



# Developing Government Email Preservation Policies

Email has taken on a prominent role in government but adequate governance of email records and practices has lagged behind the adoption of email as a key technology.

There are key topics that must be addressed when creating public policy around email management: classification, retention, and disposition, as well as the roles and responsibilities related to each. Each state and territorial government must ensure that its policy fits within its jurisdiction's laws, regulations, and other policies that govern public information and records. This template is intended for high-level policy development rather than specific legal requirements or procedural implementations.

Transparent public policy is and should continue to be a hallmark of public archival administration, therefore this document is designed to be easily understandable by those involved in policy or procedural development at various levels of authority.



## General Statement of Email Policy

The first section of the policy should outline the foundational elements that establish email policy throughout the state or territory. Statements that address the following should be included:

- Email (electronic messages) are public records (even if they are not permanent records).
- If email contains essential evidence, it must be retained and treated like other forms of electronic records.
- The custodian of public email records is the State or the Agency, not the employee. Individuals should have limited and specific authority to make classification, retention, and disposition decisions on email.

### Example: State of California<sup>1</sup>

Electronic mail, more commonly known as email, is routinely used by state agencies. Email is often used as the mode of communication for brief messages that were once relayed by telephone and to disseminate substantive information previously committed to paper sent by more traditional methods. This combination of communication and record creation/keeping has caused ambiguity in the record status of e-mail messages.

The California Public Records Act (CPRA, Government Code Sections 6250-6276.48) defines a public record as:

*"...Any writing containing information relating to the conduct of the public's business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics." The CPRA thus applies to email messages and requires that proper identification and care of email be performed by the agency. An agency's records management policy must address email messages to ensure record emails are properly identified and managed.*



## Statement of Scope

A statement that defines the scope of the policy is valuable because it establishes both the coverage of the requirements and the user groups (organizations or staff, most likely) who must follow the requirements outlined in the policy. Include at the beginning of the document:

- What records or information are covered by this policy.
- Which agencies and/or which employees are covered by this policy.

Consider creating different policies or guidance documents aimed at specific audiences, and ensure that the audience is clearly defined to avoid confusion when it comes to accountability and responsibilities around the retention and preservation of email.

It can also be valuable to outline which topics are out of scope of this document, for added clarity. For example, the State of Illinois is explicit in defining both what information is covered by this policy, as well as the applicable agencies to which these requirements apply.

### Example: State of Illinois<sup>2</sup> Statement of Scope

*All electronically stored information (ESI) created or received by the content management system (CMS), or Applicable Agency, as well as all ESI under the control of CMS is subject to this policy. The terms of this policy do not supersede any state or federal laws, or any other Agency policies regarding information retention, confidentiality, dissemination, or conduct of employees. Agencies that utilize CMS services to manage their email and other ESI may request CMS to integrate requirements of Agency-specific policies into CMS management of ESI for that specific Agency.*



## Operational Requirements

It is unlikely that a statewide policy will be able to effectively address the intricacies of managing email, but a comprehensive email policy should include the following:

- General requirements for the management of email (in the context of electronic recordkeeping).
- Roles and responsibilities related to email administration, retention, and disposition.
  - For higher level policies, include agency and role-based responsibilities; for operational policies and procedures, more specific responsibility assignment to specific positions can be valuable.
- Prescribed methods to determine if an email should be retained (broadly).
  - Content and context determine retention, not form.
- What elements of email (attachments, metadata, etc.) should be retained, in what form or format, and designated storage locations for short- and long-term retention of inactive email records.
- Technical requirements for preserving email.
- Who to contact with questions.

Agency- or department-specific policies may outline operational requirements in great detail, including the direct assignment of roles and responsibilities to specific positions. It is likely at this level that operational details will comprise the bulk of the guidance related to email governance. It is recommended to be as specific as possible to avoid confusion or gaps that could lead to inadvertent destruction or alteration of essential records.

### Example: State of Massachusetts<sup>3</sup>

Massachusetts outlines specific requirements for what aspects of electronic communications (including email) be retained:

*The Statewide Records Retention Schedule requires that public entities retain specific information for each electronic mail message including: (a) The names of the sender and addressee(s), including addressees who are cc'd to an electronic mail message; (b) The date the message was sent; (c) Message metadata; (d) Any attachment to the electronic mail message must be preserved in order for the context of the message to be understood; and (e) Any other transmission data that is necessary for the purpose of providing the context of the record.*



## Statement of Authority

This section should contain citations (with links, if possible) to relevant legal authorities. A policy governing the classification, retention, and disposition of electronic messages should be rooted in legal requirements.

