

**LEELANAU COUNTY  
BOARD POLICY**

GENERAL SUBJECT: Workplace Environment Policies  
Information Technology

Policy No. **3.02**

SPECIFIC SUBJECT: Electronic Mail Policy (Email)

Adopted: 07/21/2009

Revised: 07/17/2011

Revised: 06/18/2013

Revised: \_\_\_\_\_

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APPLIES TO: This policy applies to all elected officials, County-appointed department heads and their respective employees regardless of employment status (i.e. full-time, part-time, temporary, intern, etc.). Unless otherwise agreed upon in writing between the County Administrator and the Chief Judge(s) of the Court(s) this policy shall not apply to the judiciary and its respective employees

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PURPOSE: This policy is adopted by the County of Leelanau to define the obligations of the County and its employees, department heads, and elected officials regarding email retention and deletions

The specific purpose of this policy is also to provide guidance with regard to the capture, filtering, storage, use, management (organization, security, confidentiality) and disposal of electronic mail records

1. Definition(s):

- a. Convenience Copies: Are copies of original records that document official County business transactions and are produced for dissemination to internal or external parties. A convenience copy may be stored in any format (i.e.; paper, digital.) A convenience copy shall not be considered a backup copy of the original record. A backup of the original record is created by the Information Technology Department and is stored offline and in an alternate location from the main computing facility.
  
- b. Electronic Discovery (e-discovery): Electronic discovery refers to any process in which electronic data is sought, located, secured, and searched with the intent of using it as evidence in a civil or criminal legal case. E-discovery can be carried out offline on a particular computer or it can be done in a network. Court-ordered or government

sanctioned hacking for the purpose of obtaining critical evidence is also a type of e-discovery.

- c. Electronic Mail (email): Is a means of exchanging messages and documents using telecommunications equipment and computers.
  - d. Freedom of Information Act (FOIA) and Litigation Coordinator: The Prosecuting Attorney's Office and/or their designee shall act as FOIA Litigation Coordinator for the County.
  - e. IT: Information Technology. IT is a common acronym used to represent the industry as well as local technology arrangements.
  - f. Litigation Hold (also known as "Preservation Orders" or "Hold Orders"): A stipulation requiring the County to preserve all data that may relate to a legal action involving the County. This requirement ensures that the data in question will be available for the discovery process prior to litigation. The County must preserve records when it learns of pending or imminent litigation, or when litigation is reasonably anticipated. Litigation hold prevents spoliation (destruction, alteration, or mutilation of evidence) which can have a catastrophic impact on the defense. An attorney may issue a litigation hold letter or the County may issue a hold order internally. The order applies not only to paper-based documents but also to electronically-stored information (ESI.)
  - g. Records: Includes general and agency-specific records, maintained in any format, which documents a County business transaction.
  - h. Records Retention and Disposal Schedules: Are listings of records or records series that are maintained by government agencies in the course of conducting their official business that identify how long the records must be kept, when they may be destroyed and when certain records can be sent to the Archives of Michigan for permanent preservation. In accordance with Michigan law, records cannot be destroyed unless their disposal is authorized by an approved Retention and Disposal Schedule. Retention and Disposal Schedules are developed by the Department of History, Arts and Libraries, Records Management Services, through consultation with an agency about its records. These schedules are then approved by the Michigan Historical Center and the State Administrative Board.
  - i. TIFF (Tagged Image File Format): A widely used bitmapped graphics file format.
2. General Electronic Mail Guidelines:
- a. The County provides an email system to its employees and officials for conducting County business. Using this system is a privilege, not a right. The electronic records created are the property of the County, not the persons who create them.

- b. The County reserves the right to monitor the use of the email system, make periodic technology updates to it (including replacement), and to retain or dispose of email messages within the scope of this policy and general and agency-specific record retention schedules.
- c. The County informs employees and officials that Michigan law may require the reproduction of email messages to third parties.
- d. Email is to be used for County business only. County confidential information may not be shared outside of the County, without authorization, at any time. Employees are not to conduct personal business using the County computer or email.
- e. Viewing pornography, or sending pornographic jokes or stories via email, may be considered sexual harassment and will be addressed according to the County's Sexual Harassment Policy.
- f. Any emails that discriminate against individuals or are derogatory to any protected classification (including race, gender, nationality, religion, age) will be dealt with according to the County's Sexual Harassment Policy. These emails are prohibited at the County.

The email system may not be used for:

- i. any political advocacy, including, but not limited to, campaigning for or against a candidate for any federal, state, or local elected office, implying that user's views are in any way a representation of official County policy, and areas that may violate the state of Michigan's Campaign Finance Act of 1976 (P.A. 388.)
- ii. distribution of offensive or harassing statements, transmission of defamatory, obscene, offensive or harassing messages or messages that disclose personal information without authorization.
- iii. distribution of incendiary statements which may incite violence or describe or promote the use of weapons or devices associated with terrorist activities.
- iv. distribution or solicitation of sexually oriented messages or images.
- v. any illegal purposes or in support of such activities.
- vi. any for commercial purposes, product advertisement or "for-profit" personal activity.
- vii. any sexually explicit use, whether visual or textual.

- g. The County reserves the right to implement appropriate filtering systems and processes to: 1) avoid sending and receiving non-productive email, 2) and the elimination of potentially harmful email and attachments containing computer viruses.
- h. Email records can be retained online until the allocated digital storage space (approximately 300MB) for each mailbox has been consumed through sending and receiving messages.

