

MARSHALL UNIVERSITY BOARD OF GOVERNORS

Policy No. GA-14

(INTERIM) BUSINESS RECORD RETENTION POLICY

1 General Information.

- 1.1 Scope: This policy requires that different types of business records of Marshall University and Marshall Community and Technical College (hereinafter called the "Institutions") be retained for specific periods of time and that outdated records are properly destroyed.
- 1.2 Authority: W.Va. Code §18B-1-6.
- 1.3 Passage Date: October 16, 2007.
- 1.4 Effective Date: November 1, 2007.
- 1.5 Controlling Over: Marshall University and Marshall Community and Technical College.
- 1.6 History:
 - 1.6.1 This policy is the first institution-wide record retention policy at the Institutions.
 - 1.6.2 Additional policy references: Marshall University Board of Governors Policy IT-2, Information Security Policy.

2 Statement of General Policy.

- 2.1 The Institutions are subject to numerous record retention requirements as mandated by Federal and State laws and regulations. The Institutions require that financial and operational records be maintained in a consistent and logical manner and be retained in such a manner so that the Institutions:
 - 2.1.1 Meet legal standards for protection, storage, and retrieval;
 - 2.1.2 Protect the privacy of students, patients, and employees of the Institutions;
 - 2.1.3 Make the most efficient use of limited space;
 - 2.1.4 Minimize the cost of record retention; and
 - 2.1.5 Destroy outdated records in a proper manner.
- 2.2 Retention periods adopted in this policy may increase by government regulation, judicial or administrative consent order, private or governmental contract, pending litigation, or audit requirements. Such notifications or events may change the retention periods listed in this policy.
- 2.3 Any record that is the subject of litigation or pertaining to a claim, audit, agency investigation, or enforcement action should be kept until final resolution of the action. Record destruction will be delayed by any of the above reasons and shall be communicated by the Office of General Counsel to various administrative units.
- 2.4 If the Institutions reasonably anticipate litigation or government agency investigation, the Office of General Counsel shall notify the various administrative units to preserve potential relevant documents until final resolution of the matter.

3 Definitions.

- 3.1 Administrative Unit: the department, office, college, division, etc., acting as an entity within the institution with a chair or official-in-charge and possibly having other administrative units reporting to said unit. This term is sometimes used synonymously with the generic term “department.”
- 3.2 Business Record: a financial or operational record that is currently being used, or will be used, by the administrative unit that received or generated the record. Records may remain active for varying numbers of years, depending on the purposes for which they were created. The unit has the responsibility of determining the access required and the security needed for the records. Business records can be electronic records.
- 3.3 Confidential Records: records that contain confidential student, patient, or employee information. Such records should have access limited to “need-to-know” individuals and should be protected from inadvertent access or disclosure.
- 3.4 Confidential Information: any information that is received or created that includes protected health information (PHI) under the Health Insurance Portability and Accountability Act (HIPAA), personal and educational information under the Family Educational Rights and Privacy Act (FERPA), or any personal financial information under the Gramm-Leach-Bliley Act (GLB). This includes, but is not limited to, name, address, social security number, bank account numbers, financial or financial aid information, student numbers, and medical information.
- 3.5 E-Mail (electronic mail, Email Instant Messaging etc.): any communication that requires an electronic device for storage and/or transmission. E-mail often refers to a package of services designed to automate office communications.
- 3.6 Electronic Records: records created or stored by electronic means, including, but not limited to, digital files, images, objects, files on tape, disks, or internal memory.
- 3.7 Electronic Record Management System (Also known as Record-keeping Systems): any electronic system that manages the storage, location, and retrieval of records, either paper or electronic.
- 3.8 Metadata: structured data about data. It is information about a record and which describes a record. It is descriptive information about an object or resource whether it is physical or electronic. For example, in an e-mail, the “to:”, “from:”, “date:”, “subject:”, etc., would be the metadata. In a word processing document the summary portion of properties would be the metadata. When electronic records are collected or transferred to other media, the appropriate metadata needs to follow the electronic records. Metadata can be manually created or derived automatically using software.
- 3.9 Responsible Department: the department or other administrative unit designated as having the responsibility for retention and timely destruction of the particular types of Institution records in their control.

