Doc. No. RMD-P-2021-07	**Revision Date:** December 28, 2021

EMAIL RECORDS RETENTION POLICY

Purpose: An Email record series and a process for managing these records will help New York City government avoid excess litigation and storage costs and assist entities in locating required information. Most New York City government offices and agencies have accumulated several years of Email records because records guidance was not established for these records. Agencies are storing far more Email than required under good record management practices, incurring additional storage costs, causing difficulty locating information and increasing litigation liability.

Policy: Email created in connection with the transaction of City business is a city record as defined by the New York City Charter.[1] As such, the description of Email records and the retention period for such records must be added to agencies' retention schedules. Further:

- City employees should use agency Email addresses to exchange Email. In the event of an unusual exception where Email conducting City business is sent or received on a personal system, the Email is still considered a City record. All such Email should be forwarded to the individual's government Email account.

- All Email that pre-dates the implementation of the retention practice shall be subject to the approved Email retention periods.

- Emails that are not made or received in connection with City business do not meet the definition of a City record and need not be retained.

- The sender/recipient shall save all Emails related to critical issues.

- Transitory, non-record, and /or personal messages may be deleted. Users may destroy such records upon receipt. Examples include broadcast messages, personal messages, spam, listserv messages, lunch dates, out-of-office auto responses, etc.

- Email messages received in generic mailboxes shall be documented and retained for further review.

- All Email messages, including personal communications, may be subject to discovery proceedings in legal actions.

The preferred method for managing Email records is by implementing the Capstone model in which Emails are retained based on the function and/or title of the agency user. This approach leverages existing technology to manage Email records efficiently and reduce costs. It minimizes the need for end-user involvement in managing Email.

Applicability: This guidance shall be the standard for Email record management for any New York City agency or government instrumentality funded in whole or in part from local tax levy monies. The designated RMO at an office shall file an amendment to the agency's retention schedule showing the retention periods for agency Email.

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[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. . . .")

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If the Email retention periods provided in the NYC Supplemental Records and Retention Schedule is not practicable for any city officer or agency, the RMO must submit to DORIS a proposed amendment to the record schedule. At a minimum, the proposal must address how Email records of policymaker will be retained and transferred to the Municipal Archives and the retention period for the Email records of non-policymakers. The RMO for any such agency shall provide notice to DORIS of the intention to implement a different retention practice before work on implementation begins. The office must submit a detailed retention proposal for Email records. Any such proposal will be reviewed by the Corporation Counsel and the Commissioner of DORIS prior to implementation. A decision on the proposed retention period will be provided in writing within 60 days.

This policy does not modify or supersede any conflicting statute or portion of a statute or local law.

General Definitions:

- As used in this policy, the term "**Email**" refers to all user-content stored in an email system such as Microsoft Exchange or GMail, including calendar, notes, tasks, and other features stored in conjunction with email.

- This policy applies to **sent, received,** and **draft** emails. A recipient's Email from an entity outside of the agency is an official record of the recipient's agency. Email sent internally (either within the agency or between City agencies) may be a record of both the sender and the recipient.

- **Email threads**—When several individuals participate in an extended Email exchange, the final message that includes all of the related previous communications in the exchange may serve as the official record and the earlier messages that are included in the final message are **duplicates** and therefore not official records of the City. However, care must be taken to ensure that each branch of an email exchange is preserved so that no communications are lost.

- **Attachments** are considered part of the parent email and should be retained accordingly.

Email Types and Retention Periods:

There are three types of Email records defined by the role of the mailbox owner, each with different retention requirements:

Role A:	Mailboxes of policymaking-employees	retain **permanently**
Role B:	Mailboxes of non-policymaking employees	retain for **8 years**
Role C:	Generic (non-personal) mailboxes	retain **until no longer useful**

Role A—policymakers: Role A shall include all staff who have significant responsibilities and who exercise independent judgment in connection with determining important agency matters. Role A includes but is not limited to: agency heads, deputy agency heads, assistant agency heads, and public servants in charge of any major office, division, bureau or unit of an agency. The definition of Role A users is the same that agency heads use to determine who is included in the annual designation of policymakers with the Conflicts of Interest Board. At a minimum, employees listed on that annual designation are Role A users.

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Office heads shall designate by name, title or position and Email address the public servants in their agencies in Role A, in a format determined by the Department of Records and Information Services (DORIS). Email records in the accounts of employees designated in Role A shall be retained for **the duration of the person's employment at the agency**. The Email shall then be transferred to the Municipal Archives Division of DORIS, where it will be appraised and may be retained for historical, research, cultural or other enduring value.

Role B—non-policymakers: All other agency staff are Role B users. The Email records in the account of a Role B user will be retained for **eight (8) years**, and then destroyed, absent a litigation hold. Email exchanged by Agency staff in Role B that deals with a significant issue may also be saved to the appropriate file and drive, outside the Email system. Role B email is eligible for auto-deletion.

The agency's General Counsel may assign a user who may typically fall in Role B to the Role A group as necessary and proper.

Role C—generic (non-personal) mailboxes: Several agencies have created generic Email addresses for receiving input from the public. This Email content is eligible for disposal when no longer useful, through the normal disposal process. A list of all generic Email addresses and a description of the contents shall be maintained by each agency. The general counsel shall ensure that Email received at the generic address does not have any value to the agency, prior to deletion.

Process & Procedure: All City employees are responsible for managing their Email according to the retention schedule. Each office is responsible for implementing and maintaining a system that allows individual users to comply with this email retention policy and other policies related to records retention.

Implementation:

The RMO is responsible for advising on all retention and disposition issues, and should coordinate with the Agency's **Information Technology staff**, **Human Resources staff**, and **General Counsel** to ensure the appropriate measures are in place to preserve otherwise unclassified Emails and dispose of Emails at the end of their retention periods.

- **The Agency's IT staff** is responsible for inputting the employee status (role A or role B) into the system that manages Email accounts and ensuring that the correct retention rules are applied based on role.[2]

- **The Agency Human Resources Director** is responsible for notifying the RMO and the IT team when an employee leaves the agency or has a change in role. The RMO shall maintain records users (by name) and their corresponding Roles.

- **The Agency's General Counsel** is responsible for ensuring that an agency makes any necessary changes in particular employees' roles as may occur from time-to-time due to changes in personnel or the nature of employees' jobs. The General Counsel is also

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[2] Further guidance is provided in the accompanying "**Email Retention Policy—Technical Guidance**" (RMD-R-2021-07).

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responsible for making sure litigation holds are respected and that the end of litigation holds is transmitted to the RMO and Agency IT team.

Training:

The Record Management Officer (RMO) at every City agency must provide guidance on the appropriate management of Email records and train agency employees on the Email policy.

Record Management Officers will receive guidance from the Records Management division of DORIS on the implementation of the Email retention periods.

Disposal:

Disposition of Email, as with all records, must follow the charter-established disposal process.

The Email of a Role B user is eligible for disposal after December 31 of the 8th year of existence. The RMO may file an application to auto-delete email records. The account names should be included in the application.

The RMO shall file a request to transfer the records of Role A users to the Municipal Archives, effective December 31 of the year the Role A user leaves the office.

Effective Date:

New York City government offices shall update retention schedules to incorporate the email record series.