

## **Montclair State University Record Retention and Destruction Policy**

<b>Effective Date:</b>	November 28, 2022
<b>Revision Date</b>	
<b>Responsible Office</b>	University Counsel
<b>Policy Summary</b>	<i>This policy establishes standards for the retention and destruction of University records.</i>
<b>Approved by</b>	President Jonathan GS Koppell
<b>Approved Date</b>	November 28, 2022
<b>Policy Category</b>	<i>University Wide</i>

### **Policy**

Montclair State University is committed to compliance with applicable federal and state laws in managing its records. Therefore, this policy is adopted by Montclair State to provide standards for the retention and destruction of its records.

### **Purpose**

The purpose of this policy is to provides standards for the retention and destruction of Montclair State records, the process for destroying records that have reached the end of their mandatory retention period or that are no longer necessary for business operations, to designate the appropriate person responsible for retention and destruction, and the method for preserving records. Additional policies or regulations may be applicable to the particular record and should be consulted.

### **Policy Definitions**

- A. “*Activities*” means any and all activities, operations, or undertakings, whether undertaken directly or indirectly, by Montclair State or its employees in their capacity as employees, including without limitation, any Montclair State programs, operations, and/or services.
- B. “*Artemis*” means the system used by the State of New Jersey to receive and approve requests to destroy records subject to the Schedule. See, <https://onlineservices.darm.state.nj.us/Artemis/login.aspx>.
- C. “*Employees*” means Montclair State Trustees, directors, officers, members of Board committees, paid and unpaid employees of the University, contractors, and any other persons who are formally associated with Montclair State for the purpose of overseeing or engaging in any activity, operation or undertaking for or on behalf of Montclair State that involves the creation or use of records.
- D. “*Investigation*” means (i) an investigation by Montclair State or any government entity, quasi-governmental agency, regulatory or legal oversight authority (e.g. accreditation agencies or

professional licensure agencies) or by a private person or entity that could lead to Litigation or the filing of a complaint concerning University employees, students, activities or resources; or (ii) any other investigation where Montclair State or its employees possess records that are relevant to such Investigation. An Investigation includes Investigations pending at the time this Policy is adopted but also any situation where Montclair State should know or reasonably can anticipate an Investigation.

E. “*Litigation Hold*” means a written (which may be by email or other electronic means) directive issued by University Counsel or the Office of the Attorney General directing the retention of records related to an Investigation or Litigation.

F. “*Litigation*” means (i) any legal proceeding to which Montclair State or any of its employees in their capacity as a party or a witness that is brought in any court, alternative dispute resolution forum or administrative agency; or (ii) any other legal proceeding where Montclair State possesses records that are relevant to such legal proceeding. Litigation includes not only Litigation pending at the time this Policy is adopted but also situations where Montclair State should know or reasonably can anticipate Litigation.

G. “*Record*” means information in any form, regardless of physical form or characteristic, generated or received by or on behalf of Montclair State or its employees and includes information pertaining to Montclair State’s activities, resources, and business. A Record includes all original and copies of electronic and paper documents, including but not limited to, letters radiographic images (e.g., X-rays), clinical readings, cards, books, maps, photographs, blueprints, sound or video recordings (e.g., records, CD’s, DVD’s, audiotape, videotape), microfilm, magnetic tape, electronic media (including information store on computers), emails and other media for recording information.

H. “*Schedule*” means the Schedule adopted by the State of New Jersey’s Division of Archives Record Retention Schedule for Four Year Colleges posted at:  
<https://www.state.nj.us/treasury/revenue/rms/pdf/s510000.pdf>

## **Procedures**

### **I. General Principles**

A. Montclair State must maintain, store, retain and destroy records in accordance with the State Record Retention Schedule applicable to 4 Year Colleges and Universities, and other applicable legal, regulatory, accreditation and other standards.

B. All University employees who have access to or use records are responsible for ensuring that records are maintained, stored, retained and destroyed in accordance with this Policy.

C. All records are owned by Montclair State. Unless otherwise expressly agreed in writing by the University or provided in an employee’s applicable collective bargaining agreement, employees have no personal or property rights to any records even where they participated in the creation or making of the records.

D. Unauthorized removal, destruction or disposition of records is prohibited.

E. In the absence of an Investigation or Litigation Hold or legitimate business reason, records must be destroyed or disposed of after the expiration of their applicable retention period.

F. The unauthorized alteration, use or disclosure of a record is prohibited. Anyone who falsifies or inappropriately alters a record, or removes, uses or discloses a record without authorization may face disciplinary action subject to the provisions of any applicable collective bargaining agreement, which may include termination of employment.

## **II. Retention of Records**

A. Retention Schedule. The Schedule specifies minimum retention periods for certain records. A record falling within the Schedule must be retained for not less than the minimum period specified for that category of record.