4 Electronic Records.

- 4.1 Information maintained in electronic format does not have a different status just because it is electronic. Issues concerning the Freedom of Information Act, privacy protection, legal discovery, retention, and disposition apply to information in electronic format.
- 4.2 If official business is conducted via e-mail, even if over privately-owned equipment, it is subject to the same rules and regulations as hard copy records.

5 Unit Responsibilities.

- 5.1 Vice presidents and/or their designee(s) are responsible for establishing appropriate record retention management practices in their administrative units. Each vice president or designee must:

- 5.1.1 Publish electronically, the unit's record management policies so that is is accessible to unit personnel;
 - 5.1.2 Implement the unit's record management practices and conduct periodic in-services for unit personnel and information sessions for new employees;
 - 5.1.3 Ensure that these management practices are consistent with this policy;
 - 5.1.4 Educate staff within the unit in understanding sound record management practices;
 - 5.1.5 Ensure that access to confidential records and information is restricted;
 - 5.1.6 Destroy inactive records upon passage of the applicable retention period; and
 - 5.1.7 Ensure that records are destroyed in a manner that is appropriate for the type of records and information involved.
- 5.2 Some of the general categories of records subject to specific retention periods are described in this policy. If there are inconsistencies in the required retention periods, the longer period should be followed.
- 5.3 If records are not listed, it does not mean that they can or should be destroyed without first considering the general requirements in this policy.

6 Confidentiality Requirement.

- 6.1 Many records subject to record retention requirements contain confidential information. In addition to the retention requirements, any record that contains confidential information should be considered confidential and stored and secured accordingly.

7 Disposal and Destruction of Records.

- 7.1 If a determination has been made, pursuant to this policy, authorizing the disposal of certain records, they must be destroyed in one of the following ways:
 - 7.1.1 Recycle or shred nonconfidential paper records;
 - 7.1.2 Shred or otherwise render unreadable confidential paper records; or
 - 7.1.3 Permanently erase or destroy electronically-stored data in a manner that renders it unrecoverable. Such a manner shall be determined by the institutions' chief information officers.
- 7.2 Periodic reviews are required of records generated and maintained electronically in the Institutions' information systems or equipment (including all computer and data storage systems) to ensure that these requirements are met.

8 General Retention Requirements for Financial Records.

- 8.1 Financial Aid Records.
 - 8.1.1 Numerous regulations govern the record keeping requirements for financial aid records. Any records, reports and forms pertaining to financial aid that are not otherwise covered by the requirements set forth below should be kept for three (3) years from the end of the award year in which the report was submitted. The following general requirements are for the Higher Education Assistance (HEA) programs administered by the Department of Education (DOE).
 - 8.1.2 Original promissory notes should be kept until the loan is satisfied or the documents are no longer needed to enforce the obligation.