3. User Responsibilities:

- a. Senders and recipients of email messages shall evaluate each message to determine if they need to keep it as documentation of their role in a process that represents official County business.
- b. Senders are generally considered to be the person of record for an email message. However, if recipients of the message take action as a result of the message, they should also retain it as a record.
- c. Shall evaluate the content and purpose of each email message to determine which Retention and Disposal Schedule defines the message's approved retention period.
- d. Users shall retain email that has not fulfilled its legally-mandated retention period by: 1) printing a paper copy and filing it in an appropriate storage location, 2) printing it to an Adobe PDF<sup>®</sup> file and storing the email on the County's computer network or transferring the PDF file into a document imaging system, 3) or printing it directly to a document imaging system as an image file (TIFF.)
- e. Shall organize their email messages so they can be located and used. It is recommended that users store email messages, transactional information, and attachments organized by the content or purpose of the message rather than by file type (i.e. do not organize Microsoft Word<sup>®</sup> documents together, do not organize Microsoft Excel<sup>®</sup> files together.)
- f. Shall dispose of transitory, non-record and personal email messages from the email system.
- g. Shall dispose of email messages that document the official functions of the agency in accordance with an approved Retention and Disposal Schedule. Note: Records, including email, shall not be destroyed if they have been requested under FOIA, or if they are part of on-going litigation, even if their retention period has expired.
- h. Shall provide access to their email to the FOIA or Litigation Coordinator upon request.
- i. Shall retain all work-related appointments, tasks and notes stored in the email system, as calendar entries, for 2 years by: 1) printing a paper copy and filing it in an appropriate

storage location, 2) printing it to an Adobe PDF<sup>®</sup> file and storing the email on the County's computer network or transferring the PDF file into a document imaging system, 3) or printing it directly to a document imaging system as an image file (TIFF.)

- j. Recognizing that email messages that are sent and received using the County's email system are not private, users are encouraged to manually delete personal appointments (such as sick leave or annual leave) from the email system after the event takes place.
- k. Convenience copies of records may be created as necessary and in support of business processes. Confidential data shall not be copied to any removable storage device (i.e. USB "storage stick") or attached to an email addressed to an external account without authority from the user's Department Head and/or immediate supervisor.
- l. Confidential, privileged communications between the County and its attorneys. Upon receipt of a message or memorandum from counsel or creation of a message to counsel, do not forward it or its contents to others inside the County without counsel's authorization. Never forward such messages or their contents to any third parties.

4. County and/or Department-Level Responsibilities:

- a. Shall ensure that its records are listed on an approved records Retention and Disposal Schedule.
- b. Shall ensure that all users with email accounts are aware of and implement this policy.
- c. Shall notify the Information Technology Department when the accounts of former users can be closed.
- d. Shall ensure that the email messages of former users are retained in accordance with approved Retention and Disposal Schedules.
- e. Shall notify the FOIA or Litigation Coordinator when a department or agency becomes involved in litigation or receives a FOIA request. The FOIA or Litigation Coordinator shall immediately notify the Director of Information Technology in writing to prepare for an electronic discovery and to implement a litigation hold.
- f. Exceptions to the procedures in this document may be granted in writing by the Board of Commissioners.

5. FOIA and Litigation Coordinator Responsibilities:

- a. Shall work with the Information Technology Department to:
  - i. Identify if the records that are requested by the public are stored in email, even if the public does not specifically request email.
  - ii. Notify affected users that a FOIA or e-discovery request involving email was received to prevent the destruction of relevant messages, thus creating a litigation hold.
  - iii. The Director of Information Technology shall immediately take the necessary steps to prevent the destruction of relevant messages in compliance with a litigation hold notice.
  - iv. Shall identify all records relevant to litigation to which the agency is a party that are stored in email.
  - v. Ensure email is retained and stored on suitable media for inspection and/or duplication in a secure environment.

6. Administration and Enforcement:

- a. In accordance with the mandates described in this policy, the Director of Information Technology, either directly or through delegation of authority to an experienced designee, shall periodically audit the capture, filtering, storage, use, management (organization, security, confidentiality) and disposal of electronic records and report notable violations of this policy to the County Administrator.
- b. As directed by the County Administrator, or through a request from a department or court, the Director of Information Technology shall coordinate and schedule periodic informational training sessions to educate users about this policy. Training material may be provided in small group sessions or made available on the County's internal shared network (Intranet) for efficient and cost-effective information dissemination.

7. Department Specific Retention Schedule:

- a. The Departmental Director shall review the Archival Requirements for their Department and adopt specific Retention Schedules in accordance with Statutory Archival Requirements under State and Federal law.
- b. Department Specific Retention Schedules shall be adopted by all department heads who deem them to be required for statutory or other archival reasons. The schedules should be incorporated by reference into this policy for each department which adopts one.

- c. Emails will automatically be purged from the system after the expiration of 120 days of their receipt or transmission. In order to avoid the purging of this information, the user must take affirmative steps to archive required information.
- d. All incoming and outgoing emails will be logged in the Email System and available for FOIA or e-discovery request.
- e. Emails will automatically be purged from the system and log after the expiration of 120 days of their receipt or transmission. In order to avoid the purging of this information, the user must take affirmative steps to archive required information.

8. Conflict of Interest:

If any provision of this policy is in conflict with state law, said provisions shall be deemed repealed, and the remainder of the policy shall continue in force.