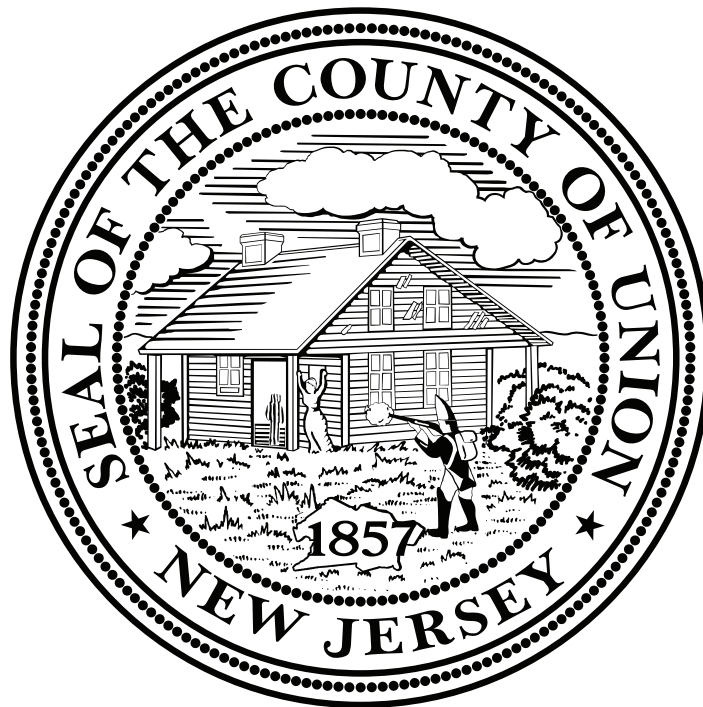


COUNTY OF UNION

Electronic Mail Management Policy



Union County
We're Connected to You

A service of the
UNION COUNTY BOARD OF
CHOSEN FREEHOLDERS

COUNTY OF UNION ELECTRONIC MAIL MANAGEMENT POLICY

I. Applicability, Intent and Purpose of the Electronic Mail Policy

This Policy applies to all Union County government agencies and users of Union County electronic mail and computers.

The intent of this Policy is to explain legal requirements and to establish uniform procedures for the management of electronic mail (E-mail) messages on the County of Union E-mail server that meet the criteria of “public records” / “government records” as defined by the *Destruction of Public Records Act*, P.L. 1953, c. 410 § 2 (N.J.S.A. 47:316) and the *Open Public Records Act*, P.L. 2001, c. 404 (N.J.S.A. 47:1A-1.1 et seq.), as amended and supplemented.

This Policy has a two-fold purpose:

- First, it is intended to assist Union County employees and all County electronic mail users in complying with New Jersey’s Open Public Records Act (OPRA), in their use of E-mail.
- Second, it is intended to promote best practices to facilitate the effective capture, management, and retention of electronic messages as accessible government records.

II. Introduction

Electronic mail systems, commonly called E-mail, have become the communications method of choice for many public officials and public employees in the State of New Jersey, including the County of Union. E-mail messages are often used as communication substitutes for the telephone as well as to transmit substantive information or records previously committed to paper and transmitted by more traditional methods. This combination of communication and record creation and record keeping has created ambiguities on the status of E-mail messages as government and/or public records.

The management of the County’s E-mail system touches on nearly all functions on which a government agency is dependent for recordkeeping: privacy, administration, vital records management, administrative security, auditing, access, and archives. The need to manage E-mail messages and systems properly, then, is the same as for other recordkeeping systems to ensure compliance with New Jersey laws concerning the creation of, retention of, and access to public records. Union County government agencies that use electronic mail have an obligation to make employees aware that E-mail messages, like paper records, must be retained and destroyed according to established records management procedures. Users of the County-provided electronic mail must also be made aware that by using E-mail they are creating an electronic record that may remain on their computer or someone else’s computer system for an indefinite period of time. The content of an E-mail document is subject to the applicable Record Retention Schedules, as promulgated by the State Division of Archives and Records Management (DARM).

III. Definitions

E-mail systems -E-mail systems are software systems that transport messages from one computer user to another. E-mail systems range in scope and size from a local E-mail system that shuffles messages to users within an agency or office over a local area network (LAN) or an enterprise-wide E-mail system that carries messages to various users in various physical locations over a wide area network (WAN) E-mail system to an E-mail system that sends and receive messages around the world over the Internet. The County of Union utilizes an E-mail system that serves all three functions.

E-mail messages -E-mail messages are electronic documents created and sent or received by a computer system. This definition applies equally to the contents of the communication, the transactional information, and any attachments associated with such communication. Thus, E-mail messages are similar to other forms of communicated messages, such as correspondence and memoranda.