- 8.1.3 Records pertaining to the amount of a loan, terms of repayment, and the repayment history should be kept for three (3) years from the date on which a loan is assigned to the DOE, is cancelled, or is repaid.
- 8.1.4 Records pertaining to borrower eligibility and participation should be kept for three (3) years from the end of the award year in which the student last attended.
- 8.1.5 Fiscal Operations Reports should be kept for three (3) years from the end of the award year in which the report was submitted.
- 8.1.6 The following records must be retained for five (5) years from the time the record is created, or for the period required under the applicable program regulations:
 - 8.1.6.1 Fiscal and administrative records to ensure that funds received for repayment are properly administered;
 - 8.1.6.2 Records regarding required disclosures to students regarding financial aid;
 - 8.1.6.3 Current records of students' admission and enrollment at the institution;
 - 8.1.6.4 Records necessary to determine institutional eligibility, financial responsibility, and administrative capability; and
 - 8.1.6.5 Financial records sufficient to allow the DOE to conduct an annual audit.
- 8.1.7 All financial aid records should be considered confidential.
- 8.2 Tax Records.
 - 8.2.1 For tax (IRS) purposes, the Institutions must maintain a record keeping system that includes a summary of transactions (the books) and all supporting documentation. The Institutions' income, expenses, assets and liabilities must be supported by documentation such as checks, invoices, purchase orders, receipts, deposit slips, contracts, etc., and these must be maintained for a minimum of three (3) years from the date the return (IRS Form 990) is due or filed, whichever is later.
 - 8.2.2 Records of employee remuneration, taxes withheld, and payments to state unemployment compensation funds must be maintained for four (4) years from the date that the tax return is due or tax is paid, whichever is later. All employee tax records should be considered confidential.
 - 8.2.3 Because there are exceptions to the retention rules, the Institutions require that general financial (tax) records and supporting documents be maintained for seven (7) years from the date the applicable tax return is due or tax is paid, whichever is later.
- 8.3 Accounts Payable Records.
 - 8.3.1 Accounts payable records (e.g. travel authorizations, expense reports, petty cash logs and receipts, payment requests) are subject to IRS record retention requirements. However, these records may also relate to a sponsored project with an award that may last many years and is subject to audit under OMB Circular A-110. For this reason, the Institutions have adopted a general policy of keeping all accounts payable records for ten (10) years from the date of creation.
- 8.4 Procurement.
 - 8.4.1 Procurement records (e.g. P-Card expense and accounting records, purchase orders and logs, bills, invoices, etc.) are subject to IRS record retention requirements. However, these records may also relate to a sponsored project with an award that may last many years and which is

subject to audit under OMB Circular A-110. For this reason, the Institutions have adopted a general policy of keeping all procurement records for ten (10) years from the date of creation.

8.5 Real Property.

8.5.1 Aside from the tax law, Federal law does not provide any specific record keeping or record retention requirements concerning an institution's interest(s) in real property. Nevertheless, the Institutions have adopted a general policy of keeping copies of records evidencing its interests in real property indefinitely in a segregated file.

9 General Retention Requirements for Human Resource (HR) Records.

9.1 With the exception of the Institutions' directory information, all HR records should be considered confidential.

9.2 Affirmative Action (EEOC).

9.2.1 The following Equal Employment Opportunities Commission (EEO) and Americans with Disabilities Act (ADA) records should be kept for a period of three (3) years:

9.2.1.1 Records pertaining to hiring, promotion, demotion, transfer, layoff or termination, rates of pay and other terms of compensation;

9.2.1.2 Records pertaining to composition of a work force according to race, ethnicity, sex and disabilities as defined pursuant to Title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act;

9.2.1.3 Records pertaining to the Institutions' Affirmative Action Compliance Program (AAPC) and any complaints thereunder;

9.2.1.4 Records pertaining to tests or selection criteria used as the basis of employment decisions, and the impact of such tests and criteria upon employment opportunities of persons of race, sex or ethnic group.

9.2.2 Records relating to the bases for wage differentials among employees of the opposite sex in the same establishment must also be kept for a period of three (3) years.

9.2.3 The Age Discrimination in Employment Act (ADEA) requires employers to maintain employee records containing names, addresses, dates of birth, occupations, rates of pay and compensation for a period of three (3) years.

9.3 Benefits Records (ERISA).

9.3.1 The Institutions are not subject to the Employee Retirement Income Security Act (ERISA). Nevertheless, they must keep any employee benefit plan document (e.g., retirement and health insurance plans) and any seniority systems or merit systems that are in writing for the full period that the plan or system is in effect plus one year after its termination.

9.3.2 In situations where the Institutions are required to file with any government entity any description or report, the Institution must maintain records to provide the necessary information and data to verify that filing. All such records must be maintained for a period of six (6) years after the filing date.

