Policy *713.1* Version 1 *08/31/2015*

**Policy Change Cover Sheet**

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| **This form must be attached to each policy presented. All areas in red, including the header, must be completed; if not, it will be sent back to you for completion.** | | |
|  | *I****f the changes you are requesting include housekeeping, please submit those changes to*** [***ndsu.policy.manual@ndsu.edu***](mailto:ndsu.policy.manual@ndsu.edu) ***first so that a clean policy can be presented to the committees.*** | |
| **SECTION**: | 713.1 LITIGATION HOLD | |
| 1. **Effect of policy addition or change (explain the important changes in the policy or effect of this policy). Briefly describe the changes that are being made to the policy and the reasoning behind the requested change(s).** | | |
| * Is this a federal or state mandate?  Yes  No * Describe change: Housekeeping changes include updating the title of General Counsel to Attorney assigned to NDSU | | |
| 1. **This policy change was originated by (individual, office or committee/organization):** | | |
| * Office/Department/Name and the date submitted: Office of the Provost / Melissa Lamp * Email address of the person who should be contacted with revisions: melissa.lamp@ndsu.edu | | |
| ***This portion will be completed by Mary Asheim.***  Note: Items routed as information by SCC will have date that policy was routed listed below. | | |
| 1. **This policy has been reviewed/passed by the following (include dates of official action):** | | |
| **Senate Coordinating Committee:** | |  |
| **Faculty Senate:** | |  |
| **Staff Senate:** | |  |
| **Student Government:** | |  |
| **President’s Cabinet:** | |  |

The formatting of this policy will be updated on the website once the **content** has final approval. Please do not make formatting changes on this copy. If you have suggestions on formatting, please route them to [ndsu.policy.manual@ndsu.edu](mailto:ndsu.policy.manual@ndsu.edu). All suggestions will be considered, however due to policy format guidelines, they may not be possible. Thank you for your understanding!

**North Dakota State University  
Policy Manual  
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**SECTION 713.1**

**litigation hold**

### SOURCE: NDSU President ND Office of Risk Management

A “litigation hold” is the process in which documents, electronic information and other such materials are preserved pending a reasonably foreseeable litigation. A litigation hold is also known as a “preservation order,” where an organization’s document destruction process is suspended to preserve required documents for a pending litigation.

Potential threats of litigation can be a receipt of a summons or complaint; the filing of an Equal Employment Opportunity Commission (EEOC) charge; formal notice of investigation, the receipt of a subpoena; or even a verbal communication of the intent to sue. Once an employee receives any of the above, they should immediately inform their supervisor and the Attorney assigned to NDSU. The Attorney assigned to NDSU will then determine if the situation warrants a litigation hold for documents, and if so, implement procedures for a pre-litigation hold notice. A pre-litigation hold notice is one where no lawsuit has actually been filed yet, however, the university is preserving documentation in case litigation procedures are started. If litigation has been filed, the Attorney assigned to NDSU will send out a post-filing of litigation notice. Once a litigation hold notice has been issued, no documents pertaining to the litigation shall be destroyed until the litigation hold notice has been released by the Attorney assigned to NDSU.

Documents pertaining to a litigation hold include, but are not limited to:

* + Paper originals, drafts, and copies.
  + Word processing documents.
  + E-mail and e-mail attachments.
  + Calendars and planners.
  + Spreadsheets and databases.
  + Instant messages.
  + Network logs.
  + PowerPoint presentations.
  + Manuals, publications, bulletins, and pamphlets.
  + Graphic files.
  + Voicemail (if a message manager program is available to save voicemails).
  + Information on the website.
  + Text messages.

A notice of litigation hold should:

* + Identify the person(s) who are likely to have relevant information, and communicate a preservation notice to those persons;
  + Communicate the preservation notice in a manner that is comprehensible and timely;
  + Be in written form;
  + Clearly define what information is to be preserved and how the preservation should be undertaken; and
  + Be periodically reviewed and, if necessary, reissued in either its original or an amended form.

Once the litigation hold notice has been implemented, the university employees who have received the notice should then immediately suspend any and all deletion or destruction of electronic or paper documents relevant to the litigation; preserve any new documentation that pertains to the litigation; and preserve existing documentation. If a university employee separates his or her employment from the university during a litigation hold process, the supervisor should then take possession of and retain such records and documents, and notify the Attorney assigned to NDSU of the change in custody.

Only when the threat of litigation is over will the Attorney assigned to NDSU issue a release of litigation hold on the relevant documents. Such documents are not to be deleted or destroyed until such release is given by the Attorney assigned to NDSU, and at that time any document destruction will be in compliance with NDSU’s records management policy.

To assist in understanding the legal hold process, refer to the following documents:  
[Anticipation of Litigation and Legal Holds](http://www.ndsu.edu/fileadmin/generalcounsel/Litigation_Holds/Anticipation_of_Litigation_and_Legal_Holds.pdf)   
[Litigation Hold Procedures](http://www.ndsu.edu/fileadmin/generalcounsel/Litigation_Holds/Litigation_Hold_Procedures.pdf)  
[Litigation Holds and Preservation of Evidence](http://www.ndsu.edu/fileadmin/generalcounsel/Litigation_Holds/DouglasBahrMemo1-29-07.pdf)   
[Litigation Hold Checklist](http://www.ndsu.edu/fileadmin/generalcounsel/Litigation_Holds/Litigation_Hold_Checklist.pdf)  
[Destruction Hold Notice](http://www.ndsu.edu/fileadmin/generalcounsel/Litigation_Holds/ND-DestructionHoldNotice.pdf)  
[NDSU 713: Records Management](http://www.ndsu.edu/fileadmin/policy/713.pdf)

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HISTORY:

New January 27, 2011