

10.10 Policy on Legal Process and Document Preservation

Approval Authority: Administrative Council
Responsible Officer: Vice President, General Counsel and Secretary
Responsible Office: Office of General Counsel
Effective Date: August 20, 2019

I. Purpose of this Policy

Stevens has the obligation to preserve and produce relevant documents and information when litigation is threatened or filed against the University, or when the University is served with a summons, legal complaint, subpoena or a request from a government entity. Failure to preserve such documents and information may result in liability and/or sanctions imposed on both the University and those employees who fail to take appropriate steps to preserve such documents and information pursuant to this Policy.

II. Acceptance of Legal Documents

Only an employee of the Office of General Counsel (“OGC”) is authorized to accept a summons, legal complaint or subpoena on behalf of the University. University employees may not accept such documents and must refer all process servers and other messengers attempting to deliver such documents to OGC, which is located on the 13th floor of the Howe Center. If a University employee receives a summons, legal complaint, subpoena or similar request from a government entity via a delivery service, regular mail, email or some other means of transmission, the employee must immediately notify OGC and deliver the document to OGC as soon as possible.

III. Commencement of Internal Discovery Processes

Parties to a lawsuit are obligated to preserve and maintain evidence relevant to the claims in that lawsuit. These preservation and maintenance obligations also exist where a dispute is “reasonably anticipated” to develop into litigation. As a result, when Stevens commences a lawsuit, a legal claim is filed against Stevens or OGC determines that a litigation is “reasonably anticipated,” Stevens has the duty to preserve and maintain certain documents and information, including electronically stored information (“ESI”). Any Stevens employee who becomes aware of a dispute or believes litigation may be “reasonably anticipated” should contact OGC immediately.

ESI is a broadly-defined set which includes email, documents, spreadsheets, databases, calendars and all other information created, received or maintained in electronic format by the University and its employees in the conduct of University business. Sources for ESI include, but are not limited to, email accounts, computer hard drives, handheld devices and storage media.

Upon receipt of a summons or legal complaint or a determination by OGC that litigation is “reasonably anticipated” by the University, OGC shall notify the Vice President for Information Technology and Chief Information Officer. Following this initial notification, OGC will

distribute Document Preservation Notices (“Notices”) to the Division of Information Technology and all relevant University employees. Such Notices will provide important information concerning the recipients’ obligation to preserve and not delete, destroy, alter or modify documents and information, including ESI, pertinent to the matter. The obligations contained within a Notice apply to documents, information or ESI created or obtained before receipt of the Notice and after receipt of the Notice.

When deemed appropriate by OGC, OGC may utilize this process in response to a subpoena or a request from a government entity.

IV. Compliance with Notices

Upon receipt of a Notice, individual recipients must promptly discuss the Notice with their direct superiors to generate a plan for compliance. This plan will include, but not be limited to, identification and collection of relevant documents and information and a process for ensuring proper preservation and maintenance of such documents and information during the period the Notice is in effect. Recipients must be sure to promptly preserve and maintain (a) hard copies of documents and information in the recipient’s possession and (b) ESI on both Stevens-issued and personal computers and devices, as well as personally-owned computers and devices. When necessary, the Division of Information Technology and OGC will work to collect relevant documents from both Stevens-issued and personal computers and devices.

Notices are highly confidential; individual recipients should not discuss Notices they receive except in accordance with this Policy or with, or at the direction of, OGC.

The Division of Information Technology shall implement Notices received by it through defined divisional procedures.

Failure to comply with the specific instructions in the Notice may expose the University and the employee to liability and/or court-imposed sanctions and may result in discipline up to and including termination. Employees with questions about Notices should contact OGC by phone or in person only.

When the need for preservation of documents, information or ESI has expired, OGC will notify the Division of Information Technology and those individual employees who received a Notice. Retention of the relevant documents, information and ESI shall then be governed by applicable University policies including, but not limited to, the [Policy on Record Retention](#).¹

V. Personal Email Accounts, Computers and Devices

Stevens business conducted via email or other electronic means must be conducted via a Stevens email account and Stevens’ information storage systems. An employee’s conduct of Stevens business via a personal email account or storage of information on a personal computer or device may subject the personal email account, computer or device to preservation obligations in

¹ Stevens Policy No. 10.7
(https://www.stevens.edu/sites/stevens.edu/files/files/UPL/Record_Retention_Policy_Final-11.27.18.pdf)

response to a Notice; in this event, Stevens will work with the employee to protect personal information within a personal email account or personal computer or device from disclosure to the extent possible.