

MIAMI-DADE COUNTY PUBLIC SCHOOLS E-MAIL POLICY

Scope:

This Policy applies to:

- All electronic mail systems and services provided or owned by MDCPS; and
- All users, holders, and uses of MDCPS e-mail services; and
- All MDCPS records in the possession of MDCPS employees or other email users of electronic mail services provided by MDCPS.

E-Mail Policy:

- The definition of a public record does not depend on the format of the record, but rather the legal, fiscal, administrative or historical value of the information contained in the record. For this reason e-mails that contain official business must follow the same retention schedules as any other records containing official business in the state of Florida. They must also follow the same rules regarding public availability and examination.
- Retention of public records within Florida government agencies fall into three broad categories:
 - retain until obsolete, superseded, or administrative value is lost (OSA). Examples include:
 - transitory records,
 - informal communications,
 - routine announcements,
 - recipient's inter-departmental memoranda, and
 - general information files used in daily functions in administrative areas.
 - retain for three fiscal years. Examples include:
 - general correspondence,
 - sender's inter-departmental memoranda, and
 - most fiscal and budget records.
 - permanent. Examples include:
 - portions of student records, as defined by Florida statute, and
 - personnel records.
- Transitory records, as defined by the General Counsel of the Florida Department of State, are communications having short-lived administrative value along the same lines as telephone messages, conversations, notification of meetings, etc. Many e-mails fall into this category and may be deleted without first obtaining written permission.
- E-mails which communicate, perpetuate or formalize knowledge are more than transitory and therefore are considered public record. Retention of records determined to be more than transitory must be kept according to Chapter 119, Florida Statutes with retention schedules as described above.

- Users are responsible for storing e-mails that must be retained. System administrators do backup the e-mail system, but only on a very short-term basis and this backup is not designed for retrieval of specific e-mails or public access. This backup storage is not to exceed 30 days.
- E-mails may be retained either electronically or as hard copy. No matter what method of retention is used, however, e-mails must be available for public access upon request, as provided for by state law.
- E-mails containing documents or information that would normally be sent to the MDCPS Forms and Records Management Department for storage if in the form of hard copy must be printed off into hard copy format and sent for storage in the same manner. If and when electronic storage meeting all public record retention statutes is available at this department, the records may be sent in this format.
- Limited, incidental personal use of MDCPS computing and networking systems such as sending short e-mails to friends or relatives is permissible if within reason. Personal use of the MDCPS e-mail system is a privilege, not a right and is provided as a courtesy. If this privilege is abused, it becomes a management issue and may result in the suspension or revocation of the user's e-mail functions or other disciplinary action.

Personal use of e-mail should not:

- deny or restrict other users' access to system resources
 - tie-up system resources in any but the most unobtrusive way
 - interfere with job performance
 - advertise a product or service for profit
 - fund-raise or advertise on behalf of unsanctioned, non-MDCPS organizations
 - publicize unsanctioned, non-MDCPS activities.
- Users of the e-mail system should be aware that no privacy can be expected and that e-mails can be reviewed at any time and are considered legally discoverable.
 - Since privacy of e-mails is not guaranteed, users should be aware that sensitive and confidential information contained in or attached to an e-mail may be viewed by persons other than the intended recipient. Sensitive and confidential data includes, but is not restricted to, Human Resource Personnel and Student Information data as described in the Buckley Amendment. This data is considered exempt from public record disclosure under state and federal law. Encryption of such data may be necessary to prevent improper disclosure. E-mail requested by the public for access must first have any exempt data deleted or otherwise blocked out in such a way as to make it unidentifiable.
 - Typically e-mail users transmit more formal "perpetuation or formalization of knowledge" or other significant information by attaching a document to the e-mail. E-mails with these attachments are therefore less likely to be considered transitory.

- MDCPS reserves the right to modify or delete e-mails or attachments that may contain computer viruses, worms, denial of service routines or any other code that would be dangerous and destructive to any portion of the network. All e-mails in which changes have been made will include a notification to the user with an explanation.
- Infringement of copyrights is prohibited anywhere in MDCPS, including e-mail content or attachments.
- Users should maintain the highest standards of courtesy, consideration and appropriateness in all e-mail transmissions.
- Obscene, racist, sexist, harassing, or threatening language or images in e-mails are prohibited.
- Users assume full responsibility for their activities and cannot expect MDCPS to provide protection from offensive e-mail materials, except where technically feasible and cost-effective.
- The use of “spoofing” (the act of disguising the sender of the e-mail by replacing the name in the “From” field), sending e-mails while signed on as a different user without permission or otherwise deliberately misleading the recipient of the e-mail by falsifying the name of the sender is prohibited.
- MDCPS makes every effort to provide reliable e-mail service. MDCPS cannot be held liable for any loss related to interruption of service.

Violations of This Policy:

Violations of this policy may result in disciplinary action, including but not limited to suspension, expulsion, termination of employment and/or contracts and civil/criminal prosecution.

E-MAIL AS PUBLIC RECORD IN FLORIDA

Background:

In 1995 the Florida Supreme Court began the process of defining the role of the new electronic medium of electronic mail (e-mail) communication within government institutions in the state of Florida. In particular, the court was concerned about e-mail as public record. Intuitively people understand that not all e-mail should be introduced as public record but it is difficult to verbalize the concept and define the boundaries of what must be retained. The court began by analyzing the use of e-mails in its own office, stating that all *"official business communicated by e-mail transmissions is a matter of public record."* The court also acknowledged, however, that *"e-mail messages may include transmissions that are not official business and which, consequently, are not public records."*

Other court decisions and opinions by such entities as the General Counsel of the Florida Department of State (DOS) produced suggested guidelines. The DOS General Counsel felt that *"Consistent with recent policy decisions that favor agency discretion over rule-making"* non-rule advisory guidelines were to be offered.

A new category of communication, that of "transitory", has been defined. The DOS created the following definition of transitory messages:

"This record series consists of those records that are created primarily for the communication of information, as opposed to the perpetuation or formalization of knowledge. The informal nature of transitory messages might be compared to a communication taking place during a telephone conversation, or verbal communications in an office hallway. Transitory messages are messages with short-lived administrative value and may include, but would not be limited to, many e-mail messages, telephone voice mail, many messages on "post-it" notes, and most written telephone messages."

Transitory messages will have a retention schedule of:

"Retain until obsolute, superseded, or addministrative value is lost (OSA)."

This retention allows for destruction of these records without having to obtain official permission. According to a DOS interpretation of another Florida Supreme Court ruling, keeping records defined as OSA *"would lead to the unnecessary retention of useless information, inhibit the use and manageability of e-mail, and limit the public's ability to access useful public records."*