1. Introduction

1.1 State law requires agencies to retain public records and prohibits their destruction except in accordance with the consent of the North Carolina Department of Cultural Resources. The Department of Cultural Resources has approved a University General Records Retention and Disposition Schedule ("University General Schedule") that governs the destruction or other disposition of University records.

1.2 The University General Schedule may be supplemented by campus-wide schedules and individual unit specific schedules ("Unit Specific Addenda") submitted to the Department of Cultural Resources pursuant to the procedures outlined in this regulation.

1.3 The university utilizes information technology (IT) resources such as computer systems to send, receive, and store public records in electronic or digital form. “Computer system” references Information Technology Services (ITS) server-based computer systems and the data stored on them, which must be periodically copied and preserved to ensure continued computer system viability and functionality. The protocol to copy and preserve computer system backups as described in paragraph 8 below is based on Security Backup Files as Public Records in North Carolina: Guidelines for the Recycling, Destruction, Erasure, and Re-use of Security Backup Files published by the Archives and Records Section of the N.C. Division of Historical Resources.
2. Scope

2.1 This regulation applies to all university personnel and covers all records, regardless of form, made or received, in connection with the transaction of university business.

3. Definitions

3.1 "Public Record" means all documents, papers, letters, maps, books, photographs, films, sound recordings, electronic data-processing records such as E-mails and other electronic documents, magnetic or other tapes, electronic data-processing records, artifacts or other documentary material, regardless of physical form or characteristics, made or received pursuant to law or ordinance in connection with the transaction of public business by any agency of North Carolina government or its subdivisions. Personal records such as personal e-mail messages do not constitute public records. (North Carolina General Statute §132-1).

3.2 "University Personnel" includes all employees of the university whether permanent, temporary, full-time or part-time, faculty, staff, administrators, student employees and agents of the university (including volunteers but not including independent contractors) to the extent they are acting within the scope of their agency authority.

3.3 "Unscheduled Record" means any record not listed in a retention and disposition schedule or unit specific schedule approved by the Chancellor, Office of Legal Affairs, University Archivist and Department of Cultural Resources.

3.4 "Historical Value" means records that have administrative, legal, fiscal or evidential importance as well as documenting significant events, actions, decisions, conditions, relationships and similar developments.

3.5 "Public Record with Short-Term Value" means those records possessing only brief administrative, fiscal, legal, research or reference value. This category of record includes, but is not limited to, the following: reservations, routing slips, facsimile cover sheets, and those records that do not contain information necessary to conduct official business, meet statutory obligations, carry out administrative functions, or meet organizational objectives.

4. Records Retention and Disposition Policy Statement

4.1 The University General Schedule, campus-wide schedules and all approved supplemental institutional unit specific addenda govern the retention and disposition of all university records. Public records, including electronic records, not listed in a schedule or in an official approved unit specific addenda may not be destroyed unless specific approval from the Department of Cultural Resources is obtained.

4.2 Public Records Destruction (subject to 4.3)

4.2.1 Public records may be destroyed when they have met their retention requirements under an approved schedule.

4.2.2 Public records with short-term value may be destroyed or otherwise disposed of when their reference value ends.

4.2.3 Unscheduled public records that the Department of Cultural Resources has specifically
approved for destruction may then be destroyed by the university.

4.3 Notwithstanding the instructions of the University General Schedule, campus-wide schedule and approved institutional unit specific addenda, any records subject to audit or official investigative proceedings or that relate to pending or probable litigation must be retained until the final conclusion of the audit, official proceedings or litigation and an official release has been communicated by either the Auditor or the Vice Chancellor and Office of Legal Affairs, as applicable.

5. Procedures for Approval of Unit Specific and Campus-Wide Schedules

5.1 University units may need to seek approval for new or revised unit specific addenda when specific unit records are not included in the University General Schedule or other campus-wide schedule, or when an existing approved unit specific addenda need revision. If units cannot locate particular records in the University General Schedule, a campus-wide schedule or unit specific addenda, the unit should contact the Office of Legal Affairs or the University Archivist for assistance.

5.2 If the Office of Legal Affairs and the University Archivist determine that there is no appropriate record series in the University General Schedule, a campus-wide schedule or existing unit specific addenda that meet the needs of the unit, the unit must submit a “Request for Approval of Unit Specific Schedule/Addenda” form to the Office of Legal Affairs who will consult with the University Archivist. If the request is approved, the Office of Legal Affairs shall forward the form to the Chancellor or designee for approval and then to the Department of Cultural Resources for final approval. Unit specific addenda are not effective until approved by the Department of Cultural Resources and electronically published by the University as unit specific addenda.

5.3 A request for approval of unit specific schedule/addenda must be consistent with, and meet the minimum retention and other requirements set forth in the University General Schedule and other campus-wide schedules.

5.4 Any campus-wide retention schedule may only supplement, and must be consistent with, the University General Schedule. The Office of Legal Affairs, in consultation with the University Archivist, is responsible for creating or revising campus-wide retention schedules utilizing appropriate procedures.