- Cite statutes that establish or define public recordkeeping requirements or classifications.
- Cite regulations that define the scope of public recordkeeping processes.
- Cite schedules and other instruments that govern classification, retention, and disposition.

We recommend including these authorities at the end of the document—citations are valuable resources but don't need to take precedence over guidance and examples. Inline citations of specific statutes are valuable as well, especially if language is used to define terms or outline requirements.

### Example: State of Montana<sup>4</sup>

Montana uses the latter method to include citations to relevant authorities in its E-Mail Guidelines:

*Email is public information, created or received on an electronic mail system, as an email message, consisting of: informal notes; formal correspondence; procedural or policy substantive narratives; and any electronic record attachment(s), transmitted with the message, received (incoming) or created (sent), in the course of state business, and subject to public records rules as they are defined section §2-6-1002, MCA. Email that is a public record is subject to the rules of §2-6-1006, §2-6-1007, §2-6-1012 MCA governing records and information management. Email retention should be based on an email's content, not its format or size. Therefore, clear authorization and a practical management system are essential to ensure the proper retention, disposal and archiving of email records. §2-6-1109 MCA provides that "no public record may be disposed of or destroyed without the unanimous approval of the State Records Committee."*




## Governance

Email governance can both last for long periods of time, or could change at a moment's notice given changes in state or federal statute, regulation, or other administrative policies. It is recommended to include with any policy a section that deals with the administration of the policy itself:

- Publication and revision history of the email policy.
- Next review date (if reviewed on a regular schedule).
- Approval/Issuance authority.

### Example: State of Connecticut

The State of Connecticut adds the following block to their email policy to communicate this concisely:

 <b>State of Connecticut Office of Policy and Management</b>			
<b>Policy Title:</b>	<b>Electronic Mail Records Management Policy</b>		
<b>Policy ID:</b>	IT-REC-15-01		
<b>Version:</b>	1.00		
<b>Date Effective:</b>	6/15/2015	<b>Next Review:</b>	6/15/2017
<b>Scope:</b>	Executive Branch Agencies	<b>Authority:</b>	Sec. 4d-8a, C.G.S.
<b>Summary:</b>	The purpose of this policy is to establish the standards for the management of email and attachments, consistent with existing records retention requirements.		



## Conclusion

Ultimately, there is no universal email governance that can be offered; the differences in state and local laws, infrastructure, and resources make it difficult to pinpoint the challenges in managing email. Email governance is often poorly-defined and enforced, and is extremely difficult to establish retroactively. However, the development and implementation of policy, no matter how narrowly-focused, does present the opportunity to regain control over the management of email. Every small piece of governance increases the consistency, reliability, and value of email records.

## Endnotes

- 1 <https://www.sos.ca.gov/14816/records-management-and-appraisal/electronic-records/electronic-records-guidebook/electronic-mail-management>
- 2 [https://www2.illinois.gov/sites/doit/support/policies/Documents/ESI\\_Retention\\_Policy.pdf](https://www2.illinois.gov/sites/doit/support/policies/Documents/ESI_Retention_Policy.pdf)
- 3 [https://www.sec.state.ma.us/arc/arcpdf/Electronic\\_Records\\_Guidelines.pdf](https://www.sec.state.ma.us/arc/arcpdf/Electronic_Records_Guidelines.pdf)
- 4 <https://sosmt.gov/wp-content/uploads/Master-EmailGuidelines-Sep16.pdf>

PREPARE (Preparing Archives for Records in Email) is a program of capacity-building services for email management and preservation CoSA is providing to state and territorial archives through the University of Illinois' Email Archives: Building Capacity and Community program, funded by the Andrew W. Mellon Foundation.

This publication is part of the PREPARE program.

February 2022

### About CoSA

The Council of State Archivists (CoSA) is a nonprofit membership organization of the state and territorial government archives in the fifty states, five territories, and District of Columbia. Through collaborative research, education, and advocacy, CoSA provides leadership that strengthens and supports state and territorial archives in their work to preserve and provide access to government records. CoSA facilitates networking, information sharing, and project collaboration among its member organizations to help state and territorial government archives with their responsibilities for protecting the rights and historical documents of the American people.



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