IV. Legal Requirements

The New Jersey State Statutes do not include a specific definition for electronic mail; however, the Open Public Records Act (OPRA), (N.J.S.A. 47:1A-1.1 et seq.) defines a “government record” or “record” as:

“ . . . any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data processed or image processed document, information stored or maintained electronically or by sound recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file in the course of his or its official business by any officer, commission, agency, or authority of the State or of any political subdivision thereof, including subordinate boards thereof, or that has been received in the course of his or its official business by such officer, commission, agency, or authority of the State or of any political subdivision thereof, including subordinate boards thereof. The terms shall not include inter-agency or intra-agency advisory, consultative, or deliberative material.”

Clearly, an E-mail message received or sent while utilizing the County E-mail server is a document or item created or received by a public office. The deciding factor as to its status as a record is if the E-mail serves to document a public entity’s functions, policies, decisions, procedures, operations or other activities. This is true of any communication, whether electronic or paper. All E-mail messages that meet the criteria of the definition of a government record per N.J.S.A. 47:1A-1.1 must be made available to the public upon request under the Open Public Records Act (OPRA) during the required retention period, unless the content of the message falls under one of the exceptions contained in the Act or in any other statute, regulation, Executive Order by the Governor, Rule of Court, or federal law, regulation or order.

The definition for “public records” is found in the Destruction of Public Records Act (N.J.S.A. 47:3-16), as amended and supplemented. It states, in relevant part:

“public records mean any paper, written or printed book, document or drawing, map or plan, photograph, microfilm, data processed or image processed document, sound recording or in a similar device, or any copy thereof, that has been made or required by law to be received for filing, indexing, or reproducing by any officer, commission, agency, or authority of the State or any political subdivision thereof, including any subordinate boards thereof, or that has been received in the course of his or its official business by such officer, commission, agency, or authority of the State or of any political subdivision thereof, including subordinate boards thereof, in connection with the transaction of public business and has been retained by such recipient or its successor as

evidence of its activities or because of the information contained therein.”

Any “public record” or “government record”, as defined in the New Jersey Statutes, whether it is subject to access by the general public or not, must be retained according to records retention and disposition schedules approved by the State Records Committee (N.J.S.A. 47:3-20, as amended). In addition, no public/government record may be destroyed without prior consent of the Division of Archives and Records Management (DARM) of the Department of State and the State Records Committee, even if the retention period for a record has expired.

V. Retention and Scheduling Requirements

E-mail itself is not considered by DARM to be a record series or category in the Records Retention Schedules; it is simply a *means* of transmission of messages or information. Like paper or microfilm, E-mail is the medium by which this type of record is transmitted. Just as an agency cannot schedule all paper or microfilm records together under a single retention period, the County of Union cannot simply schedule E-mail as a single record series. Rather, retention or disposition of E-mail messages must be related to the *information* they contain or the purpose they serve. The content, transactional information, and any attachments associated with the message are considered records (if they meet the criteria a public record in N.J.S.A. 47:3-16).

The content of E-mail messages may vary considerably, and therefore, this content must be evaluated to determine the length of time the message must be retained. Simply backing up all of the messages on an E-mail system onto tapes or other media or purging all messages after a set amount of time is not an appropriate strategy for managing E-mail. It is the user’s responsibility to delete any and all E-mails that do not meet record retention categories. The responsibility of retaining such E-mails that meet the record retention categories shall be on each individual user.

For the purposes of this Policy, there are generally two (2) types of Non-record E-mail Messages and three (3) categories of Official Record E-mail messages for retention: *Transient* Retention, *Intermediate* Retention, and *Permanent* Retention. Each of these types/categories of messages is described more fully below.

- A. *Non-Record E-mail Messages* - E-mail messages that do not meet the criteria of the New Jersey statutory definition of a record per N.J.S.A. 47:3-16, as amended, may and should be deleted at any time by the user, unless they become part of some official record as a result of special circumstances.

These types of messages may include:

1. *Personal Correspondence* - Any E-mail not received or created in the course of County business must be deleted as soon as possible by the user since it is not an official record. Examples of the type of messages that may be deleted are: unsolicited E-mail advertisements (commonly called “SPAM”), personal messages, or the “Let’s do lunch” (not a County-business meeting over lunch) or “Can I catch a ride?” type of note.
2. *Non-Governmental Publications* - Publications, promotional material from vendors, and similar materials that are publicly available to anyone, are not official records unless specifically incorporated into other official records. This includes: **LISTSERV®** messages (other than those you post in your official capacity), unsolicited promotional material, files copied or downloaded from Internet sites, etc. These items are to be deleted

immediately, or maintained in a “Non-Record” mailbox and then deleted from the E-mail server, just as you might trash unwanted publications or promotional flyers received in the mail. However, for example, if you justify the purchase of a “Zip Filing System” by incorporating the reviews you saved in your proposal to your supervisor, those LISTSERV® messages become official records and must be retained in accordance with the Records Retention Schedule for purchasing proposals.

