



NEW MEXICO CORRECTIONS DEPARTMENT

Secretary
Alisha Tafoya Lucero

CD-019100 Email Retention	Issued: 08/21/13 Effective: 08/21/13	Reviewed: 04/04/22 Revised: 08/21/17
Alisha Tafoya Lucero, Cabinet Secretary		<i>Original Signed and Kept on File</i>

AUTHORITY:

Section 14-2-1 through -12 NMSA, Inspection of Public Records Act
Section 14-3-1 through -25 NMSA, Public Records Act

Records Management Requirements for Electronic Messaging, 1.13.4 NMAC
Functional Records Retention and Disposition Schedules (FRRDS), 1.21.2 NMAC

REFERENCE:

PURPOSE:

To provide guidance to New Mexico Corrections Department employees on how to manage information sent or received through email transmissions and to ensure emails that are considered public records are managed and retained appropriately. All employees should be familiar with retention schedules.

APPLICABILITY:

To all NMCD employees, staff, personnel under contract who use state-owned electronic message systems and communication media.

DEFINITIONS:

Email: An electronic mail message created in or received through an electronic mail system, including all attachments, such as word processing and other electronic documents sent over a communications network, using a computer or other electronic communication device. Emails such as “texts” sent via cellular telephone or other electronic communication devices are also included.

Electronic Mail System: A system which enables users to compose, transmit, receive and manage electronic mail across networks and through gateways connecting to other local area networks.

Public Record: Any document and other material, regardless of physical form or characteristics, that is used, created, received, maintained or held by or on behalf of NMCD and relates to public business, whether or not the record is required by law to be maintained. For purposes of this policy, public records are normally those documents pertaining to NMCD’s organization, functions, policies, decision, procedures, operations or other activities.

Retention: Saving, maintaining and safekeeping emails which are public records, and saving and ultimately disposing of them in accordance with the retention and disposition schedules contained in 1.21.2 NMAC.

Transitory emails: Emails which serve to convey information of temporary importance in lieu of oral communication, and are not required to control, support or to document the operations of government. Such emails are only required to be kept or maintained for a limited time to ensure the completion of a routine action or the preparation of a subsequent record.

POLICY:

1. The NMCD provides access to the statewide electronic messaging system, making it available to agency employees as required subject to resources and other limitations. Employees with assigned access to electronic messaging systems are expected to use them.
2. All email created or received by NMCD employees considered a public record are to be saved, maintained and disposed of in accordance with the applicable retention and disposition schedules contained in 1.21.2 NMAC.
3. Certain emails, while they contain public record information which must be retained, are considered confidential or not otherwise subject to public access or disclosure. Such confidential or otherwise protected e-mails include, but are not limited to, documents pertaining to physical or mental illness, injury or examinations, sick leave and medical treatment of NMCD employees or inmates; records maintained for the purposes of the Americans With Disabilities Act; letters of reference concerning employment; records containing matters of opinion, documents concerning infractions and disciplinary actions of NMCD employees; performance appraisals of NMCD employees; information regarding the race, color, religion, sex, national origin, political affiliation, age, and disability of NMCD employees; home address and personal telephone numbers unless related to public business; and the day and month of an NMCD employee's or inmate's date of birth. Other confidential e-mails include NMCD attorney client privileged communications and information, and documents prepared by NMCD attorneys in anticipation of litigation.



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PROCEDURE:

- A. Employees shall take all necessary steps to save and maintain email transmission, both sent and received, that contain the following types of public record information:
1. Final NMCD policies and directives;
 2. Final correspondence or memoranda related to official NMCD business
 3. Final minutes of NMCD-related governing boards, advisory groups, ad-hoc committees, or working groups developing programs.
 4. Final messages that initiate, authorize, or complete a NMCD business transaction;
or
 5. Final reports or recommendations regarding NMCD business.
- B. Employees that have the full Outlook client installed also have the ability to offload emails into a personal storage file (.pst), to assist in retaining emails in accordance to the items outlined in A above. If assistance is needed in how to create or manage a .pst, the employee should contact the IT Help Desk.
- C. Upon an employee's separation from employment, supervisors shall ensure that the above-designated emails saved by the employee are retained.
- D. The following types of emails are considered transitory or non-records, and by law do not need to be saved or maintained:
1. Duplicate copies of messages sent to multiple people;
 2. Personal messages and announcement not related to official agency business;
 3. Preliminary drafts of letters, reports, memoranda, presentations;
 4. Messages considered brainstorming or preliminary though processes in nature, reflecting the exchange of ideas preliminary to the development of a final decision or position of the agency;
 5. Transmittal emails that do not add substantive information to the attachment(s) being transmitted
 6. Copies of documents distributed for convenience or reference;
 7. Announcement of social events, such as birthdays or retirement parties;
 8. Spam (unsolicited, commercial email);
 9. Messages to or from email distribution lists (list serve) not directly related to agency business.

E. Recovering Deleted Email from Backup Media

The New Mexico Department of Information Technology maintains the enterprise email server and retains sent and received emails for 30 days. Recovery of deleted emails older than 30 days is not possible.

F. Retention Period

Emails that must be saved under this policy shall be maintained in accordance with New Mexico's record retention and disposition schedules and may only be permanently deleted or destroyed after the applicable time period stated in the retention schedules (1.21.2 NMAC) has expired.

G. Filing or Saving E-Messages

Email messages classified as a public record shall be saved and maintained either in a manual, paper-based system or electronically.

H. Email Document Retention Schedules

1. The content of email messages may vary considerably, therefore requiring each e-mail to be evaluated to determine if it meets the definition of a public record. E-mail messages and attachments classified as public records must be stored and retained for as long as required under the applicable retention schedule. Transitory or non-record e-mails may be deleted. The majority of NMCD's email messages constituting public records which must be retained in accordance with the retention schedule delineated below will consist of final policies and directives; correspondence or memoranda related to official business; final minutes of governing boards, advisory groups, ad-hoc committees, or working groups developing programs; final messages that initiate, authorize, or complete a NMCD business transaction; and final reports or recommendations. However, any other email message constituting a public record must also follow the retention schedules delineated below. The retention schedules apply to any NMCD email constituting a public record, as outlined in Functional Records Retention and Disposition Schedules (FRRDS) Part 2 – Retention and Disposition of Public Records, 1.21.2.101-347.
2. NMCD managers and staff are required to consult the NMAC retention schedules listed above regarding all of their emails constituting a public record.
3. NMCD Managers and employees are expected to become familiar with this policy, 1.13.4 NMAC (Records Management Requirements for Electronic Messaging for state agencies), and 1.21 NMAC (Functional Records Retention and Disposition Schedules FRRDS). NMCD managers and employees must consult with the NMCD General Counsel if they have any questions regarding whether or not a particular e-mail (or a portion of the information in the email) constitutes a public record requiring that it be retained, whether a particular email is transitory and thus subject to immediate deletion, or whether the retention period regarding a particular e-mail has properly expired.