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Effective Date: January 5, 2022

Policy on Instant Electronic Messaging Records

Purpose: This policy defines “**instant electronic messages**,” confirms that they are records under the New York City Charter, distinguishes between “**substantive**” and “**transitory**” messages, and provides guidance and instructions for the handling of such records by City government offices and employees.

Policy: 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 absent 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—such as SMS, chat, and instant messaging platforms—are municipal records under the Charter, and must be handled accordingly. **City employees are discouraged from using instant electronic message platforms for purposes other than brief, work-related communications where email or other methods are not available, practical, and/or timely.**

A distinction is made between “**substantive**” and “**transitory**” messages, and instructions for handling each category are set forth below. **Substantive** messages must be transferred to a format and platform that allows for their proper preservation pursuant to the agency’s regular record retention schedule. For example, a user could take a screenshot of a substantive message on their mobile device and forward that image to their work email, or save it to a City-issued cloud service like Microsoft OneDrive. **Transitory** messages may be deleted when they are no longer of value to the sender or recipient(s) and may also be scheduled for automatic deletion.

Any City-related communications done on non-City issued mobile devices or on third-party platforms not controlled by the City must be transferred to an appropriate format on a City-owned platform in a timely manner.

Definitions: As used in this policy, the terms “**instant electronic message(s)**” and the distinction between “**substantive**” and “**transitory**” messages are defined as follows.

Instant Electronic Messages are 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.

Below is a non-exhaustive list of instant electronic messaging systems that are currently in use:

Type	Examples
Chat/Instant Messaging	Google Chat, iMessage, Skype, IBM Sametime, Novell Groupwise Messenger, Facebook Messaging

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).



Type	Examples
Text messaging	Multimedia Messaging Service (MMS) and Short Message Service (SMS) sent via a cellular phone service
Other messaging platforms or apps, such as social media or mobile device applications.	Twitter Direct Message, Slack, Snapchat, WhatsApp, Pigeon, Yammer, Jive, and other internal collaboration networks.

Note, this policy does **not** apply to **electronic mail** platforms such as Microsoft Exchange/Outlook and Gmail.

Substantive Messages are those which document or relate to the decisions, actions, or policies of a City office or agency. **Employees are strongly discouraged from creating instant electronic messages that are substantive in nature.**

Transitory Messages are those that 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, such as arranging a time or place for a meeting or call.

Process & Procedure:

- (1) The Records Management Officer (RMO) will include the new record series for Instant Electronic Messages in the updated retention schedules.
- (2) The RMO will work with the Senior Level Executive, IT, Legal, and Human Resources to:
 - (a) create and disseminate appropriate-use guidance documents for all office or agency employees regarding the use of instant electronic messaging.
 - (b) develop protocols for extracting and preserving copies of instant electronic messages that are substantive in nature or that may be subject to a preservation hold.
- (3) The RMO will advise DORIS of the implementation date of the policy.

In general, instant electronic messages that are not sent or received by policymaking employees should be retained for a total of 12 months. The agency may schedule the automatic deletion of instant electronic messages that are transitory in nature upon expiration of their retention period. Once scheduled, the agency does **not** need to submit a separate application for approval of automatic deletion of transitory instant electronic messages.

Electronic Records of senior officials, including instant electronic messages, should be scheduled for permanent retention and transferred to the legal custody of the Municipal Archives following the retention schedule.

Agencies should develop and disseminate appropriate-use policies for mobile devices and instant electronic messaging platforms; such policies should ensure that municipal records are handled appropriately.

It may be necessary to develop additional procedures and practices for instant electronic messages stored on third-party systems outside of the City's control.