

What is the litigation about?

It is a lawsuit filed in the United States District Court, Southern District of New York. 1, 2020. This is a class action lawsuit on behalf of all students who paid tuition and fees for the Spring 2020 academic semester at schools operated by the State University of New York (SUNY). Plaintiffs allege that SUNY's response to the COVID-19 pandemic caused the plaintiffs to lose the benefit of the education and services for which they paid, without having their tuition and fees refunded to them.

Why did I receive a litigation hold memo?

In pending or reasonably foreseeable litigation, the University is legally obligated to preserve, and not destroy, any and all paper and electronic documents and electronic information relating to the allegations asserted in the complaint. The complaint in this lawsuit contains allegations that make communications and records regarding courses offered in the Spring 2020 semester potentially relevant. For this reason, administrators, faculty and academic staff who may have relevant documents must take immediate steps to ensure that all such documents are preserved until further notice.

What are my obligations under the litigation hold?

You must identify, preserve, and not destroy, all communications and documents related to courses offered in the Spring 2020 semester.

What types of documents are covered?

The definition of "documents" is comprehensive and includes all records of all forms of communications and any and all preserved data, in whatever form or media, including paper documents such as memoranda and letters, e-mail, computer discs and other electronic sources such as hard drives, charts, handwritten notes, drafts, files inherited from former employees, archives, etc. Some information merits special attention:

Duplicates: Duplicate copies of documents must be preserved for they frequently contain annotations or post-it notes that make them non-identical.

Personal Files: For purposes of document preservation, there is no such thing as "personal" files. All documents relating to the allegations in this litigation that were written, compiled or received are covered, including any non-identical copies that were saved separately from any "department," "college" or "university" file.

Drafts: All documents in "draft" form must be preserved regardless of whether a "final" version exists.

Privileged and/or Confidential Documents: All documents that may be privileged or confidential also must be preserved, notwithstanding their privileged or confidential nature.

Must I preserve documents on my personal devices?

Yes. Documents that are relevant to the subject matter of the litigation that are stored on personal or mobile devices must be preserved.

Do I have to keep documents created after I received the litigation hold memo?

Yes. Documents that may be related to the subject matter of the litigation must be preserved on an ongoing and continuous basis.

I am not sure if a document is relevant to the litigation. Should I preserve it?

Yes. When in doubt, preserve and do not destroy the record.

How long must I preserve the records?

The University's obligation to preserve and collect relevant materials is a continuing one. You must continue to preserve all documents until Counsel's Office specifically instructs you that their preservation is no longer necessary. Failure to take the steps outlined above could lead to the imposition of serious sanctions that could seriously undermine the University's ability to defend itself.

Should I print out copies of electronic records?

No. Records should be preserved in their original format.

Will my records be disclosed?

The obligation to preserve documents does not mean that the documents necessarily or automatically will be turned over to the plaintiffs. The Office of General Counsel, in conjunction with the New York State Attorney General's Office, will review all preserved documents to determine which must be produced in the litigation.