9.3.3 The human resources office may create and maintain records related to benefits or medical information not appropriate for storage in personnel files. In such cases, these benefits files shall be maintained continuously during active employment and shall be retained for three (3) years after last day worked. Individual record materials in benefit files may be destroyed three (3) years after the last date the record was active or was used as the basis for a benefit-related action.

- 9.4 Employee Medical Records (OSHA).
- 9.4.1 Employee medical records associated with Occupational Safety and Health Administration (OSHA) must be kept for thirty (30) years. Insurance claims records, first aid records, and records regarding employees who worked for less than a year do not have to be retained as long as those employees were given their records upon termination.
- 9.4.2 Logs and summaries of occupational injuries and illnesses must be kept for five (5) years from the end of the year to which they refer.
- 9.4.3 Employee medical records are also subject to the Family Medical Leave Act (FMLA) and/or the ADA, and must be stored and secured in a segregated file separate from other employee information.
- 9.5 Family Medical Leave Records (FMLA).
- 9.5.1 The Family Medical Leave Act (FMLA) requires the Institutions keep records that show compliance with FMLA (including records that show the dates that the family medical leave was taken, copies of FMLA notices given to employees, and records of any disputes) for three (3) years.
- 9.5.2 In addition to the applicable confidentiality requirements, employee medical records associated with the FMLA or the ADA must be stored and secured in a segregated file separate from other employee information.
- 9.6 Immigration and Naturalization Records [U.S. Citizenship and Immigration Services (USCIS) within the Department of Homeland Security (DHS)].
- 9.6.1 The Institutions must verify that all employees are eligible to work by completing an Employment Eligibility Verification form (I-9) within three (3) days of an employee commencing work. The I-9 verification form must be kept for the duration of continuous active employment or for three (3) years after termination of the employee, whichever is later.
- 9.7 Payroll Records (FLSA).
- 9.7.1 Pursuant to the Fair Labor Standards Act (FLSA), the Institutions must keep payroll records that contain employee name, address, sex, date of birth, occupation, hours worked each day, hours worked each week, hourly rate of pay, overtime compensation paid, total wages paid and deductions from wages. Although these records must be kept for three (3) years under the FLSA, there are exceptions to this requirement concerning litigation and claims and where the records relate to sponsored project with an award that may last many years and is subject to audit under OMB Circular A-110. For this reason, the Institutions have adopted a general policy of keeping all payroll records for ten (10) years from the date of creation.
- 9.8 Personnel and Employment Records.
- 9.8.1 In general, all personnel or employment records made or kept by the Institutions not subject to one of the longer retention periods discussed below must be kept for the durations of one's active employment. In the case of resignation, retirement, termination, or death of the employee, the records shall be kept for a period of ten (10) years from the last day worked. Personnel file contents older than a date determined by the chief human resources officer may be scanned, digitized, and stored as electronic media and the corresponding paper record destroyed.

10 General Retention Requirements for Research-Related Financial Records (as required by OMB Circular A-110).

- 10.1.1 Payroll records, financial records, effort reports, supporting documents, statistical records, and all other records pertinent to a sponsored project must be retained for a period of three (3) years from the date of submission of the final expense report or, for awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report. Because there are some exceptions to this requirement concerning litigation, claims, and audits, and particularly because some awards last many years, the Institutions have adopted a general policy of keeping research-related financial documents for ten (10) years from the date of creation.

11 General Retention Requirements for Student Affairs Records.

- 11.1 All student disciplinary files (paper and electronic formats) that involve matters resolved by the Division of Student Affairs are kept in the Office of Judicial Affairs. In these cases, disciplinary matters that result in exclusion from the Institutions are kept permanently. All other disciplinary files may be destroyed upon the student's graduation.

12 Review Date.

- 12.1 By July 1, 2009, this policy will be reviewed and revised by the Institutions' policy committee, submitted through the proper rule-making procedure, and presented to the Board of Governors for approval.