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| <b>POLICY OF<br/>STATE OF DELAWARE<br/>DEPARTMENT OF CORRECTION</b>   | <b>POLICY NUMBER</b><br>15.8                                    | <b>PAGE NUMBER</b><br>1 of 2 |
|   | <b>RELATED ACA STANDARDS:</b><br>2-CO-1F-06; 2-CO-1F-07         |                              |
| <b>CHAPTER: 15<br/>INFORMATION TECHNOLOGY</b>   | <b>SUBJECT:</b><br>LITIGATION HOLDS AND ELECTRONIC<br>DISCOVERY |                              |
| <b>APPROVED BY THE COMMISSIONER AND<br/>EFFECTIVE THIS DATE:</b>  |   |                              |
|  <span style="float: right;">5/18/15</span> |   |                              |
| <b>APPROVED FOR PUBLIC RELEASE</b>  |   |                              |

- I. AUTHORITY:** 29 Del. C. § 8903 (4) (5) (7)  
Federal Rules of Civil Procedure
- II. PURPOSE:** To establish a policy for litigation hold requests and electronic Discovery for the Delaware Department of Correction (DDOC).
- III. APPLICABILITY:** All DDOC and contractual employees of the Department.
- IV. DEFINITIONS:**
- Litigation hold** – A stipulation requiring DDOC to preserve all data that may relate to a legal action involving the department or its employees.
- Electronic Discovery** – The process of gathering electronic documents, records, e-mail, hard drive data and other electronic resources for further evaluation and analysis.
- V. POLICY:** To ensure DDOC complies with all rules and regulations required by a litigation hold.
- VI. PROCEDURES:** The litigation hold document may require one or more of the following items to be collected on behalf of the defendant(s):
- i. Hard drive image and e-mail records;
  - ii. Documents describing incidents, disciplinary, grievance or other inmate records regarding the offender stored in the Delaware Automated Correction System (DACS);
  - iii. Electronic and paper documents regarding the offender.

All DDOC and on-site contractual employees named in a litigation hold shall comply with DDOC Information Technology (IT) staff in completing the necessary technical work to copy said employee's PC hard drive for preservation purposes.

Each collection of documents shall be preserved in a secure area until review is requested by the attorney involved with the litigation.

In the event a lawsuit or anticipated litigation issue may be of on-going nature, the litigation hold letter may require additional collections to take place in the future, to continue the preservation of evidence. The time-frame represented in the initial letter will provide guidance as to how long this may continue.

Court rules require DDOC and its attorneys to certify compliance with these procedures in all cases.

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An electronic discovery request may be initiated by DDOC leadership separately from, or in conjunction with, a litigation hold. Said request may include one or both of the following items:

- i. E-mail records; and
- ii. Internet log records.

Written requests must be submitted using the "Records Request" form, available at: [http://dti.delaware.gov/pdfs/pp/eRecords\\_Request\\_Form.pdf](http://dti.delaware.gov/pdfs/pp/eRecords_Request_Form.pdf).

These requests must be authorized by the Commissioner or the DDOC Chief Information Officer, and are completed by DTI in accordance with their statewide policy.