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6001-J RECORDS MANAGEMENT LITIGATION HOLD

EFFECTIVE DATE: XX/XX/XXXX

REFERENCES: A.R.S. § 38-421, A.R.S. § 39-121-.01, A.R.S. § 41-151.12, A.R.S. § 41-151.13, A.R.S. § 41-151.14, A.R.S. § 41-151.15, A.R.S. § 41-151.16, A.R.S. § 41-151, A.R.S. § 41-151.18, Arizona State Library, Archives and Public Records Schedule Numbers: DES-CS-1125 - 35132, 35131, 53310, and 53311

PURPOSE

This policy applies to all Division of Developmental Disabilities (the Division) staff. The purpose of this policy is to outline staff responsibility when there is a litigation hold Notice to Preserve.

DEFINITIONS

1. “Custodian of Records” or “Custodian” means any Division employee who manages records at the office level and is the base for implementing records management policies and procedures by applying a records-retention schedule.
2. “Disposition Schedule” or “Retention Schedule” means a list of record series titles that indicates the minimum length of time to

- 21
22 maintain each series and what should happen once the retention
23 period has been met.
- 24 3. "Employee Tracking List" means a comprehensive list of Division
25 employees who are or were associated with the coordination of
26 care for a Member related to a litigation hold notice to preserve.
- 27 4. "Litigation Hold" means an internal process that an organization
28 undergoes to preserve all data that might relate to a legal action
29 involving the organization.
- 30 5. "Member" means the same as "client" as defined in A.R.S. §
31 36-551.
- 32 6. "Notice to Preserve" means a letter or other notice informing an
33 employee of actual or reasonably anticipated litigation, otherwise
34 known as a pre-claim, and directing the employee or group of
35 employees to identify, collect, and preserve relevant information.
- 36 7. "Records" means all hardcopy and electronic books, paper,
37 emails, maps, photographs, drafts, markups, or other
38 documentary materials, regardless of physical form or
39 characteristics, including prints or copies of such items produced
40 or reproduced on film or electronic media pursuant to A.R.S. §

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42 41-151.16; made or received by any governmental agency in
43 pursuance of law or in connection with the transaction of public
44 business and preserved or appropriate for preservation by the
45 agency or its legitimate successor as evidence of the
46 organization, functions, policies, decisions, procedures,
47 operations, or other activities of the government, or because of
48 the informational and historical value of the data contained
49 therein, and includes records that are made confidential by
50 statute. Library or museum material made or acquired solely for
51 reference or exhibition purposes, extra copies of documents
52 preserved only for convenience of reference and stocks of
53 publications or documents intended for sale or distribution to
54 interested persons are not included within the definition of
55 records. All records media are included in this definition from the
56 traditional paper forms to electronic types in use (i.e., email,
57 social media), and/or forms of records not yet invented.

58 8. "Records Management Center" or "RMC" means the facility
59 where DCS records are stored, retrieved, and eventually
60 destroyed according to record retention schedules.

61
62 9. "Records Management Unit" or "RMU" means the Division's
63 records department that maintains and oversees the
64 management of Member records.

65 **POLICY**

66 **A.** The Division shall retain any record upon Notice to Preserve relevant to
67 litigation as follows:

68 1. The Division shall retain relevant records:

69 a. For six years after the prospect of litigation ends or
70 according to the record disposition schedule for
71 DES-CS-1125, whichever is later; and

72 b. If there is no court action until the expiration of all time
73 periods within which legal action may be taken.

74 2. Division employees having access to any records outlined in a
75 Litigation Hold shall preserve all records in their original forms.

76 3. The Division shall prevent the destruction, alteration, or deletion
77 of relevant information and records.

78 4. The Division shall preserve the following types of items for a
79 Litigation hold:

80 a. Emails;

- 81
82 b. Contact lists;
83 c. Text/chat messages;
84 d. Spreadsheets;
85 e. Presentations;
86 f. Databases, or other data stored;
87 g. Video, transcripts and audio recordings;
88 h. Medical documentation; and
89 i. Documentation of services, and anything else that can be
90 electronically stored and is related to the litigation subject.

91 **B.** The RMU shall:

- 92 1. Gather all records related to the actual or anticipated litigation,
93 including paper and electronically stored records, and
94 2. Review documents to identify Division staff names for the given
95 time period outlined in the litigation hold;

96 **C.** The RMU shall preserve, catalog, and retain the related files within the
97 Records Management Center:
98

- 99 1. The Custodian shall not remove, transfer, or destroy preserved
100 records while the Litigation Hold is in place.

- 101
102 2. After the notice to preserve has been lifted, RMU staff shall
103 adhere to the appropriate retention period ends.

Draft Policy for Public Comment