

# MAINE COMMUNITY COLLEGE SYSTEM

## GENERAL ADMINISTRATION

### Section 200.2

**SUBJECT: E-DISCOVERY PROCEDURE**

**PURPOSE: To provide a procedure for e-discovery matters**

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#### **A. Introduction**

The Federal Rules of Civil Procedure require that electronically stored information be available for discovery by a party in a lawsuit in federal court. The procedure is applied when such a lawsuit has been filed by or against a college or MCCS (hereinafter collectively “MCCS”), or when MCCS reasonably knows that such a lawsuit is about to be filed. The purpose of this procedure is to establish a standard method for handling electronically stored information to comply with those rules.

#### **B. Application**

This policy applies to all colleges, centers, departments, employees and agents of MCCS.

#### **C. Definitions**

For purposes of this policy:

1. “Electronically stored information” includes but is not limited to email (message contents, header information, email system usage logs); databases (records and fields and structural information) pertaining to human resources or personnel information; word processing files (including prior drafts, deleted files, and file fragments); and spreadsheets.
2. “Litigation hold” means a suspension of normal data deletion processes based on the standard data lifecycle

#### **D Procedure for Imposing a Litigation Hold**

When a lawsuit has been filed by or against a college or MCCS (hereinafter collectively “MCCS”) in federal court, or when MCCS reasonably knows that such a lawsuit is about to be filed in federal court, the following procedure shall be implemented.

1. The MCCS General Counsel shall contact the information technology (“IT”) administrator for each college or entity that may have any information relevant to the lawsuit.

2. The IT administrator shall determine the types of electronically stored information that exist for that entity and the manner in which such information is maintained and stored. This information may be on local hard drives, servers, or in backup systems or media.
3. The IT administrator shall then take all reasonably necessary steps to preserve that electronically stored information, including disengaging any automated processes that periodically delete or destroy such information.
4. All employees, faculty, and third-parties having access to relevant electronically stored information shall be notified by the General Counsel that they are prohibited from deleting or destroying that information.
5. The IT administrator shall advise the General Counsel regarding the manner by which such information may be searched and produced and the associated cost.
6. The General Counsel shall notify all relevant persons when this information no longer needs to be preserved.

**E. Data Preservation during a Litigation Hold**

While a litigation hold is in effect:

1. MCCS will make every reasonable attempt to prevent spoliation of information gathered for discovery;
2. The General Counsel shall review the gathered information for evaluation and retention of privileged or protected information;
3. Information that is preserved under this procedure will be maintained by the General Counsel or the Counsel's designated information technology support personnel until it has been determined that the data retention is no longer required; and
4. Normal data lifecycle operations that often include automated data purges or electronic media reuse may continue in the absence of a pending lawsuit or of a lawsuit known to MCCS that is about to be filed.

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REFERENCES: F. R. Civ. P. 34

DATE ADOPTED: March 23, 2010

DATE(S) AMENDED: