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Records Management Guide #2 E-Mail Management

What is Email?

Email is the electronic transfer of information, typically in the form of electronic messages and attached documents. Email is transferred from the sender to one or more receiving parties via an intermediate system. The term can refer to the email service or the message itself.¹ Messages sent by e-mail may be simple announcements or chat, or formal or substantive documents supporting or executing business activities and policy decisions.²

Although email is like regular correspondence, the courts have found that there are, indeed, differences between the two. Unlike regular correspondence, email has contextual data that must be preserved—the "envelope" that contains the mailing address, date/time stamp, routing instructions and transmission and receipt information that accompanies e-mail messages constitutes an integral part of the record and thus must be retained as a part of any printed or stored version of the record.³ This will eventually require the preservation of the email record in its native format.⁴

Is Email a Public Record?

According to Massachusetts state law, anything created or received by a public official or employee, regardless of media or format, is a public record, unless the record custodian can provide a statutory reason to exempt the record.⁵ This is not specific to Massachusetts—the federal Freedom of Information Law (FOIL) has established that the public has the right to government information, and federal and state record schedules recognize email as a publicly accessible record. See the forthcoming Records Management Guide, *Is it Exempt?*

How Long Do I Have to Keep Email?

Just like any other record, it depends on the information in the record. There are four categories of correspondence:⁶

| <i>Series</i> | <i>Description</i> | <i>Keep For</i> |
|-----------------|---|---------------------------------|
| Courtesy copies | Correspondence copied to the recipient for informational purposes i.e., "cc'ed" | Delete after no longer required |

¹ New York State Archives and Records Administration. *Managing Records in Email Systems*. Albany, New York: 1995, p. 3.

² Supervisor of Public Records Bulletin 01-99 (February 17, 1999), www.state.ma.us/sec/arc/arcrmu/rmuptr/ptrspr.htm#199.

³ *Armstrong v. Executive Office of the President*, 810 F.Supp. 335 (D.D.C. 1993), per Supervisor of Public Records Bulletin 1-99.

⁴ The National Archives General Record Schedule 20 was challenged in a federal court and it was determined that email had to be preserved in its electronic format.

⁵ MGL c4: 7(26).

⁶ Per Record Schedule #23 Administration and Personnel (Records Held in Common, Local Version Revised 1/8/2001)

| | | |
|--|---|--|
| Non-permanent | Correspondence that <i>does not</i> document the development of policies, rules, decisions, major acquisitions or programs. | 2 years after the end of the calendar year. May be printed and filed separately from permanent correspondence or retained electronically; see the section, <i>So, How Do I Manage Email?</i> |
| Permanent/Archival | Correspondence that documents the development of policies, rules, decisions, major acquisitions or programs. | Permanent. Print within 3 months of receipt and file in accordance with the office's regular business practice. |
| Unsolicited and unrelated to public business | Unsolicited advertisements, circulars, general mailings, and other unsolicited correspondence not related to the conduct of public business, including professional listservs and mailing lists | Delete after no longer required. |

Basic Email Recommendations and Reminders

- Think about it before you send it
- Use common sense regarding what is appropriate use. Two good benchmarks: would mind seeing it on the front page of the local paper and would you put it on official letterhead?
- Consensus decisions or votes via email are a violation of the Open Meeting Law
- Manage it like you would all correspondence
- Remember, once you delete it, it is not necessarily gone.

Who is Responsible for Managing Email?

Right now proper email management is left to the individual. Going forward, however, that will have to change. In order to prove that we have a real records management program—and a real electronic records management program—we have to be able to prove that 1) policies are in place; 2) people are trained in the policies; 3) policies are used consistently across the organization; and 4) we tested to make sure the policies were used i.e., system audits.

What If I Want to Use Email for Personal Purposes?

Personal information is best left to a personal account. Free accounts are readily available on sites such as www.yahoo.com and www.hotmail.com. These accounts are accessible via the Internet and are accessible from anywhere in the world, including public use terminals e.g., cafés and libraries.

The town is in the process of developing an information technology policy and definition of appropriate use.⁷ In the meantime, use common sense, our telephone policy⁸ (section 4.8 of the personnel rules and regulations), and the standards of conduct policy (section IV of the personnel rules and regulations) as a guideline. Remember, email is subject to discovery in legal proceedings, may be legally admissible evidence, and can be requested as a public record. Use it judiciously. Email is on the network and email is backed up. Also, files are generally recoverable until the disk is overwritten.

⁷ Supervisor of Public Records Bulletin 01-99 (February 17, 1999), www.state.ma.us/sec/arc/arcrmu/rmuptr/ptrspr.htm#199.

⁸ The telephone policy states that personal calls should be kept to a minimum.

How is "Acceptable Use" Typically Defined?

The following uses of email are commonly considered unacceptable in a business setting:

- In furtherance of any illegal act, including violation of any criminal or civil laws or regulations, whether state or federal;
- For any political purpose;
- For any commercial purpose;
- To send threatening or harassing messages, whether sexual or otherwise;
- To access or share sexually explicit, obscene, or otherwise inappropriate materials;
- To infringe any intellectual property rights;
- To gain, or attempt to gain, unauthorized access to any computer or network;
- For any use that causes interference with or disruption of network users and resources, including propagation of computer viruses or other harmful programs;
- To intercept communications intended for other persons;
- To misrepresent either the organization or a person's role at the business;
- To distribute chain letters;
- To access online gambling sites; or
- To libel or otherwise defame any person.

