

# Record Retention and Document Destruction

---

Updated April 2019

## **Why a Record Retention and Document Destruction Policy is Needed**

The corporate records of Mount St. Joseph University (the “University”) are important assets. Corporate records include essentially all records you produce as an employee, whether paper or electronic. A record may be as obvious as a memorandum, an e-mail, a contract, or, something not as obvious, such as a computerized desk calendar, notes taken during an interview, an appointment book, or an expense record.

The law requires the University to retain certain corporate records, usually for a specified period of time. The accidental or intentional destruction of those records for those minimum periods could subject the University and/or its employees to: penalties and fines; loss of rights; obstruction of justice charges; inference of spoliation of evidence and tort claims; contempt of court charges; and serious disadvantages to the University in litigation.

The University must retain certain records because they contain information that:

- serves as the University’s corporate memory;
- has enduring business value (for example it provides a record of a business transaction, evidence’s the University’s rights or obligations, protects the University’s legal interest or ensures operational continuity);
- must be kept to satisfy legal, accounting or other regulatory requirements.

The University prohibits the inappropriate destruction of any records, files, documents, samples, and other forms of information. This policy is in accordance with the Sarbanes-Oxley Act of 2002, under which it is a crime to change, conceal, falsify or destroy any record with the intent to impede or obstruct any official or governmental proceeding. Therefore, this policy is part of a University-wide system for the review, retention and destruction of records the University creates or receives in connection with the business it conducts.

## **Types of Documents**

This policy explains the differences among records, disposable information, and confidential information belonging to others.

**Records.** A record is any type of information created, received or transmitted in the transaction of the University’s business, regardless of physical format. Examples of where various types of information are located include:

- appointment books and calendars;
- audio and video recordings;
- computer programs;
- contracts;
- electronic files and emails;
- handwritten notes;

- invoices;
- letters and other correspondence;
- magnetic tape;
- memory in cell phones and PDAs;
- online postings such as on Facebook, Twitter, Instagram, Snapchat, Slack, Reddit, Vine and other social media platforms and websites;
- performance reviews and other personnel documents;
- test samples;
- voicemails.

Therefore, any paper records and electronic files, including any records of donations made online, that are part of any of the categories listed in the MSJ Records Retention Schedule appended to this policy, must be retained for the amount of time indicated in that Schedule. A record must not be retained beyond the period indicated in the Record Retention Schedule, unless a valid business reason (or a litigation hold or other special situation) calls for its continued retention. If you are unsure whether to retain a certain record, contact the Vice President of Compliance, Risk, and Legal Affairs/General Counsel. The MSJ Records Retention Schedule may also be found on the Fiscal Operations myMount Finance page.

**Disposable Information.** Disposable information consists of data that may be discarded or deleted at the discretion of the user once it has served its temporary useful purpose and/or data that may be safely destroyed because it is not a record as defined by this policy. Examples may include:

- duplicates of originals that have not been annotated;
- preliminary drafts of letters, memoranda, reports, worksheets and informal notes that do not represent significant steps or decisions in the preparation of an official record;
- books, periodicals, manuals, training binders and other printed materials obtained from sources outside of the University and retained primarily for reference purposes;
- spam and junk mail.

**Confidential Information Belonging to Others.** Any confidential information that an employee may have obtained from a source outside of the University, such as a previous employer, must not, so long as such information remains confidential, be disclosed to or used by the University. Unsolicited, confidential information submitted to the University should be refused, returned to the sender where possible, and deleted if received via the internet.

### **Mandatory Compliance**

**Responsibility of All Employees.** The University expects all employees to fully comply with this policy and any published records retention or destruction policies and schedules, and any litigation hold communications. Failure to do so may subject the University, its employees, and contract staff to serious civil and/or criminal liability. An employee's failure to comply with this policy may result in discipline, including suspension or termination.

