MANAGING E-MAIL AS A UNIVERSITY RECORD

University of California Office of the President
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E-mail sent or received in the course of conducting University of California business is an administrative record subject to University records policies, guidelines, and retention schedules.[1] Such e-mail constitutes an official University record that must be managed according to the University's retention policy, legal requirements, or business need. The following information is provided to help University of California Office of the President employees understand basic concepts of records management as they apply to e-mail.

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1. WHY WE NEED TO MANAGE E-MAIL

We all receive an avalanche of e-mail on a daily basis. The sheer volume is daunting and many people give up trying to cope with it, much less organize it. The result is that thousands of e-mail messages may be stored on any one individual's computer. This is a risky situation. E-mail messages and attachments involving University business are administrative records and are owned by the University, even though they may be in one individual's mailbox. Without proper e-mail management, individuals have trouble locating e-mail messages and colleagues can't access University business records. Further, in cases of e-discovery, investigations, audits and Public Records Act requests, the University is exposed to the significant cost associated with locating, reviewing, and producing required documents, as well as liability associated with inappropriately retained materials.

As business records, e-mail messages must be managed appropriately, which may mean retaining and storing them for defined periods of time. E-mail management requires:

- Determination of the appropriate retention period
- Ensuring proper storage, with access provided to other authorized individuals

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[1] As used herein, the term "e-mail" includes both electronic messages and their attachments.

- Deletion of e-mail once there is no business, administrative, operational, legal, regulatory or compliance, or historical need to retain it

2. WHAT ARE ADMINISTRATIVE RECORDS?

At the University, an "administrative record" is the formal term used "to describe any record that documents or contains valuable information related to the organization, functions, policies, decisions, procedures, operations, or other business activities of the University."[2]

E-mail constitutes an administrative record when it is sent or received in connection with the transaction of University business: in other words, when it documents a department's significant business, administrative, or operational activities or transactions, including statements of policy or the rationale for decisions or actions. It is useful to think of administrative records as having value in the following ways:

- **Business, Administrative or Operational Value**: Materials that assist the office, department, or unit in performing its primary functions

- **Legal, Regulatory, or Compliance Value**: Materials that demonstrate compliance with legal or regulatory requirements

- **Historical Value**: Materials that explain or document the history of the University or a campus, department, or unit.

3. WHAT ARE "NON-RECORDS"?

An important concept in e-mail management is the recognition that not all e-mail messages are administrative records. Some are non-records, which are "materials that are of immediate value only."[3] They are temporarily useful but have no lasting administrative or operational value. Non-records are materials that are not essential to the fulfillment of legal, business, administrative or other obligations, or to document the decision-making process.

4. BASIC FACTS ABOUT E-MAIL MANAGEMENT

The following concepts are key to understanding how to manage e-mail messages as records.

- Records are not determined by physical form, media, or format, but by their *content*.
- As with paper documents, decisions about storing or deleting e-mail are guided by the *subject matter* of the communication, and require judgment on the holder's part.
- Only the "official" copy of an e-mail record must be retained.
- Retention decisions apply to attachments as well as to the e-mail message.
- Business e-mails should be accessible not only to the individual who sends or receives them, but also to others in the department or business function when necessary.

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[2] University of California Business & Finance Bulletin RMP-2, Records Retention and Disposition: Principles, Processes, and Guidelines, Section II, Definitions.
[3] RMP-2, Section II, Definitions.

- Employees must make informed judgments when managing their e-mail. Fear of making a mistake is not a reason to avoid managing e-mail.
- Although e-mail management is everyone's job, the functional manager sets expectations, establishes processes, and helps make difficult decisions.

5. <u>WHICH MESSAGES SHOULD BE RETAINED?</u>

The retention period of an e-mail depends on what type of record it is, which is determined by the e-mail's content. For example, an unsolicited e-mail from a vendor or an e-mail discussing an early draft of a purchasing contract are *non-records* and are to be deleted as soon as they are no longer immediately useful.

An e-mail conveying the final contract or an e-mail announcing a new policy on student fees are *administrative records*. Such e-mail records are to be retained for prescribed periods of time defined by the University's retention policy or a statute or business need, and then deleted. An e-mail conveying a real property deed or gift bequest or announcing University policy is also an *administrative record, but one that should be permanently retained*.

The following three categories for retention periods – short-term, variable, and permanent – provide a useful framework for making judgments about how long to retain e-mail:

A. Non-Records: Short-Term Retention

Non-records should be retained only on a short-term basis, and deleted as soon as their immediate usefulness has passed. Examples of "non record" e-mail include:

- Junk
- Spam
- Personal communications unrelated to University business
- Extra copies of official record (original maintained elsewhere)
- E-mail that does not provide evidence of department operations
- E-mail containing preliminary drafts of letters, memoranda, reports, work sheets, and informal notes (whether in the body of the message or as attachments) that do not represent significant basic steps in the preparation of the record document
- Internal meeting or administrative notices and reminders
- E-mail that constitutes or contains convenience copies solely for ease of access and reference
- E-mail that constitutes or contains informational copies sent to individuals or departments that are interested in, but not acting upon, the information
- Other messages that convey information of temporary importance

B. Administrative Records: Variable Retention

The retention period for official administrative e-mail records is determined by the content of the e-mail. If the e-mail is the original record, check the [University's Records Disposition Schedules Manual](#), which lists specific retention requirements for many types of records. If there is no specified retention period, check with your manager or the Office of the General Counsel to see whether there is a legal or regulatory retention requirement. If there is none, the record should be

retained as long as there is a business, administrative, or operational reason to do so, and then deleted. *Copies* of the record should be retained only as long as they are useful to the holder. The unit manager should provide guidance about what records should be retained. Examples of administrative e-mail records that may be retained for variable periods of time, depending on their usefulness, follow:

