



TOWN OF BOXBOROUGH

Policy on the Access and Use of Telecommunications Systems

1. PURPOSE

The purpose of this policy is to set in place the standards for the proper and allowed uses of the Town's telecommunications systems including telephones, electronic mail (e-mail), facsimile machines (faxes), and the Internet.

2. POLICY

The Town of Boxborough provides staff with the ability to send messages and information through fax, electronic mail (e-mail) and the Internet. The latter two forms of communication have become increasingly popular due to their ability to instantaneously reach a wide number of people and are provided by the Town as tools to improve the efficiency and effectiveness of municipal operations.

The use of these capabilities and equipment is subject to the same management oversight as any other employee activity. The telecommunication systems are the property of the Town and should be used for appropriate business purposes.

3. APPLICABILITY

All Town employees, with the exception of those employed by the School, are subject to the provisions of this policy. Members of Town Boards and Committees are strongly advised to comply with Public Records Law and the guidelines established by the Middlesex District Attorney's Office with respect to the Open Meeting Law as highlighted below.

4. PRIVACY/PUBLIC ACCESS

- 4.1 Massachusetts statute broadly defines the term "public record" to include all documentary materials or data, regardless of its physical form or characteristics, created or received by any official or employee of any governmental unit, unless falling within a strictly defined set of exemptions [M.G.L. c. 4, § 7(26)]. E-mail is therefore considered a public record and as such is subject to the requirements of the Public Records Law (M.G.L. c. 66). The Secretary of the Commonwealth's SPR Bulletin No. 1-99 is attached for your reference. Additionally, Federal courts have also held that electronic mail is considered a record for purposes of the Federal Freedom of Information Act.
- 4.2 All e-mail sent and received as principal addressee at a Town-issued address, or any address when in an official capacity, as well as faxes and Internet postings should be considered a public record subject to legal discovery and record retention policies.

- 4.3 Employees and committee members acting in their official capacity should have no expectation of privacy in their use of these telecommunications systems. The Town Administrator, or the designee of the TA, reserves the right to monitor e-mail messages, Internet postings and faxes and to access all such messages residing on Town of Boxborough equipment or property. All messages sent or received by e-mail or the Internet are stored automatically on the Town's computer system and deleting such messages does not guarantee that they cannot be retrieved.
- 4.4 Notwithstanding the Town's right to retrieve and read any e-mail messages, faxes or Internet postings generated from or sent to a Town-issued address, employees shall not retrieve or read any messages that are not sent to them unless express permission is given by the intended recipient.
- 4.5 No employee shall send e-mail under another employee's name nor shall any employee change any portion of a previously sent e-mail message without prior authorization.

5. APPROPRIATE USE

- 5.1 E-mail, and related on-line services, are the property of the Town and are to be used for business matters directly related to the operational activities of the Town and as a means to further the Town's objective to provide efficient, complete, accurate, and timely services.
- 5.2 Users shall act in a professional manner, properly identifying themselves, and shall ensure that they do not misrepresent themselves or the Town.
- 5.3 The telecommunications systems shall not be used for personal gain or to conduct personal business, political activity, fundraising activity, or charitable activity unless sponsored by the Town, with the approval of the Board of Selectmen. The transmission of materials used for commercial promotion, product endorsement or political lobbying is strictly prohibited.
- 5.4 The telecommunications systems shall not be used to promote discrimination on the basis of race, color, national origin, age, marital status, sex, political affiliation, religion, disability or sexual preference; to promote, result in, or contribute to sexual harassment; or to promote personal, political or religious business or beliefs.
- 5.5 The telecommunications systems shall not be used for any illegal activity, including but not limited to, the transmission of copyrighted or trade secret material, the transmission of obscene, defamatory, or threatening material, or the propagation of any type of criminal activity.
- 5.6 No user shall violate the computer security systems implemented by the Town or other institutions, organizations, companies or individuals.
- 5.7 No user shall pirate software or download and transfer software for which the use does not have the proper licensing.
- 5.8 All users are expected to undertake precautions to prevent infection of Town computers by computer viruses. Executable programs imported from other sites to Town computers may not be used unless they have been authorized by the Town Administrator, or the designee of the TA, and have been subjected to virus detection procedures approved by the TA, or the designee

of the TA. Additional restrictions or regulations on the importing of remote files may from time to time be imposed and such restrictions or regulations shall be considered part of this policy.

