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Lawyers for education.

LITIGATION HOLDS AND RESPONSIBILITIES OF PARTIES TO LITIGATION

Once an entity is on notice of actual or likely litigation, the requirement to preserve documentation related to that litigation is triggered. The information to be preserved includes, but is not limited to, all text files, word processing documents, presentation files such as power-points, spread sheets, email files, information concerning email files, internet history files and preferences, graphical image files, databases, calendars and scheduling information, task lists, journals, telephone logs, text messages, contact managers, computer system activity logs and all file fragments and back-up files containing electronic data. Any routine deletion of electronic information must be suspended pending the finalization of the litigation. The requirement to preserve information and documentation is an affirmative obligation on the part of litigants and includes, but is not limited to, the following:

1. Engaging in reasonable steps to ensure the preservation of all documents and materials foreseeably related to the litigation or claim;
2. Preserving all paper records and data storage back-up files related to the claim;
3. Preserving and retaining all paper records and electronic data generated or received by the district including, but not limited to, employees who may have personal knowledge of the facts involved in the claim;
4. Refraining from removing, or altering fixed or external hard drives and media attached thereto, any stand-alone personal computers, network workstations, notebooks, and/or laptop computers, cell phones, PDAs, smart phones, Blackberrys, or other similar computing devices that are reasonably thought to have data related to the claim;
5. Preserving and retaining all data from servers and networking equipment, logging network access activity and system authentication;
6. Preserving and retaining all electronic data in any format, media, or location relating to the claim, including data on floppy discs, zip discs, CD ROMs, CDRWs, DVDs, DVDRWs, tapes, PDAs, cell phones, memory card sticks, digital copiers, and thumb-drives;
7. Preventing employees from deleting or overriding any electronic data related to the claim;
8. Take such other security measures, such as restricting physical and electronic access to all electronically stores data directly or indirectly related to the claim.

While the required preservation of data can be viewed as a daunting task, it is also a necessary one. Failure to comply with these requirements could result in dire financial consequences in the form of fines imposed by the court.

Clients who have questions regarding issues discussed in this article, or any education law matter, should feel free to call us at 215-345-9111.

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