained by the OIRT. FDU-email shall any and all attachments to the email regardless of its classification as a Record and Convenience Document. FDU recognizes that some e-mail messages may be (or contain) Records as defined in the University’s Records and Information Management Policy (and as may be defined by the University), while others may not.

Purpose

The purpose of this E-mail Management Policy is to establish a standard procedure throughout the University for the retention of e-mails, while not impacting in any way the Records Retention Schedules of any given University department.

E-mails have proliferated extensively over the past several years, causing considerable impact on the efficiency and costs of and associated with FDU's computer network system. The E-mail Management Policy is being implemented for several reasons, including, but not limited to, the following:

- Efficient management of FDU's computer systems and services;
- Preservation of electronic storage space; and
- Cost containment.

Scope

When using e-mail, the message created, received or otherwise used may or may not be a Record as defined above. As set forth above, e-mail is a transport mechanism only. Therefore, the value of any e-mail message or attachment to an e-mail message flows from, and is dependant upon, its content. Large amounts of retained e-mail uses finite corporate IT resources and may adversely impact the efficient function of the FDU computer systems.

For these reasons, FDU's ACTIVE e-mail system is not intended to be used for permanent storage of electronic documents. As discussed in the Policy section immediately below, any e-mail or attached document deemed necessary to retain as an official record should preferably be stored in hard copy or in electronic form other than e-mail, or it may be stored in a properly labeled e-mail archive folder. Thus, as explained further below, in accordance with this E-mail Management Policy, FDU expects that no Records will exist solely in an employee's main e-mail INBOX or SENT ITEMS or DELETED ITEMS.

Policy

To the extent an e-mail or any attachment therein is a Record as defined above, employees should print that Record, or store it electronically in a location other than their main e-mail INBOX, SENT ITEMS or DELETED ITEMS box. FDU will provide employees with sufficient guidance regarding which documents constitute Records and which do not and where to store e-mails an employee classifies as a Record.

This policy is designed to ensure that no Records reside exclusively in an employee's main e-mail, and that no employee has or could have unique Records residing solely in his or her main e-mail inbox, sent items or deleted items folders that are not otherwise maintained in hard copy or other electronic form. FDU deems it a questionable use of University resources to maintain duplicate copies of Records and Convenience Documents, including those in electronic form, because it inhibits the efficient use of limited University computer resources.

E-Mail Lifecycle

As a general rule, if a message does not require specific action or response on your part, it should be deleted promptly. Please review your messages and delete those messages that are not needed.

All items necessary for retention should be moved to a separate folder under the *Inbox*. This folder should be named in such a way that the contents of the folder are clearly identifiable. Remember, however, that all electronic files, including e-mail, voice mail, faxes, documents, databases, or electronic files of any kind remain subject to FDU's Records and Information Management Policy.