**Reporting Policy Violations.** The University is committed to enforcing this policy as it applies to all forms of records. The effectiveness of the University's efforts, however, depends largely on employees. If you feel that you or someone else may have violated this policy, you should report the incident immediately to your supervisor. If you are not comfortable raising the issue with your supervisor, or do not believe the supervisor has dealt with the matter properly, you should contact the Vice President of Compliance, Risk, and Legal Affairs/General Counsel. If employees do not report violations, the University may not know of a violation and would not be able to take appropriate corrective action. The University prohibits any form of discipline,

reprisal, intimidation, or retaliation for reporting incidents of inappropriate conduct of any kind, pursuing any record destruction claim, or cooperating in related investigations.

### **Vice President of Compliance, Risk, and Legal Affairs/General Counsel and Chief Financial Officer**

The Vice President of Compliance, Risk, and Legal Affairs/General Counsel and the Chief Financial Officer, are responsible for identifying the documents that the University must or should retain, and determining the proper period of retention. The Vice President of Compliance, Risk, and Legal Affairs/General Counsel and Chief Financial Officer also arrange for the proper storage and retrieval of records, coordinating with outside vendors where appropriate, and also handle the destruction of records whose retention period has expired. The current Vice President of Compliance, Risk, and Legal Affairs/General Counsel is Paige Ellerman. The current Chief Financial Officer is Jeffrey C. Briggs.

### **How to Store and Destroy Records**

**Storage.** The University's records must be stored in a safe, secure and accessible manner. Any documents and financial files that are essential to the University's business operations during an emergency must be duplicated and backed up at least once per week and maintained off site.

**Destruction.** The University's Vice President of Compliance, Risk, and Legal Affairs/General Counsel and the Chief Financial Officer is responsible for the continuing process of identifying the records that have met their required retention period and supervising their destruction. The destruction of confidential, financial and personnel related records must be conducted by shredding if possible. Non-confidential records may be destroyed by recycling. The destruction of electronic records must be coordinated with Chad Montag in the IT Department, 513-244-4404; [Chad.Montag@msj.edu](mailto:Chad.Montag@msj.edu).

If you receive any litigation hold communication then you must preserve those records and stop the destruction of those records until the University's legal counsel determines the records are no longer needed. That exception supersedes any previously or subsequently established destruction schedule for those records. Destruction may only begin again once the Vice President of Compliance, Risk, and Legal Affairs/General Counsel has lifted the applicable litigation hold.

### **Litigation Holds and Other Special Situations**

The University requires all employees to comply fully with the MSJ Record Retention Schedule and procedures as provided in this policy. All employees should note the following general exception to any stated destruction schedule: if you believe, or the University informs you, that the University records are relevant to current litigation, potential litigation (that is, a dispute that could result in litigation), government investigation, audit, or other event, you must preserve, not delete, dispose, destroy or change those records, including emails, until the University's legal counsel determines those records are no longer needed. This exception is referred to as a litigation hold or legal hold, and replaces any previously or subsequently established destruction schedule for those records. If you believe this exception may apply, or have any questions regarding whether it may possibly apply, please contact the Vice President of Compliance, Risk, and Legal Affairs/General Counsel.

In addition, you may be asked to suspend any routine document disposal procedures in connection with certain other types of events, such as the merger of the University with another organization or the replacement of the University's information technology systems.

## **Audits and Employee Questions**

**Internal Review and Policy Audits.** The University's Vice President of Compliance, Risk, and Legal Affairs/General Counsel and the Chief Financial Officer will periodically review this policy and procedures to ensure that the University is in full compliance with relevant new or amended regulations and laws. Additionally, the University will regularly audit employee files and computer hard drives to ensure compliance with this policy.

**Questions About the Policy.** Any questions about this policy should be referred to Lisa Tinsley, Coordinator of Administrative and Legal Services 513-244-4592; [Lisa.Tinsley@msj.edu](mailto:Lisa.Tinsley@msj.edu), who is in charge of administering, enforcing and updating this policy.

This information is part of Mount St. Joseph University's Employee Handbook.

II-Record-1