

BALTIMORE COUNTY PUBLIC SCHOOLS LITIGATION HOLD

State and Federal Rules of Civil Procedure govern the preservation and retention of electronic materials (Electronically Stored Information or “ESI”) that could be relevant to pending or anticipated lawsuits and to produce such materials in the course of litigation. These obligations apply to the Baltimore County Public Schools and its employees. Non-compliance with these court rules could subject the school system and the employees involved to sanctions and liability.

Litigation Hold

When the school system is sued or when the potential for a lawsuit exists, the Office of Law will send a *litigation hold* notice. The litigation hold suspends the normal destruction of records that are relevant to the litigation. The records that are subject to the litigation hold must be retained until the hold has been removed.

Scope of Records

The scope of records to be preserved could include business-related records (paper and electronic records) wherever they are stored – on a school system computer, on a home or personal computer, in a personal digital assistant (PDA), or in any other digital information storage device in your possession. This includes the original and all copies of all records related to the litigation – e-mails, word processing, calendars, PDF and other electronically-stored documents, correspondence, memoranda, faxes, charts, plans, graphs, telephone slips and notes, photographs and any and all other documents or tangible materials.

Litigation Hold Notice

The Office of Law will notify appropriate employees when a litigation hold is issued. The notice will be issued in writing via e-mail or letter. Receipt of a legal hold does not necessarily mean the recipient is directly involved in the matter. Rather, it means the evidence which the school system is obligated by law to preserve may be in the person’s possession or scope of responsibility and that the person, as an employee of the school system, has a duty to preserve immediately such information.

Employee Responsibilities

As a general matter, all recipients of a litigation hold have a legal obligation to:

- a. Identify and locate records pertaining to the matter;
- b. Cease routine destruction of the relevant records;
- c. Preserve and protect all relevant records in their original electronic form;
- d. Preserve all hard copies;
- e. Preserve new records generated or received after the litigation hold has been issued;
and
- f. Follow all legal hold instructions and consult with the Office of Law regarding any questions or concerns that arise.

Length of Hold and Record Retention

An employee is obligated to retain all records subject to the litigation hold until the Office of Law notifies him/her in writing (via e-mail or letter) that the matter is resolved and the litigation hold is released. At that time, document retention reverts back to the regular records retention schedule.