- B. *Official Record E-mail Messages* - E-mail messages that meet the definition of a “record” in N.J.S.A. 47:3-16, as amended and supplemented, are official records and must be scheduled, retained and disposed of as such. These official records fall into the following categories:
1. *Transient Documents* - Most of the communication via E-mail has a very limited administrative value. For instance, an E-mail message notifying employees of an upcoming meeting would only have value until the meeting has been attended or the employee receiving the message has marked the date and time in his/her calendar. Transient messages do not set policy, establish guidelines or procedures, certify a transaction, or become a receipt. The informal tone of transitory messages might be compared to a communication that might take place during a telephone conversation or conversation in an office hallway. These types of records are transient documents and can be scheduled using the General Retention Schedules established by the State Records Committee. Transient documents include telephone messages (such as “While You Were Out” notes), drafts, and other documents that serve to convey information of temporary importance in lieu of oral communication. County of Union E-mail messages of a similar nature are to be retained until they are no longer of administrative value and then destroyed.
 2. *Intermediate Documents* - E-mail messages that have more significant administrative, legal and/or fiscal value, but are not scheduled as “transient” or “permanent” should be categorized under other appropriate record series. These may include (but are not limited to):
 - General Correspondence - Includes correspondence from various individuals, companies, and organizations requesting information pertaining to your agency and other miscellaneous inquiries. This correspondence is informative, but it does not attempt to influence agency policy.
 - Internal Correspondence - Includes letters, memos, and requests for routine information; monthly and weekly reports; and documents advising supervisors of various events, issues, and status of ongoing projects.
 - Minutes of Agency Staff Meetings – Includes Minutes and supporting records documenting internal policy decisions.

These categories of E-mail must be retained for the appropriate period of time per the Records Retention Schedules approved for specific agencies by the State Records Committee or the General Retention Schedules for counties. Copies of the Records Retention Schedules are available from the DARM website at:

www.state.nj.us/state/darm/links/retention.html

3. *Permanent Documents* - E-mail messages that have significant administrative, legal and/or fiscal value and are scheduled as permanent also should be categorized under the appropriate record series.

These may include (but are not limited to):

- Executive Correspondence - Correspondence of the County Manager or head of Department or Division dealing with significant aspects of the administration of their offices. Correspondence includes information concerning agency policies, program, fiscal and personnel matters. These documents must be retained at least three (3) years, and then periodically reviewed for transfer to State Archives.
- Departmental Policies and Procedures - Includes published reports, unpublished substantive reports and policy studies. These documents shall be retained until superseded, obsolete or replaced, then periodically reviewed for transfer to State Archives.
- Minutes of Boards, Commissions, etc. - Including approved minutes of official bodies, attachments, and transmittal documents. This does not apply to drafts of minutes or minutes that have not been approved. Copies may be retained in electronic form, but retention of hard copy is required. These documents are Permanent. They must also be periodically reviewed for transfer to State Archives.

VI. County of Union E-mail Procedures

A. E-mail Server Requirements -

County of Union, Division of Information Technologies (“the Division”) personnel must ensure that all records maintained in electronic information systems, including the E-mail server, are reliable. At a minimum, Division personnel should ensure the following:

- The E-mail system used to create, receive and maintain E-mail messages has full, complete, and up-to-date systems documentation;
- The E-mail system follows all recommendations for system security & complete systems backups are regularly and consistently performed;
- The E-mail system retains all data and audit trails necessary to prove its reliability as part of the normal course of County business & the record copy of a message is identified and maintained appropriately;
- The E-mail system must allow the server administrator to prevent destruction of records for legal and/or audit purposes; however, primary responsibility for records management will rest with the individual user;
- Backup of all data on the system shall only be for a period of five (5) days for the purposes of disaster recovery in the case of a catastrophic loss of the E-mail server. The Division may utilize backup tapes or other electronic media.
- Backup procedures will be developed to coordinate with disposition actions so that copies of records are not maintained after the retention period for the records has expired.
- Unauthorized users should not be able to access, modify, destroy or distribute records.

B. Record Copy E-mail -

E-mail users should be aware that E-mail messages are often widely distributed to a number of various recipients. Determining which individual maintains the record copy of the message (i.e., the original message that must be retained per the Retention Schedule) is vital to E-mail management. If the holder of the record copy is not identified or aware of his or her responsibility, the agency may find that no one retains the message or that everyone retains the message. Neither of these scenarios is appropriate. As a general rule, the individual who sends an E-mail message and the primary recipient (“To” *not* “CC”) must maintain the record copy of the message. For example, policy-related documents (regarding Ordinances, Resolutions, appointments, etc.) which are transmitted to multiple recipients via the E-mail system need not be maintained by each recipient beyond his or her need for this material. In this example, record copy responsibility rests with the creator of the policy document and the primary recipient. Prompt deletion of duplicate copies of E-mail messages from the E-mail server makes the system as a whole much easier to manage and reduces disk space consumed by redundant information.

