



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

Index #: 1.06 Page 1 of 3

Initial Effective Date:

09/01/2016

Updated: 09/15/2017

Approved by: Chief Justice *JTB* Jeff Bivins and Director Deborah Taylor Tate *DJT*

Subject: Email Retention for AOC Staff

I. Authority:

Tenn. Code Ann. §§ 16-3-503 – 504, 16-3-803.

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 who works for the Administrative Office of the Courts in a full-time or part-time status.

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 court records, this policy does not alter the confidential nature of emails sent or received that include the following records enumerated in Tenn. Sup. Ct. R. 34:

(i) Documents expressly excepted from inspection under the Public Records Act, Tennessee Code Annotated section 10-7-504, or otherwise excepted from inspection under state law, Tennessee Code Annotated section 10-7-503(a)(2)(A);

(ii) Documents protected from disclosure by order or rule of court, including but not limited to documents sealed pursuant to an order of the court or the subject of a protective order;

(iii) Unpublished drafts of judicial orders and opinions;

(iv) Copies, unless intentionally filed as part of the Case Record, of motions, petitions, briefs, and other similar documents filed with the clerks of the courts that have been furnished to a judge for his or her individual use;

(v) Written or electronic conference records, notes, memoranda, reports, or other documents of a similar nature prepared by a judge, judicial staff, or the Administrative Office of the Courts on behalf of, or at the direction of, a court or judge. This includes written or electronic records, notes, memoranda, reports, or other documents of a similar nature created or received as a part of a court's judicial or administrative deliberative process unless intentionally filed as part of the Case Record;

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

(vii) Information maintained by individual judges with regard to their recusal from particular cases unless the information is intentionally filed as part of the Case 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; and

(viii) Any other written or electronic record the disclosure of which would frustrate or interfere with the judicial function of the courts or potentially undermine the inherent constitutional powers granted the court, in addition to the powers recognized in Tennessee Code Annotated sections 16-3-501 through 16-3-504.

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 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, the "drag and drop" method may be used to save an email message as a Portable Document File ("PDF") or the email including attachments may be saved as an Electronic Mail file ("EML"), and placed ("drag and drop") in the appropriate network folder for archival purposes. Before saving any email message, users must consider the limitations of storing these documents to networked drives or the local computer.
- (ii) Members of the AOC Technology Division will provide training needed to ensure that AOC staff has the opportunity to receive the information necessary for proper application of this policy. New employees joining the AOC after implementation of this policy will receive training on or near his or her start date.