



VENIO SYSTEMS PRESENTS

LEGAL HOLD DEFENSIBILITY CHECKLIST

Ensure Your Process Can Withstand Judicial Scrutiny

A comprehensive audit tool for evaluating your organization's legal hold procedures against best practices and defensibility standards. Use this checklist to assess your current process and identify gaps before litigation arrives.

1. TRIGGER IDENTIFICATION & EARLY PROTOCOLS

Requirement	Status
<input checked="" type="checkbox"/> Requirement	
<input type="checkbox"/> Hold trigger protocols documented and distributed	
<input type="checkbox"/> Clear definition of "reasonably anticipated" litigation in your organization	
<input type="checkbox"/> Designated decision-maker(s) for hold authorization	
<input type="checkbox"/> Hold notice issued within 24-48 hours of trigger event	
<input type="checkbox"/> Contemporaneous documentation of hold decision and reasoning	
<input type="checkbox"/> Emergency preservation measures implemented before formal hold	

2. CUSTODIAN IDENTIFICATION & NOTIFICATION

Requirement	Status
<input checked="" type="checkbox"/> Requirement	
<input type="checkbox"/> Documented methodology for custodian identification	
<input type="checkbox"/> Documented reasoning for inclusion/exclusion of custodians	
<input type="checkbox"/> Written hold notices sent to all identified custodians	
<input type="checkbox"/> Hold notices address personal devices and accounts	
<input type="checkbox"/> Separate IT/Records Management holds issued	
<input type="checkbox"/> Multiple delivery methods (email, in-person, system notification)	

3. HOLD NOTICE CONTENT & SPECIFICITY

Requirement	Status
<input checked="" type="checkbox"/> Requirement	
<input type="checkbox"/> Notice specifies legal matter/dispute clearly	
<input type="checkbox"/> Notice specifies time period covered by hold	
<input type="checkbox"/> Notice includes specific preservation instructions	
<input type="checkbox"/> Notice addresses emails, documents, messages, files	
<input type="checkbox"/> Notice states legal obligation to comply	
<input type="checkbox"/> Notice includes easy method for custodian questions/escalation	

4. DOCUMENTATION & HOLD FILE COMPLETENESS

Requirement	Status
<input checked="" type="checkbox"/> Requirement	
<input type="checkbox"/> Hold file created with trigger documentation	
<input type="checkbox"/> Scope determination documented with legal reasoning	
<input type="checkbox"/> All hold communications archived in organized file	
<input type="checkbox"/> Custodian acknowledgments received and documented	
<input type="checkbox"/> Non-compliance escalation notices documented	

5. IT INTEGRATION & TECHNICAL PRESERVATION

Requirement	Status
<input type="checkbox"/> IT coordination occurred before hold issuance	
<input type="checkbox"/> Email system holds implemented and verified	
<input type="checkbox"/> File system/backup holds implemented and verified	
<input type="checkbox"/> Cloud storage/collaboration platforms addressed	
<input type="checkbox"/> Newer communication platforms addressed (Slack, Teams, etc.)	
<input type="checkbox"/> Written IT certification of hold implementation received	

6. COMPLIANCE MONITORING & AUDITS

Requirement	Status
<input type="checkbox"/> Quarterly audit schedule established	
<input type="checkbox"/> Custodian compliance verified quarterly	
<input type="checkbox"/> IT system compliance verified quarterly	
<input type="checkbox"/> Quarterly certification from legal counsel obtained	
<input type="checkbox"/> Quarterly certification from IT obtained	
<input type="checkbox"/> Hold scope appropriateness reviewed quarterly	

7. MODIFICATIONS & TERMINATION

Requirement	Status
<input type="checkbox"/> All hold modifications documented with approval	
<input type="checkbox"/> Expansion of hold scope documented with new custodians notified	
<input type="checkbox"/> Court orders/discovery requests documented	
<input type="checkbox"/> Termination decision documented with legal approval	
<input type="checkbox"/> Termination notices sent to all custodians	

8. COMMON PITFALLS TO AVOID

Requirement	Status
<input type="checkbox"/> Avoided: Hold notices assumed to be self-executing without IT verification	
<input type="checkbox"/> Avoided: Issuing hold too late (days/weeks after trigger)	
<input type="checkbox"/> Avoided: Creating hold file retroactively (months after issuance)	
<input type="checkbox"/> Avoided: Vague holds that don't specify what's covered	
<input type="checkbox"/> Avoided: Over-broad holds that burden custodians unnecessarily	
<input type="checkbox"/> Avoided: Terminating holds prematurely without clear justification	
<input type="checkbox"/> Avoided: Failing to address new custodians as case scope expands	

DEFENSIBILITY SCORE

Checkmarks	Score	Assessment
50–60	95–100%	EXCELLENT
40–49	75–94%	GOOD
30–39	50–74%	NEEDS WORK
Below 30	Below 50%	AT RISK

Note: For guidance on improving your legal hold process, consult with experienced eDiscovery counsel and consider implementing legal hold management software.