C. Filing (Archiving) -

Intermediate and *Permanent* E-mail messages should be filed (archived) in a way that enhances their accessibility and that facilitates records management tasks. In addition to the IN and SENT boxes on the County's E-mail system, users have the option of creating other "mailboxes" or "folders." After brief periods in your IN or SENT boxes, messages must be transferred to other created boxes, based on business and retention requirements. All E-mail users are responsible for classifying messages they send or receive according to content and established records series. An individual user may choose to archive their E-mails on a centralized server, other than the E-mail server or locally on their computer (the C Drive). The Division maintains backups of the centralized servers for a period of time, and retains a yearly backup of each of these servers. Therefore, it is user's responsibility to periodically review all of their archived E-mails to ensure that the E-mails that are retained meet the record retention schedules prior to the end of the year.

D. Access -

All records maintained on the County's E-mail server must be accessible and usable for the entire length of the retention period. Messages must also be maintained in a format that preserves contextual information (metadata) and that facilitates retrieval and access. E-mail messages should be indexed in an organized and consistent pattern reflecting the ways in which records are used and referenced. Records maintained electronically, including E-mail messages, have an advantage over conventional hard copy document filing systems in that indexing for multiple access points is relatively simple and inexpensive, provided an effective indexing framework is in place. Time spent by individual users indexing records and establishing a retrieval system is time well spent. On the other hand, excessive time expended on identifying and retrieving poorly managed electronic records is not a productive use of staff time, and is an annoyance to the public as well. Messages should be stored in a logical filing system that is searchable by multiple data (metadata) elements.

E. Distribution Lists and Subject Lines -

If you send to a "distribution list" (a specified list of individuals), you must also keep a copy of the members of that list for as long as you are required to keep the message itself. The subject line on your E-mail is utilized to help your recipient identify and file messages, and to help you file your Sent box messages that must be retained for some period. Therefore, Subject lines should be as descriptive as possible.

Note: Where and when appropriate, it may be advisable for E-mail users to label their E-mail as containing confidential or inter-agency or intra-agency, "advisory, consultative, or deliberative" (ADC) material or other information which falls under the exceptions to public access under the Open Public Records Act (OPRA).

F. Responsibilities -

County employees must understand and carry out their role in managing E-mail and Department and Division heads must ensure compliance with County E-mail procedures and New Jersey law. The creator and primary recipient of E-mail messages should make decisions regarding the categorization and retention of messages per the established Records Retention Schedules. Individual County employees each have a responsibility for managing their electronic mail, including taking appropriate measures to preserve data integrity, confidentiality and physical security of all E-mail records.

When an employee separates from the County of Union whether it is due to resignation, retirement, or termination, the employee's direct supervisor, or a designated person, must review the employee's E-mail account to determine which E-mails should be retained and what the appropriate retention periods should be. All E-mails determined to be maintained shall be stored off-line (either printed to hard copy or retained on a disk) and maintained by the appropriate department in accordance with the Records Retention Schedule. It is the department or division's responsibility to notify the Division of Information Technology to disable the employee's E-mail account at the close of business on the employee's last work day.

G. Periodic Purge of the E-mail Server -

The Bureau of Data Processing and Telecommunications ("the Bureau") shall periodically purge outdated E-mail stored on the County's E-mail server. Therefore, all County E-mail users must comply with the requirements of this Policy to periodically file (archive) their sent and received E-mail according to content and established records series. *Intermediate* and *Permanent* category E-mail messages must be properly filed (archived) by the individual user, prior to the system purge, in order to prevent the permanent loss of public/government records. This procedure is necessary to preserve valuable storage space on the County E-mail server, thus optimizing performance, and to ensure that individual users are filing (archiving) E-mail records appropriately for future use/retrieval.

The system for purging outdated E-mail shall be as follows:

- Following the last calendar day of each month, the E-mail server will be purged of all E-mails that are more than ninety (90) days old. Therefore, all E-mail not properly filed (archived) by individual E-mail users that is ninety-one (91) days or older will be permanently deleted from the E-mail server during the server purge.
- All items located in an individual E-mail user's IN & SENT boxes, plus the "Deleted Items" folder shall be permanently deleted during the periodic purge of the E-mail server.
- The Bureau will develop a schedule of notifying all County E-mail users of an upcoming server purge.