- Internal correspondence requesting or providing information
- Monthly and weekly reports
- Documents advising of various events, issues, and status of on-going projects
- Correspondence to and from various individuals, companies, and organizations requesting information

C. Administrative Records: Permanent Retention

Certain administrative records transmitted by or originating as e-mail must be retained permanently *if they constitute the official copy of the record*. (Non-official copies do not need to be retained.) In general, these are e-mail messages and attachments that have significant, long-term administrative, legal, and/or fiscal value. The unit manager should review decisions about which records should be retained permanently. Examples of e-mail records that may need to be retained permanently include the following:

- Certain executive correspondence pertaining to the formulation, planning, implementation, interpretation, modification, or redefinition of programs, services, or projects
- E-mail that has historical value in that it explains or documents the history of the University or a campus, department, or unit
- Correspondence announcing or interpreting UC bylaws, policies, directives, and regulations

6. <u>WHO IS RESPONSIBLE FOR RETAINING E-MAIL?</u>

While there may be many copies of an administrative record, there is only one official or "record" copy. For example, although committee members may receive reports and meeting minutes via e-mail, it is the chair or other designated employee who maintains the official record copy of those reports and minutes, as well as the final documents that that group creates. It is this record that must be preserved as a University administrative record. The copies circulated to other committee members are "reference" copies and should be destroyed once the project is complete or the member is no longer on the committee.

As another example, the Human Resources Department may issue a new set of guidelines that is distributed to employees via e-mail. The original guidelines are the administrative record and should be retained by Human Resources for a prescribed period; the copies distributed to employees may be discarded when they are no longer needed.

The following instructions determine who is responsible for retaining records in the "send and respond" structure of e-mail correspondence.

- **For E-mail Circulated *Within* the University**: The *sender* is responsible for retaining the official copy for the prescribed period.

- **For E-mail Generated *from Outside* the University**. The *primary University recipient* is responsible for retaining the official copy for the prescribed period.

When there is a series of responses or a threaded e-mail discussion, only the last message with the final response or resolution of the issue is to be retained.

7. <u>WHERE SHOULD E-MAIL RECORDS BE STORED?</u>

The decision about where to store e-mail depends on the type of record to be retained. A decisionmaking chart is available that summarizes information in these guidelines.

- **Non Records – Short-Term Retention**: Non-record e-mail that will be deleted once its immediate usefulness has passed may be stored in the employee's Inbox or Outlook Personal Folders, or other places on the employee's computer hard drive.

- **Administrative Records – Variable Retention**
  o Administrative e-mail that other individuals don't need to access may be stored in Outlook Personal Folders or other places on the employee's computer hard drive.

  o Administrative e-mail that other individuals require access to should be saved to network file shares, or printed and stored in central hard copy files. Information about network file shares is available on the Technology Service Desk Web site.

- **Administrative Records – Permanent Retention**: Permanent records should be accessible to more than one authorized individual, and therefore stored in network file shares or in central hard copy files. UCOP departments also should consider sending a copy of e-mail designated for permanent retention to records@ucop.edu for inclusion in the permanent UCOP Central Records Collection. A description of the types of records suitable for the collection is provided on the Records Management Web site.

8. <u>LEGAL HOLDS AND E-MAIL RETENTION</u>

A legal hold may be placed on e-mail (as well as other records) by University attorneys where: (a) the University reasonably anticipates litigation; (b) a government investigation has begun; (c) an internal audit has begun; or (d) a Public Records Act has been received. In such cases, employees are notified of the hold and instructed what to preserve and how to do so. E-mail subject to legal or investigatory holds must NOT be deleted until the hold has been lifted by University attorneys or investigators. Employees who have any questions about whether their e-mail is subject to a legal hold should consult with University counsel.

9. <u>IMPORTANT REMINDER ABOUT THE PUBLIC RECORDS ACT</u>

Under the University's Electronic Communications Policy, "[e]lectronic communications records pertaining to the administrative business of the University are considered public

records…"[4] Such records, except for certain defined situations, "are subject to disclosure under the California Public Records Act."[5]

10. <u>GOOD E-MAIL HABITS</u>

Following these best practices helps employees gain control of their e-mail and be responsible stewards of University administrative records.

- Manage – meaning file or delete – e-mail on a regular basis so it doesn't get out of hand.
- Check Sent, Deleted, and Junk folders regularly. They should be emptied frequently, and important "sent" messages stored appropriately.
- Use meaningful subject lines and be consistent. This makes it easier for people to organize and retrieve e-mail on a particular matter or subject.
- Be careful what you put in e-mail. Don't send anything you wouldn't want to see on the front page of the newspaper. If you receive this type of e-mail, delete it immediately.
- Send only necessary messages to reduce e-mail volume.
- Keep in mind that privacy of e-mail is not guaranteed. E-mail is subject to Public Records Act requests and may be disclosed. The Electronic Communications Policy also allows for situations in which e-mail may be accessed without the holder's consent.
- Avoid keeping excessive personal e-mail.
- Periodically schedule time to purge e-mail that is no longer needed.

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[4] Electronic Communications Policy, Section III, Allowable Use.
[5] Electronic Communications Policy, Appendix A, Definitions.