B. Records Not on the Schedule. Unless otherwise required by applicable law or other University policy, where a record does not fall within the Schedule, the record may be destroyed with approval of the department's unit manager.

C. Beginning of Retention Period. The retention period for a specific record begins on the last of (a) the later of the date filed or the due date for filing in the case of records filed with a governmental, judicial, regulatory or accreditation authority or (b) the date of the last transaction, encounter or item of information reflected in that record or in accordance with the terms of the record. For example, the retention period for a services contract begins on the termination date, the retention period for personnel records begin on the termination of employment and the retention period for research grants/protocols begins upon completion of research.

D. Recalculating Retention Period. If a record is reopened, the retention period for that Record will be recalculated in accordance with D above. For example, if a previously terminated contract is renewed, the retention period for the contract is recalculated to begin as of the date of the termination of the renewal date.

E. Record Substitution. A record in paper form may be digitally scanned, microfilmed or microfiched and substituted for an original paper document if the image is saved to a digital archive system pre-approved and certified by the State of New Jersey for this purpose. The applicable retention period for a record does not change when a properly substituted image of a record is created. A record's mandatory minimum retention period is counted from the creation or receipt of the original record, not the date on which the substitute image was created.

F. Destruction of Records. In the absence of an Investigation or Litigation Hold or legitimate business reason, paper and electronic records must be destroyed when the applicable retention period expires. Before destroying any records, a request to destroy must be submitted to the State of New Jersey for approval through Artemis. The State of New Jersey may respond to the request within 23 business days. Records may only be destroyed after the State grants approval. The appropriate method of destruction depends on the record's physical form or medium. Paper

records may be burned, pulverized or shredded. Electronic records that are contained within systems administered and managed by the Office of Information Technology will be destroyed in the manner recommended by the Chief Information Officer. All other electronic records must be erased. After destruction, the date and manner of destruction must be recorded in Artemis. Retaining any record past its mandatory retention period should be on an exceptions-only basis after weighing the potential usefulness of the record against cost or space limitations and risk of unauthorized disclosure in violation of applicable laws.

G. Inappropriate Treatment of Records. Any Montclair State employee knowing of the intentionally inappropriate removal, modification or destruction of any record in a manner that does not conform to this Policy should promptly notify their supervisor or University Counsel.

H. Questions related to Retention Schedule and Artemis. Employees may contact University Counsel if they have questions regarding their unit's retention obligations under the Schedule. If a unit believes that applicable legal, regulatory and accreditation and other standards require a retention period for a record that is longer than that set forth in the Schedule, the record should be retained for the longer period. University Counsel is the administrator of Artemis and should be contacted by Division Vice Presidents and Department supervisors to identify employees who will be responsible for administering the destruction of records and added as users of Artemis.

### **III. Investigations and Litigation Holds**

A. Employees must immediately notify University Counsel if they become aware that Litigation or an Investigation has been initiated or they have notice which can reasonably anticipate future Litigation or an Investigation.

B. Employees also should notify University Counsel if they have knowledge of facts or circumstances that suggests the possibility of Litigation or an Investigation against Montclair State or its employees in their capacity as employees.

C. University Counsel or the Office of the Attorney General will determine whether to initiate a Litigation Hold. Records subject to a Litigation Hold must be retained while the Litigation Hold is in effect, irrespective of the otherwise applicable retention period in the Schedule.

D. University Counsel will notify the employees it believes need to be aware of the Litigation Hold and will specify the records subject to retention while the Litigation Hold is in effect and may issue special instructions relating to such Records. Employees are required to follow all instructions from University Counsel. In addition, such employees should immediately advise University Counsel of others (including names, titles and contact information) who may need to know about the Litigation Hold (e.g., persons in control of the records or who might otherwise destroy or authorize the destruction of the records).

E. Employees who do not directly receive notice of a Litigation Hold but who are aware of Litigation or an Investigation or believe a Litigation Hold may have been issued should contact University Counsel and retain potentially relevant records until clarification is provided by University Counsel.

F. A Litigation Hold remains in effect until terminated in writing by University Counsel.

G. Unless University Counsel provides guidance to the contrary, when a Litigation Hold is terminated, (i) records previously covered by the Litigation Hold must be retained in accordance with the Schedule, and (ii) records that are no longer subject to a Litigation Hold must be destroyed when the applicable retention period in the Schedule expires.

#### **IV. Archival Records**

An archival record is a record that has permanent institutional or historic value to Montclair State. Archival records are retained and preserved indefinitely in Sprague Library. The Schedule indicates “archive” as the required retention period. Each department determines whether it believes a record should be classified as an archival record. When an archival record is no longer in active use, the record should be transferred to Sprague Library for indefinite retention and preservation.

#### **V. Administration and Interpretation**

Questions about the administration or interpretation of this policy should be directed to University Counsel.

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