Records and Litigation Policy
December 11, 2007

Policy:

A college employee must not destroy or modify any records, whether print, microform, or digital, involved in, or that might reasonably be expected to be involved in, litigation, claim, negotiation, audit, open records request, administrative review or other action involving the records. All reasonable steps should be taken to preserve records so as not to pre-empt a litigant's right to compel production of records. Staff must maintain the records until the actions requiring the records have been resolved.

Background:

Pursuant to the Federal Rules for Civil Procedure (December 1, 2006), standard practice in organizations is that employees must retain records, including digital records, if litigation occurs or there is a reasonable *expectation* that the organization will be involved in litigation (or other activities where records may be required, e.g., EEO complaints, etc.) Courts have presumed that if an organization's records are unavailable, they contain information supportive of a claim against the organization. When litigation is expected, the college may issue a "litigation hold" on records to ensure that records are not inadvertently or intentionally destroyed or modified.