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Policy on Instant Electronic Messaging Records

Purpose

This policy asserts the status of instant electronic messages as official records under the New York City Charter. It differentiates between substantive and transitory messages and provides guidance on how City agencies and employees should manage these records.

Scope

This policy applies to all New York City Employees who use text messaging or other instant electronic messages in the course of conducting official business. This includes messages transmitted or received on personal devices if they pertain to official city business. This policy does not apply to electronic mail platforms such as Microsoft Exchange/Outlook.

Instant Electronic Messages as Municipal Records

All digitally-stored data and information made or received pursuant to law or ordinance, or in connection with the transaction of official city business are municipal records.¹ No records shall be destroyed or otherwise disposed of with prior approval from: (1) the head of the agency which created or has jurisdiction over the records, (2) the Municipal Archivist, (3) the Corporation Counsel, and (4) the Commissioner of Records and Information Services.²

Instant electronic messages created in the course of doing official city business—including SMS, chat, and instant messaging platforms—are recognized as municipal records under the Charter. As such, instant electronic messages must be managed according to city records management policies. City employees are advised to limit the use of instant messaging to brief, work-related communications when email or other methods of communication are unavailable, impractical, or untimely.

Examples of Instant Electronic Messaging Systems:

- **Chat/Instant Messaging:** Google Chat, iMessage, Skype, IBM Sametime, Novell Groupwise Messenger, Facebook Messaging
- **Text Messaging:** MMS (Multimedia Messaging Service) and SMS (Short Message Service) sent via cellular services
- **Other Messaging Platforms:** Twitter Direct Message, Slack, Snapchat, WhatsApp, Pigeon, Yammer, Jive, and other internal collaboration networks

¹ See New York City Charter Chapter 72, § 3011(2) (“‘Records’ means any documents, . . . sound recordings, machine readable materials or any other materials, regardless of physical form or characteristics. . . .”)

² See New York City Charter Chapter 49, § 1133(f).



Policy

Electronic messages other than electronic mail, sent via a messaging platform designed primarily for the exchange of short, informal messages between a small group of individuals in near-real time must be managed in accordance with their Administrative Value. Agencies must determine the record status of messages based on content and manage according to the subcategories below.

Transitory Messages which do not document or relate to the decisions, actions, or policies of an agency, such as personal messages between co-workers and time dependent communications regarding purely logistical matters may be disposed of without prior approval when they are no longer needed. **Instant electronic messages are considered transitory by default. There is no expectation of retention. If a user determines the content of a message is substantive and should be maintained, the user is charged with transferring the content to a format more appropriate for long term storage and use.**

Substantive Messages which document or relate to the decisions, actions, or policies of a City office or agency **must be retained and transferred to a format and platform that allows for their proper preservation.** Retention must be scheduled in accordance with the relevant records series from agency's retention schedule, based on the content of the email or any role-based considerations applicable to email or subject files. Due to the difficulty and burden of capturing, transferring, and retaining individual instant electronic messages, **employees are strongly discouraged from creating instant electronic messages that are substantive in nature.**

Responsibility

Agencies should develop and disseminate appropriate-use policies for mobile devices and instant electronic messaging platforms discouraging use of instant electronic messages for substantive communication; such policies must instruct users that all instant electronic messages created in the course of doing city business are city records, that instant electronic messages are transitory by default and that any substantive message created must be identified as such by the user. Procedures for capturing substantive messages (such as screenshot, copy/paste or using an application to export a conversation) should be included in the appropriate-use policy.

In known cases of *recurring* substantive message creation, especially systems or procedures for messaging with citizens to log or resolve complaints or requests, Agencies are instructed to consult with DORIS Records Management to determine applicable retention schedules and proper procedures for ongoing capture and retention of messages of this nature.



It may be necessary for Agencies to develop additional procedures and practices for instant electronic messages stored on third-party systems outside of the City's control to ensure that any substantive messages created there are retained.