- 5.9 Users shall not engage in activities that could cause congestion and disruption of networks and systems, including but not limited to consuming excessive system resources, e.g. Napster, mailbombing and flooding.
- 5.10 For security purposes, employees should either log off or revert back to a password screen saver when leaving their computer for an extended period of time. When leaving for the day, employees should log off. All electronic media should be kept away from magnets including those found in telephone receivers and paper clip holders.

6. OPEN MEETING LAW COMPLIANCE

- 6.1 The Middlesex County District Attorney's Office has established guidelines for the use of e-mail by members of governmental bodies. These guidelines emphasize compliance with the Open Meeting Law (M.G.L. c. 39, § § 23A - 23B) by reaffirming 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 provisions of the Open Meeting Law. 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. As with 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." Because the very nature of e-mail makes it possible for private, serial conversations to reach a quorum of members without the knowledge of all participants, members of governmental bodies should exercise caution when communicating via e-mail on an individual basis.
- 6.2 Matters of a purely housekeeping or administrative nature, such as scheduling or canceling meetings, announcements, requests to place items on the agenda, or communications by members of a governmental body to department heads or staff may be communicated outside of a meeting, but care should be taken not to use e-mail for the purposes of deliberations.

7. FILING AND RETENTION

- 7.1 As public records, the retention and disposition of e-mail communications are stipulated by retention schedules issued by the Secretary of the Commonwealth. In addition to retaining the actual text of a message and any attachments, transmission data contained in an e-mail communication (full header information including the sender, addressee, date and time of transmission and receipt, and routing instruction) shall also be retained as part of the record, whether the record is printed out or stored electronically.
- 7.2 E-mail may be retained in hard copy, electronically, or by a combination of these two means; however, after two years, the record should be printed with full header information and attachments and retained in paper form. When appropriate, e-mail messages may be filed with program records and will assume the same retention as the records with which they are filed. Attached or enclosed records must be filed according to their function and content, and shall

assume the retention schedule of the records with which they are filed. 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, through the Town Administrator, shall 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.

8. AGREEMENT

All employees shall agree to abide by the Policy on Access and Use of Telecommunications Systems, and shall sign a statement so stating prior to the granting of access. A signed copy shall be maintained in the employee's personnel file. Any employee who violates this policy or uses the Town's telecommunications systems for improper purposes shall be subject to discipline, up to and including discharge.



TOWN OF BOXBOROUGH

**Access and Use of Telecommunications Systems Policy
Employee Confirmation of Receipt**

The use of the Town's telecommunication system constitutes employee consent to monitoring of systems and is conditioned upon strict adherence to this policy. Any employee who violates this policy or uses the Town's telecommunications system for improper purposes shall be subject to discipline, up to and including discharge.

I certify that I have been given a copy of this policy and provided the opportunity to ask questions about its content. In addition, I certify that I have fully read the policy and agree to abide by its provisions.

Employee Name

Employee Signature/Date

Copy of this page to Personnel file on _____
Date

SPR Bulletin

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NO. 1-99 February 16, 1999

TO: Public Records Custodians

SUBJECT: Electronic mail

EXPIRATION DATE: Until superseded

PURPOSE: This bulletin supersedes SPR Bulletin No. 5-92 and provides information and requirements for the management and disposition of electronic mail sent and received by public officials.

BACKGROUND:

Electronic mail, or e-mail, is documents created, transmitted and received by computer systems, or a system for the transmission and receipt of such documents. Like the telephone, e-mail allows instant communication; like traditional mail, it creates a durable written record of messages delivered and received. E-mail use has grown rapidly and it has emerged as a major means for both communication and business activities in all segments of society.

Messages sent by e-mail may be simple announcements or chat, or formal or substantive documents supporting or executing business activities and policy decisions. The growth of both the popularity of e-mail and the importance of the messages it carries make it imperative that government offices take steps to effectively manage and control this medium.