6. Procedures for Seeking Approval for the Destruction of Unscheduled Records

6.1 Authorization for destruction of unscheduled records may be obtained from the Department of Cultural Resources. To obtain such approval, the unit must submit a "Unit Request for Destruction of Unscheduled Records" to be reviewed by the Office of Legal Affairs and University Archivist. If the University Archivist determines that the record has historical value, the unit will be notified of the possibility of transferring the record(s) to the Archives or to another designated, authorized permanent storage area. If the University Archivist determines that the records do not have historical value, and the Office of Legal Affairs determines that they no longer have administrative value, the Office of Legal Affairs will forward the Unit Request for Destruction of Unscheduled Records to the Department of Cultural Resources. No destruction of any unscheduled record may take place until the unit is notified in writing of the approval of the Department of Cultural Resources.
7. Unit and Individual University Personnel Responsibilities

7.1 University Personnel Termination or Transfer. When university personnel terminates or changes his/her affiliation with the university, it is the responsibility of the relevant unit administrator to ensure that records under the responsibility of that university personnel are retained or disposed of in compliance with this regulation and all applicable retention schedules and addenda. This action should be taken before the university personnel leaves.

7.2 E-Mail Retention and Disposition. The custodian of e-mail messages will normally be the originator if that person is university personnel; otherwise, it will be the individual university personnel to whom the message is addressed once the message is received at the university. The custodian is responsible for preserving the e-mails, notwithstanding any automatic repository as mentioned in section 8 or computer backup. The Department of Cultural Resources and the North Carolina Office of Information Technology provide guidance on the methods for managing, storing, preserving and destroying e-mails.

7.2.1 Non-University E-Mail Accounts. University personnel should use an NCCU email account to create or receive email that relates to university business. If university personnel use e-mail addresses not maintained by the University (e.g. Yahoo, MSN, Hotmail, etc.) to create or receive e-mail that relates to university business, then the university personnel, as the e-mail custodian, is under a legal obligation to preserve, maintain and present upon request that e-mail according to applicable retention schedules or addenda.

8. E-mail Retention Archive and Computer Systems Back-Up Protocol:

8.1 ITS will copy all e-mails sent or received externally through the University central e-mail system by university personnel (“E-mail Records”) and create a searchable repository of copied e-mail records. This repository will be retained as a permanent archive until an e-mail records retention and disposition system can be implemented that is compliant with applicable retention schedules. ITS will use this archival repository to assist university units and university personnel in responding to requests for e-mail within the custody of the unit/personnel.

8.2 Computer systems maintained by ITS will be backed up periodically according to the schedule identified in paragraph 8.2.1 below, with the backup stored in a secure off-site location. The purpose of the computer systems backup is to provide a means to restore the integrity of the computer systems and data in the event of a hardware/software failure or physical disaster. The computer systems backups will consist of regular full and incremental backups as appropriate. Although security backup files are public records pursuant to G.S. 121-2(8) and 132-1, systems backups are not intended to serve as an archival copy or to meet records retention requirements.

8.2.1 Procedures for ITS-maintained computer systems.

8.2.2 Full system backups and incremental backups will be performed across systems. Backups for departmental systems will be determined in consultation with the data steward and/or application owner.

8.2.4 All backups will be stored in a secure, off-site location. Proper security and environment controls, temperature, humidity and fire protection shall be maintained at the storage location.

8.2.5 All backup media that is not re-usable shall be destroyed in an approved manner. Backup media that is re-used for other purposes shall be thoroughly erased.
8.2.6 Periodic tests of the backups will be performed to determine if files can be restored. Tests will be coordinated by the ITS Security and Compliance unit.

8.3 Departments that maintain their own server environments must document, maintain, and follow their own appropriate backup procedures. Departmental backup procedures must include time frames for the recycling and destruction of the backup

9. Document Holds

9.1 The Office of Legal Affairs is the only unit with authority to place a Document Hold.

9.2 Procedures

9.2.1 A Document Hold will be initiated when either (a) an official discovery order is served on the University requesting the production of the records in question, or (b) litigation is pending or reasonably anticipated in the judgment of the Office of Legal Affairs. Any University personnel who become aware of any University-related litigation, threat of litigation, claim, administrative action or other legal action must immediately notify the Office of Legal Affairs.

9.2.2 The Office of Legal Affairs will notify Affected University Personnel that a Document Hold has been initiated. The notice will inform Affected University Personnel of their obligation to identify and preserve all Evidence that may be relevant to the Document Hold.

9.2.3 Upon notice of a Document Hold, Affected University Personnel are required to do the following:

9.2.3.1 Immediately suspend deletion, alteration, overriding, or any other destruction of records, including electronic records, under their control that are relevant to the Document Hold. Electronic records must be preserved in a way that they can be retrieved at a later time, and the records must be preserved in their original electronic form. It is not sufficient to make a hard copy.

9.2.3.2 Preserve any electronic records that are generated or received after receipt of the Document Hold notice if such information is relevant to the subject of the notice.

9.2.3.3 Preserve hard copies of documents under their control. Affected University Personnel must identify all relevant hard copy documents or files and ensure the retention of such. Affected University Personnel may make hard copies of electronically stored information; however, as set forth in item 9.2.3.1 above, the information must also be preserved in its original electronic form.

9.2.4 Affected University Personnel must acknowledge receipt, understanding, and compliance with a Document Hold in a timely manner by email or written memorandum to the University General Counsel.

9.2.5 The Office of Legal Affairs will notify ITS of a Document Hold and provide the relevant information.

9.2.6 If Affected University Personnel separate from employment during the course of a Document Hold, department heads, unit directors, or another appropriate administrator must take possession of any and all evidence under the control of the separated personnel and notify the Office of Legal Affairs.
9.2.7. Once notice of a Document Hold has been issued, the Office of Legal Affairs will continue to monitor compliance with this policy and any notices required, including the notice that the need for a Document Hold has expired.

10. Violations

10.1 Violations of this policy are subject to disciplinary action up to and including dismissal. It is also a criminal misdemeanor violation under North Carolina law to destroy public records except as authorized.