

Records Management

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Applies to:

All employees, trainees, or other persons performing any business activity using University of Virginia School of Medicine facilities or resources.

Reason for this Policy

The University is required by Virginia statute, federal regulations, and contractual obligations to manage its public records effectively, including proper retention and archiving of public records, protection of privacy, and appropriate destruction of outdated records. Retention of public records beyond statutory or regulatory requirement increases the University's exposure in the event of legal action, and may be ineffective use of University space or funds. However, records that may be relevant to a pending or anticipated lawsuit or investigation must be retained as described in this policy.

Policy Statement

The retention, archiving, and timely destruction of University public records shall be managed as prescribed by the Commonwealth, federal government, and institutional obligations, including obligations to retain records that may be relevant to pending or anticipated lawsuits or investigations. University personnel shall retain public records per such requirements for specific periods of time, and shall destroy outdated public records on a specified schedule and in an appropriate manner. Individual units are responsible for the expenses associated with retention of and destruction of public records.

This policy applies to both physical and electronic records.

Definitions

Archival records. Permanent records determined to be of sufficient additional artifactual, historical, continuing or enduring value as to warrant the added cost of storage, conversion and preservation in an archival facility. Does not include all permanent records.

CFR. The Code of Federal Regulations, which is a compilation of executive orders and regulations based on those orders, federal laws, and other federal regulations.

DHHS. The Department of Health and Human Services. Research-funding agencies within DHHS include the National Institutes of Health, Centers for Disease Control, Food and Drug Administration, Health Resources and Services Administration, and Substance Abuse and Mental Health Services Administration.

FERPA. Family Educational Rights and Privacy Act of 1974, which limits the disclosure of identifiable information from student records.

HIPAA. Health Insurance Portability and Accountability Act of 1996. With respect to public records management, HIPAA governs the protection and dissemination of information concerning health status, provision of health care, or payment for health care that can be linked to an individual as a patient or human subject. See also *personal identifiers*.

Historical value. The value of a record based on its uniqueness, age, significance or ability to convey an understanding of the operation of the government.

Personal identifiers. Under HIPAA and FERPA (see above), these include names, addresses, dates, telephone or fax numbers, e-mail addresses, Social Security numbers, medical record or health plan numbers, and other data that have the potential to identify an individual.

Public records. Under the State Public Records Act, these are defined as “recorded information that documents a transaction or activity by or with any public officer, agency or employee of an agency. Regardless of physical form or characteristic, the recorded information is a public record if it is produced, collected, received or retained in pursuance of law or in connection with the transaction of public business. The medium upon which such information is recorded has no bearing on the determination of whether the recording is a public record.” Public records do not include materials kept solely for reference use or exhibition purposes, or extra copies of documents kept solely for convenience or reference.

Procedures

1. Records retention. To help faculty and administrators comply with requirements for public records retention and destruction, the School of Medicine has created a

schedule documenting the retention period and appropriate disposition of public records most commonly managed in its offices and research facilities (<http://www.healthsystem.virginia.edu/internet/research/Retention-and-destruction-of-research-records.pdf>). **NOTE: Public records (including e-mail) that are relevant to pending or anticipated litigation, or that pertain to a claim, audit, agency charge, investigation or enforcement action, shall be retained at least until final resolution of the action. Consult with the University General Counsel or the University Director of Audits to determine how long to retain these records.**

2. Destruction of public records. Public records may not be destroyed without the completion and approval by the UVA Records Manager of a Virginia Certificate of Records Destruction (Form RM-3; see <http://www.lva.lib.va.us/whatwedo/records/forms/rm-3.doc>). A sample RM-3 form can be found at <http://www.lib.virginia.edu/small/about/RM-3.sample.doc>. Complete sections 1 through 7 of the form and forward it to the University Records Manager (office: Alderman Library 223, messenger mail: PO Box 400107) for countersignature.
3. Storage of public records. Records containing identifiable health or student information must be stored with restricted access until their scheduled destruction, in locked file cabinets or storage rooms within the University unit or within a HIPAA- and FERPA-compliant records storage/management site. Several such sites exist in central Virginia; the Library of Virginia and several commercial vendors are appropriate for long-term, off-site storage. One vendor is currently under University contract and is listed below:
 - Library of Virginia Records Center (<http://www.lva.lib.va.us/whatwedo/records/rc-svcs.htm>). Offers Monday to Friday service. LVA is appropriate for records that do not require 24/7 retrieval.
 - Security Business Archives (<http://www.use-sba.com/>). SBA currently is under contract with the UVA Medical Center. Academic departments may take advantage of contract rates. This site is appropriate for records that require 24/7 retrieval.

Both sites provide climate-controlled storage, retrieval of documents within stored boxes, generation of Form RM-3, and destruction of physical documents per Virginia statute. **Records containing identifiable health or student information may not be stored in facilities that do not meet guidelines for HIPAA- and FERPA-compliant storage.**

4. Conversion of paper records to electronic format. **Archival records and documents with historical value may not be converted to electronic format. School of Medicine public records that might be used as evidence in a legal proceeding in the Commonwealth of Virginia also should not be converted to electronic format.** DHHS funding agencies such as National Institutes of Health and the Centers for Disease Control allow conversion of public records to electronic

format (see 45 CFR 92.42; http://a257.g.akamaitech.net/7/257/2422/11sep20071500/edocket.access.gpo.gov/cfr_2007/octqtr/45cfr92.42.htm). Per Code of Virginia §8.01-391 (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+8.01-391>), electronic records may be admissible as evidence, provided that they accurately reproduce the original, were made or received during the performance of the agency's official business, and are satisfactorily identified and authenticated by a custodian of the original record. Moreover, School of Medicine units that convert paper documents to electronic format must maintain the following:

- A list of users and their access privileges. This list must be maintained and audited regularly.
- An audit trail documenting which individuals scanned or edited images of public records and when this occurred.
- Maintenance throughout the retention period of hardware and software to allow access to the reformatted public records.

5. As required by the Virginia Public Records Act, applicable public records must be destroyed in a timely manner. ***Public records bearing personal identifiers such as Social Security number or protected health information (PHI) must be destroyed within six months after the expiration of the retention period; for all other records, destruction must take place within that calendar year.***

Destruction must be performed per Virginia General Schedules. The School of Medicine schedule referenced above includes the documents from the General Schedules that most commonly used in the School.

Related Policies and Guidelines

Commonwealth of Virginia:

- Virginia Public Records Act (<http://leg1.state.va.us/cgi-bin/legp504.exe?000+cod+TOC4201000007000000000000>)
- Records Retention and Disposition Schedules (http://www.lva.lib.va.us/whatwedo/records/sched_state/index.htm)

University of Virginia

- Policy: Records Retention and Disposition (<http://www.virginia.edu/finance/polproc/pol/iic1.html>)
- Policy: Laboratory Notebook and Recordkeeping (<https://etg07.itc.virginia.edu/policy/policydisplay?id=RES-002>)
- Policy: Disclosure of University Records (<http://www.virginia.edu/finance/polproc/pol/xvc1.html>)
- Policy: Protecting Privacy Rights of Students (<http://www.virginia.edu/finance/polproc/pol/xvd1.html>)
- Records Management Web site (http://www.lib.virginia.edu/small/about/records_mgt.html)

Federal

- Office of Management and Budget Circular A-110, Subpart C.53, “Retention and access requirements for records” (<http://www.whitehouse.gov/OMB/circulars/a110/a110.html>)
- NSF Grant Policy Manual, §350, “Records Retention and Audit” (http://www.nsf.gov/pubs/manuals/gpm05_131/index.jsp)
- NIH Grants Policy Statement, Part II, Subpart A (see “Record Retention and Access”) (http://grants.nih.gov/grants/policy/nihgps_2003/NIHGPS_Part8.htm)
- 45 CFR 74.53, “Retention and access requirements for records” (DHHS awards and subawards to institutions of higher education and hospitals; http://a257.g.akamaitech.net/7/257/2422/11sep20071500/edocket.access.gpo.gov/cfr_2007/octqtr/45cfr74.53.htm)
- 45 CFR 92.42: “Retention and access requirements for records” (DHHS grants and cooperative agreements to state, local, and tribal governments; http://a257.g.akamaitech.net/7/257/2422/11sep20071500/edocket.access.gpo.gov/cfr_2007/octqtr/45cfr92.42.htm)
- 21 CFR 312.62: “Investigator recordkeeping and record retention” (FDA Investigational New Drug Applications and clinical research conducted under same; <http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=21&PART=312&SECTION=62&YEAR=2001&TYPE=TEXT>)

Next Scheduled Review: February 2011

Approved by:

Senior Associate Dean and Chief Operating Officer
Office of the General Counsel

Revision history: This is the first version of this policy.