

**Town of Concord**

**APP #50**  
**Use of Electronic Mail**

**POLICY/PURPOSE**

The purpose of this policy is twofold. First, it is to address the implications of electronic mail (e-mail) as a public record. Second, it is to ensure the proper use of e-mail as a communications tool in the workplace.

The term “public records” is defined by statute to include all documentary materials or data, regardless of physical form or characteristics, made or received by an officer or employee of any agency or municipality of the Commonwealth, unless falling within a statutory exemption (M.G.L. C.4, S.7). Therefore, the Secretary of the Commonwealth advises that the Public Records Law clearly applies to government records generated or received electronically. All electronic mail sent, and all electronic mail received by way of the Town’s system, or any address when in an official capacity, should be considered a public record subject to inspection and disclosure and scheduled retention and disposition. Notwithstanding the record retention guidelines included in Appendix A of this policy, employees and committee members using e-mail while acting in their official capacity are the keepers of the public record in that respect. They should have no expectation of privacy in their use or storage of electronic mail.

E-mail is a Town of Concord resource and is provided as a business communications tool. As a frequent method of communication in the workplace, it is important to provide a clear e-mail use policy to ensure that e-mail shall not be used in any manner that is discriminatory, that contributes to a hostile work environment, that interferes with the Town’s business, or that violates any other Town policies in any manner,

**RESPONSIBILITIES**

As with all Town Administrative Policies and Procedures, it is the responsibility of all department heads to monitor and reinforce employee compliance with the Town policy and related department procedures that may be put in place toward that end.

It is the responsibility of Information Services to support and maintain the Town’s e-mail system; and provide routine backup and off-site storage of e-mail files for data recovery purposes.

It is the responsibility of all employees and committee members to comply with Town policy and departmental procedures. Computers, e-mail and the Internet must be used in a manner consistent

with other Town policies, such as those prohibiting discrimination and harassment, and those identifying minimum standards of conduct.

### **COMMITTEE USE OF ELECTRONIC MAIL**

In order to assist members of governmental bodies to comply with the Open Meeting Law in their use of this technology, the Middlesex District Attorney's Office has established guidelines for committees' use of electronic mail. The guidelines reaffirm that no substantive discussion by a quorum of members of a governmental body about public business within the jurisdiction of the governmental body is permissible except at a meeting held in compliance with the requirements of the Open Meeting Law. Like private conversations held in person or over the telephone, e-mail conversations among a quorum of members of a governmental body that relate to public business violate the Open Meeting Law, as the public is deprived of the opportunity to attend and monitor the e-mail "meeting."

Despite the convenience and speed of communication by e-mail, its use by members of a governmental body carries a high risk of violating the Open Meeting Law. Not only do private e-mail communications deprive the public of the chance contemporaneously to monitor the discussion, but by excluding non-participating members, such communications are also inconsistent with the collegial character of governmental bodies. For these reasons, the Middlesex District Attorney cautions that e-mail messages among members of governmental bodies are best avoided except for matters of a purely housekeeping or administrative nature.

### **PRIVACY/PUBLIC ACCESS**

Town computers, software, hardware, Internet access and e-mail, including all pass codes and attachments composed, sent or received, are Town property and can be confiscated at any time (with or without notice).

Information on the Town's system, including e-mail messages, content, attachments and websites visited are not private; incoming and outgoing messages and attachments are subject to being, and will be, accessed, reviewed, disclosed or monitored in the exclusive discretion of the Town at any time (with or without notice) and regardless of passwords.

Use of the system is limited to current employees and others who have been approved to use it by the Town. No employee shall read or access another employee's e-mail without a legitimate business purpose.

No employee shall send e-mail under another employee's name without authorization.

No employee shall change any portion of a previously sent e-mail message without authorization.

## **APPROPRIATE USE**

E-mail shall be used for business matters directly related to the operational activities of the Town of Concord and as a means to further the Town's objective of providing services that are efficient, complete, accurate, and timely.

E-mail shall not be used for personal gain or to conduct personal business; limited personal communication is permitted as long as it does not interfere with work or business use in any way. The nature and frequency of such personal use is subject to the review and discretion of the department head.

E-mail shall not be used to promote discrimination on the basis of race, color, national origin, age as defined by law, marital status, sex, political affiliation, religion, disability, genetic information or sexual orientation as defined by law; to promote, result in, or contribute to sexual harassment; or to promote personal, political or religious business or beliefs.

E-mail shall not be used in any other way that is inconsistent with Town policies and procedures. Employees who discover a violation of this policy by another employee are obligated to report it to their supervisor or to the Assistant Town Manager.

An employee violation of this policy by may result in disciplinary action up to and including termination.

Distribution: All Town Employees  
Board and Committee Members

**APPENDIX A**  
**E MAIL FILING AND RETENTION**

In addition to ensuring the appropriate use e-mail sent and received via Town technology, this policy is intended to provide for efficient retention of e-mail communications. E-mail communications are considered public records and retention and disposition of public records are authorized by retention schedules issued by the Secretary of the Commonwealth. Transmission data contained in an e-mail communication (including the sender, addressee, date and time of transmission, and receipt) should be retained as part of the record, whether the record is printed out or stored electronically.

Departments may retain e-mail in hard copy, electronically, or by a combination of these two means. E-mail should not be retained electronically for longer than two years; after that time, the record should be printed and retained in paper form. Departments are responsible for developing filing systems that include e-mail and are responsible for instructing employees on appropriate use of these systems.

When appropriate, e-mail messages may be filed with program records and assume the same retention as the records they are filed with. When e-mail records do not relate obviously or directly to a program, they may be filed as correspondence. If a particular record is not described on an existing records retention schedule, the appropriate department head may apply to the Supervisor of Public records for authority to dispose of that record, and to add records to existing schedules. Only when e-mail messages are clearly conversational and do not add in any way to the operational records of the department, may they be discarded without adhering to retention schedules. Examples of this form of e-mail include: "Sorry I missed you via telephone. Please call me when you have a minute."; "I will be out of the office at a conference this Thursday, so please mark your calendar."; or "This is a reminder of this Friday's staff meeting. Please send along any agenda items you may have."

Some e-mail systems enable users to enclose or attach records to messages. These enclosed or attached records need to be filed according to their function and content, and they will assume the retention schedule of the records they are filed with.