

- Coates' Canons: NC Local Government Law Blog - <http://sogweb.sog.unc.edu/blogs/localgovt> -

## Email as Public Record: Five Things You Should Know

Posted By [Frayda Bluestein](#) On January 27, 2010 @ 12:21 PM In [General Local Government, Open Government](#) | [2 Comments](#)

You probably already know that the [definition of public records](#) <sup>[1]</sup> in our state law is extremely broad, and certainly includes electronic records like email. This means that email is subject to both the public access and records retention aspects of that law. Here's a list of five other things you should know about email as a public record.

**1. There is no separate rule for retention of email records.** As with paper records, the rules on what has to be retained, and for how long, are based on the content of the record. The Department of Cultural Resources, which has authority to promulgate rules for retention of public records, describes it this way in a helpful, [question and answer section in their records retention schedules](#) <sup>[2]</sup>: "Electronic mail is just as much a record as any traditional paper record, and must be treated in the same ways. It is the content of each message that is important. If a particular message would have been filed as a paper memo, it should still be filed (either in your email program or in your regular directory structure), and it should be retained the same length of time as its paper counterparts. It is inappropriate to destroy email simply because storage limits have been reached."

**2. The location of an email does not determine whether or not it is a public record.** If an email is made or received in connection with the transaction of public business, it is a public record regardless of whether it is created or stored on a public or a private computer or email system. So an email that relates to public business is a public record even if it is sent from a home computer, or made on a personal email account from any computer. This is true whether the email is sent or received by any public employee, or any elected or appointed public official.

**3. Personal email is not subject to the public records law, even if it is made or received on a public computer or email system.** Most public agencies allow some reasonable use of public computers and email systems for purely personal communication, but since these emails do not involve the transaction of public business, they are not subject to the public records law. Examples of such email include the proverbial request to pick up a loaf of bread, and the forwarded jokes and cartoons. This would also include, for example, an email sent to inquire about alternative job possibilities (which might become necessary for those who do too much of this sort of emailing). Even though personal emails are not subject to the public records law, if you use a public computer or email system for personal use, it's possible that your employer will have or may demand access to them.

**4. Lots of email does not have to be retained at all.** The records retention rules provide that records of "short term value," whether in the form of email, text-message, paper, or any other form, do not need to be retained. Examples of records of short term value as provided in the [state guidelines](#) <sup>[3]</sup> for these records are:

- Facsimile cover sheets containing only transmittal ("to" and "from") information, or information that does not add significance to the transmitted material.
- Routing slips or other records that transmit attachments.
- Reservations and confirmations.
- Personal messages (including electronic mail) not related to official business.
- Preliminary or rough drafts containing no significant information that is not also contained in the final drafts of the records.
- Documents downloaded from the World Wide Web or by file transfer protocol not used in the

transaction of business.

- Records that do not contain information necessary to conduct official business, meet statutory obligations, carry out administrative functions, or meet organizational objectives.

The records described above may be destroyed or otherwise disposed of when their reference value ends.

**5. You are the custodian of the records you make and receive using your government-issued or personal computers.** Some jurisdictions have locally adopted policies, which may include centralized systems and requirements for managing and storing email. The day-to-day management of emails, however, rests with individuals as they receive, save, and delete messages.

The state [Division of Archives and History, Government Branch](#) <sup>[4]</sup> provides several helpful resources to help you manage emails consistent with state legal requirements.

- E-mail as a Public Record in North Carolina: A Policy for Its Retention and Disposition [http://www.records.ncdcr.gov/erecords/Email\\_Policy.pdf](http://www.records.ncdcr.gov/erecords/Email_Policy.pdf) <sup>[5]</sup>
- Guidelines for E-mail as a Public Record in North Carolina: Tips and Tricks for Using Microsoft Exchange Software to Manage E-mail [http://www.records.ncdcr.gov/erecords/Email\\_Guidelines.pdf](http://www.records.ncdcr.gov/erecords/Email_Guidelines.pdf) <sup>[6]</sup>

The Division's [Government Records Branch website](#) <sup>[4]</sup> also houses several on-line tutorials about managing emails along with links to specific retention schedules and other resources.

---

Article printed from Coates' Canons: NC Local Government Law Blog:

**<http://sogweb.sog.unc.edu/blogs/localgovt>**

URL to article: **<http://sogweb.sog.unc.edu/blogs/localgovt/?p=1712>**

URLs in this post:

[1] definition of public records:

**[http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter\\_132/GS\\_132-1.html](http://www.ncleg.net/EnactedLegislation/Statutes/HTML/BySection/Chapter_132/GS_132-1.html)**

[2] **question and answer section in their records retention schedules:**

**[http://www.records.ncdcr.gov/local/municipal\\_2009.pdf](http://www.records.ncdcr.gov/local/municipal_2009.pdf)**

[3] **state guidelines:** <http://www.records.ncdcr.gov/guidelines.htm>

[4] Division of Archives and History, Government Branch:

**<http://www.records.ncdcr.gov/default.htm>**

[5] [http://www.records.ncdcr.gov/erecords/Email\\_Policy.pdf](http://www.records.ncdcr.gov/erecords/Email_Policy.pdf):

**[http://www.records.ncdcr.gov/erecords/Email\\_Policy.pdf](http://www.records.ncdcr.gov/erecords/Email_Policy.pdf)**

[6] [http://www.records.ncdcr.gov/erecords/Email\\_Guidelines.pdf](http://www.records.ncdcr.gov/erecords/Email_Guidelines.pdf):

**[http://www.records.ncdcr.gov/erecords/Email\\_Guidelines.pdf](http://www.records.ncdcr.gov/erecords/Email_Guidelines.pdf)**

Copyright © 2011 School of Government at the University of North Carolina. All rights reserved.