

Executive Memorandum No. 29

Policy on Records Management and Policy and Procedure for Issuance of Collection and Preservation Notices for University Records and Relevant Materials

Records Management

1. Designation of Records Officers. The Corporation Secretary and the chief business officers of the University of Nebraska at Kearney, the University of Nebraska-Lincoln, the University of Nebraska Medical Center, and the University of Nebraska at Omaha shall each designate a person from their respective professional staffs to serve as a records officer.
2. Records Officers' Responsibilities. The records officer designated by the Corporation Secretary shall be responsible for overall coordination of records management activities within the chief governing unit of the University and throughout the University system. The records officer for each campus shall be responsible for overall coordination of records management activities within his or her campus.
3. Compliance with Records Management Laws. Records management activities shall include compliance with the Nebraska Records Management Act (*Neb. Rev. Stat.* §§ 84-1201 through 84-1226) and other state and federal laws concerning the management of records, regardless of physical form or characteristic. Records retention schedules developed for Central Administration and for each campus shall set forth minimum standards for retention. When appropriate, particular records may be retained for a period longer than the minimum schedule. For example, a record may be retained for a longer period for University archival purposes. The Office of the General Counsel shall provide assistance as needed to each records officer in carrying out his or her records management duties.

Policy and Procedure for Issuance of Collection and Preservation Notices for University Records and Relevant Materials Subject to Legal Proceedings or Public Records Requests

1. Policy on Preservation of Records Subject to Legal Proceedings or Public Records Requests. It is the policy of the University of Nebraska to preserve University records or materials that (a) may be relevant to pending or anticipated litigation involving the University, or (b) may be relevant to an audit or investigation conducted by a state, federal or other regulatory agency, or (c) are subject to a subpoena or warrant served upon the University, or (d) are the subject of a request for access to public records of or belonging to the University.
2. Issuance of Preservation Notices. When the University receives timely notice of pending or anticipated litigation against the University, or after receipt of a valid subpoena, warrant, or national security letter, or following receipt of a written request for access to public records, the University of Nebraska General Counsel's Office or the University office responsible for responding to such claims should issue a notice to collect and preserve relevant materials.
 - a. Notices by General Counsel. Notices to collect and preserve University records or materials relevant to (i) pending or anticipated lawsuits, (ii) subpoenas, warrants, or national security

letters, or (iii) requests for access to public records shall be issued by the University General Counsel's Office.

- b. Notices by Campus Offices. Notices to collect and preserve University records or materials relevant to the following matters should ordinarily be issued by the campus office responsible for responding to
 - (i) administrative charges filed with the Nebraska Equal Opportunity Commission, United States Equal Employment Opportunity Commission, Office of Civil Rights, Office of Federal Contract Compliance Programs, or other local, state or federal agency having jurisdiction over claims of violations of laws for the protection of civil rights or prohibiting discrimination;
 - (ii) Worker's Compensation claims;
 - (iii) Unemployment Compensation claims;
 - (iv) Claims under the Nebraska State Tort Claims Act, Nebraska Contract Claims Act, or Nebraska Miscellaneous Claims Act;
 - (v) University grievance proceedings (including proceedings to address claims of discrimination or harassment);
 - (vi) University bodies established to hear academic freedom and tenure complaints and/or complaints of professional misconduct, student academic or disciplinary cases as provided in the *Bylaws of the Board of Regents of the University of Nebraska*; or
 - (vii) University bodies authorized to investigate allegations of research misconduct. The Office of the General Counsel may also issue any notices which may be issued by a campus office under this section and may amend, suspend or vacate any campus notice.
 - c. Storage of Notices. The records officer for Central Administration shall maintain a record of all written notices issued under this policy. Campus offices shall provide copies of all notices they issue to the Office of the General Counsel, the records office for Central Administration and the campus records officer at the time a notice is issued.
3. Form of Preservation Notices. Notices to preserve and collect University records or relevant materials under this policy may be issued verbally, but must be confirmed in writing in such form as shall be specified by the Office of the General Counsel. The writing shall identify the officer issuing the notice, the reason for the notice to preserve, the types of materials subject to the notice, and the duration of the notice. The notice shall specifically address electronically stored information so that the recipients are aware of the various kinds of storage media that may be within the scope of the notice.
 4. Response to Preservation Notices. Recipients of notices to preserve and collect University records or relevant materials shall be expected to make reasonable good faith efforts to collect and preserve University records or other relevant materials in the possession, care, or custody of the recipient or persons acting at the direction, or under the supervision of the recipient. Recipients who make good faith efforts to collect and preserve records and materials in response to notices are presumptively entitled to legal defense and indemnification by the University under § 6.8 of the *Bylaws of the Board of Regents of the University of Nebraska* for those efforts. The failure of a recipient to make good faith efforts to collect and preserve University records or relevant materials subject to a notice may result in University disciplinary or legal action for noncompliance.

5. Monitoring Preservation Notices. The University officer issuing a notice shall be responsible for monitoring compliance with the notice, and arranging for analysis and/or production of University records and relevant materials collected and preserved in response to the notice. The officer issuing a notice should take steps as needed to arrange for the care of responsive items assembled by recipients who change positions within or leave the University.
6. Terminating Preservation Notices. The University office responsible for issuance of a notice shall with the approval of the Office of the General Counsel notify a recipient that University records or relevant materials are no longer subject to a preservation and collection notice when the matter related to the notice has been concluded by agreement or settlement, or final adjudication without possible appeal.

Reference: May 18, 2006