FINDINGS:

1. For the purpose of this bulletin, e-mail is defined as messages created and received on an electronic mail system. An electronic mail system is a service that provides facilities for creating messages, transmitting them through a network, and displaying them on a recipient's computer terminal. The e-mail messages may be text or word processing documents, spreadsheets or other data compilations transmitted through such a system.
2. E-mail created or received by an employee of a government unit is a public record. In Massachusetts, the term "public record" is broadly defined to include all documentary materials or data created or received by any officer or employee of any governmental unit, regardless of physical form or characteristics. G. L. c. 4, § 7(26). E-mail is therefore a public record and subject to the requirements of the Public Records Law. G. L. c. 66.
3. E-mail messages are subject to public access through the Public Records Law. G. L. c. 66, § 10. A determination as to whether an e-mail message is exempt from disclosure depends upon the content of the message. G. L. c. 4, § 7(26)(a-m).
4. E-mail messages may be sought through the discovery process in litigation and may be admissible in evidence. Like all electronically created and stored records, e-mail is subject to the rules of evidence and a judge will rule on its admissibility.
5. Simply deleting a message does not remove it from the system. The "delete" key merely removes pointers to the electronic file, and the file itself may persist on the system indefinitely unless it is deliberately expunged by the systems administrator. Questions regarding that process should be addressed to your systems administrator. Copies of messages may also be retained independently on system backups. Regardless of the intent to delete the message, as long as it exists, it continues to be subject to discovery.
6. Although e-mail is analogous to paper correspondence, the courts have found that there are, indeed, differences between the two. The contextual data (the "envelope" that contains the mailing address, date/time stamp, routing instructions and transmission and receipt information) that accompanies e-mail messages constitutes an integral part of the record and thus must be retained as a part of any printed or stored version of the record. *Armstrong v. Executive Office of the President*, 810 F.Supp. 335 (D.D.C. 1993).
7. E-mail systems are a corporate resource. E-mail systems in use in government offices are government property installed and maintained for the conduct of government business. The office may and should exercise control over the use of the resource by employees, and has the right to monitor and read employee e-mail.

ACTIONS:

1. E-mail must be managed as a part of the office's records holdings. E-mail messages must be subject to the same records management principles as all other records of the office. Records retention schedules issued by the Supervisor of Public Records (for local governments) and by the Records Conservation Board (for state government offices) must be implemented for e-mail as well as for analogous paper records. E-mail messages must be preserved or disposed of as called for by the schedules.
2. Management of records must be based upon the content and function of the records. The value and treatment of each e-mail message must be determined individually and records retention schedules applied accordingly. E-mail systems are not record-keeping systems. E-mail records having informational or operational value or a retention period of greater than three months should be saved to the office's electronic record-keeping system or printed out and saved in the paper-based record-keeping system in accordance with the office's regular business procedures.
3. Offices must ensure that systems administrators implement procedures that lead to the complete expungement of deleted e-mail files and for the retention and disposition of system back-ups in a manner that is consistent with established records retention schedules.
4. Offices should implement policies that control distribution of multiple copies of e-mail to ensure the security and integrity of the record and that, when the retention period of the e-mail record expires, all copies of the record are destroyed.
5. All e-mail systems in use in government offices must be capable of displaying and preserving the contextual data (metadata) associated with the e-mail message to ensure the capture and preservation of a complete record.
6. E-mail is a public record and offices must make e-mail records available for public inspection.
7. It is ultimately the end-user who will be managing the e-mail on his/her own terminal. Offices must ensure that personnel handling e-mail are properly trained so that they can manage their e-mail within consistent guidelines.
8. Government offices should implement policies governing the use of e-mail as a government resource for the conduct of official business. These policies should address the appropriate use of e-mail, access and privacy protection, information security, management and retention of records, and the roles and responsibilities of users, managers and technical support staff.

QUESTIONS:

Questions regarding access to electronic mail should be directed to the:

Public Records Division
1 Ashburton Place, Room 1719
Boston, MA 02108
Phone 617-727-2832
Fax 617-727-5914
Web www.state.ma.us/sec/pre

Questions regarding this bulletin should be directed to the:

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Massachusetts State Archives at Columbia Point
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Web www.state.ma.us/sec/arc/arcrmu