A number of these issues are addressed in Part IV of the Personnel Rules and Regulations, Standards of Conduct. A general rule of thumb: if you would not put it on company letterhead, you should not send it via email. According to federal law, employees are not guaranteed a right to privacy in the workplace.⁹

Can a Public Records Request be Made to MIS?

Under the Public Records Law,¹⁰ the government records custodian who creates or receives records in his capacity as a government official is primarily responsible for providing access to its records. This legal custodian cannot, consequently, insist that a requester seek access from the service bureau within the agency (government MIS department, data processing division, etc.) or outside the government operation (private company). The legal custodian of the records is obligated to obtain requested records from that service bureau and provide access to them upon request.¹¹ A subpoena for records is different from a public records request.

So, How Do I Manage Email?

Email should be managed and retained according to the same guidelines as correspondence: 2 years after the end of the calendar year, unless the information has long-term value e.g., correspondence that documents the development of policies, rules, decisions, major acquisitions, or programs. If correspondence documents the development of policies, rules, decisions, major acquisitions, or programs, it should be retained permanently.

State guidelines specify that email should be either 1) saved to the office's electronic record-keeping system or 2) printed out and saved in the paper-based record keeping system, in accordance with the regular business practice of the office.¹²

The town does not have an electronic record keeping system at this point in time.¹³ In the meantime, follow these directions:

⁹ The Federal Electronic Communications Act (FECA) states that although email users have a reasonable expectation to privacy protection for their email, employers have the right to monitor, intercept, and read employee communications, as long as they are done in the ordinary course of business.

¹⁰ MGL c66

¹¹ Supervisor of Public Records Bulletin 3-96 (June 6, 1996), www.state.ma.us/sec/arc/arcrmu/rmuopr/ptrspr.htm#396.

¹² Supervisor of Public Records Bulletin 1-99 (February 17, 1999), www.state.ma.us/sec/arc/arcrmu/rmuopr/ptrspr.htm#199.

¹³ The archivist/records manager is researching centrally-managed email retention software.

1. Your email account should be set to retain the sender's message and to save messages to the Sent Mail folder; see directions below, *Recommended System Settings for Your Town Email*. This way, you can retain email in the Sent Mail folder and delete the incoming message in your In Box.

For instance, if you receive email about a meeting and you respond, "Alright, that is fine, I will be there" delete the email in your In Box. If your account is set-up properly, the sender's email and your response will be retained in the Sent Mail Folder.

2. *If email has long-term value* i.e., archival or permanent, print it and save it in the paper-based record keeping system in accordance with the office's regular business practices.
3. *If email does not have long-term value* i.e., it needs to be retained for up to 2 years after the end of the calendar year, there are two options:
 - Print within 3 months of receipt and file in accordance with the office's regular business practices.
 - Export within 3 months of receipt. In order to expedite email management and to conserve paper, we recommend exporting email and retaining it electronically:
 - A. Every couple months, go to your Sent Mail folder and export non-permanent email. To do this:
 - i. Click on Sent Items on the left-hand side of the screen.
 - ii. Click on the Sent button on the upper right-hand side of the screen. This will sort the mail in chronological order.
 - iii. Scroll to the top of the month you want to export, click on the first item, hold the shift key, scroll to the bottom of the month you wish to export—this will highlight all of the messages for that month.
 - iv. Go to the menu bar to File and Save As. Select Text Only in the bottom menu; this should be the only option.
 - v. Name the file with the last two characters of the year and an abbreviation of the month. For instance: 01May or 01Nov. We suggest saving the file to your network drive: corr\email\2001.
 - vi. Highlight the exported messages as noted in step iii and hit the Delete key.
 - vii. Retain the email for two years after the end of the calendar year. For instance, delete the email for January-December 1999 on January 1, 2002.

If exporting is not an option, contact MIS to install this feature.

If you are not on the town email system, print and manage email as you would paper correspondence.

Recommended System Settings for Your Town Email

1. Open Microsoft Outlook.
2. Go to the menu bar to Tools and select Options.
3. Click the Other tab.
4. Under General, check the box Empty the Deleted Items Folder Upon Exiting.
5. Click the Apply button.
6. Click Okay.
7. Open Microsoft Outlook.
8. Go to the menu bar to Tools and select Options.
9. Click the AutoArchive button and uncheck the AutoArchive box.
10. Click Okay and click Okay again.
11. Click Mail Format and under Message Format, pull down the menu to read Rich Text Format.

12. Click Apply and Click Okay.
13. Click the Preferences tab.
14. Click the Email Options button.
15. Under Message Handling, check the box “Save copies of messages in Sent Items folder. Use the default settings for the other features.
16. Click Okay and click Okay again.

Do Not Use the AutoArchive feature, which puts the information in a proprietary format. Instead follow the directions listed under “So, How Do I Manage Email?”