Effective Date: 04/05/2016

Administrative Policies
And Procedures
Tennessee Supreme Court
Administrative Office of the Courts

Approved by: Chief Justice Sharon G. Lee and Director Deborah Taylor Tate

Subject: Email Retention for AOC Staff

I. Authority:

Tenn. Code Ann. §§ 10-7-512, 16-8-803.

II. Definitions:

"Electronic mail" or "email" refers to the electronic transfer of information typically in the form of electronic messages, memoranda, and attached documents from a sending party to one or more receiving parties via an intermediate telecommunications system. Stated differently, email is a means of sending messages between computers using a computer network. Email messages shall be considered primarily as a medium of communication and not a repository of records. Such messages that may be defined as a public record or state record must be retained under the determination of the sender or the recipient.

"Public record or records" or "state record or records" is defined in Tenn. Code Ann. § 10-7-301(6), as all documents, papers, letters, maps, books, photographs, microfilms, electronic data processing files and output, films, sound recordings, or other material, regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any governmental agency.

"Employee" is any person in a full-time or part-time status that is on the AOC's payroll register.

III. Purpose:

The purpose of this policy is to ensure that the Administrative Office of the Courts ("AOC") acts in compliance with the Tennessee Public Records Act and conserves space on the AOC networked drives and local computers. If any AOC employee sends or receives emails concerning judicial records, this policy does not alter the confidential nature of emails sent or received by members of the judiciary and/or their staff that include the following judicial records enumerated in Tenn. Sup. Ct. R. 34:

(i) Unpublished drafts of judicial orders and opinions;

(ii) Written or electronic conference records, notes, memoranda, or other documents of a similar nature prepared by judges as part of the judicial decision-making process unless filed as part of the court record;

(iii) Copies, other than the original, of motions, petitions, briefs, and other similar documents filed with the clerk of the appellate courts that have been furnished to individual appellate judges for their personal use;

(iv) Written or electronic conference records, notes, memoranda, reports, or other documents of a similar nature prepared by an appellate court's or judge's staff on behalf of or at the direction of the court or judge as part of the judicial decision-making process unless filed as part of the court record;

(v) All internal case management information except for information concerning the composition of panels assigned to consider a particular case;

(vi) Information maintained by individual judges with regard to their recusal from particular appeals unless the information is filed as part of the court record or unless it is subject to disclosure pursuant to Tenn. Code Ann. §§ 8-50-501, 8-50-506, or Tenn. S. Ct. R. 10;

(vii) Documents protected from disclosure by order or rule of court; and

(viii) Any other record the disclosure of which would frustrate or interfere with the judicial function of the courts.

As noted in Rule 34(2)(B), the preceding judicial records enumerated in sections (i) – (viii) herein are not public records as defined in Tenn. Code Ann. § 10-7-301.

IV. Application:

This policy applies to all employees of the AOC.

V. Policy:

Beginning on September 1, 2016, all emails, sent or received, will be retained for a period of twenty-four (24) months and then automatically permanently deleted. The retention period will be reduced by six (6) months each year on September 1st until the AOC reaches a retention period of 180 days.

VI. Procedures:

(i) To ensure the effectiveness of this policy, it is essential that every AOC staff member act diligently to delete moot, outdated, or frivolous email

messages. If, in the opinion of the user, sender, or recipient, an email message constitutes an official record, that email message may be saved as a rich text file ("RTF") and placed in the appropriate network folder for archival purposes. Before saving RTFs, users must consider the limitations of storing of RTF documents to networked drives or the local computer.

(ii) Members of the AOC Technology Division will provide training before September 1, 2016, to ensure that AOC staff has the opportunity to receive the information necessary for proper implementation of this policy. New employees joining the AOC after implementation of this policy will receive training on or near his or her start date.