

COUNTY OF CALAVERAS
ELECTRONIC MEDIA USE AND RETENTION POLICY

Purpose:

This policy establishes guidelines for proper use of all forms of electronic media, along with establishing retention protocol in light of the Public Records Act, applicable record retention laws, or existing departmental record retention policies. As used in this policy, "*electronic media*" includes, but is not necessarily limited to, the following: e-mail (electronic-mail), Internet use, social networking, voice-mail, video teleconferencing, instant messaging, text messaging, fax, diskettes, storage media, bulletin boards, television, electronic subscription services, and electronic documents. County employees with access to electronic media are required to abide by this policy.

Policy:

1. No expectation of Privacy for use of County Systems

Employee use of any county electronic media system is not private; and employees using these systems should not expect their communications to be private. Employees should not have an expectation of privacy when using any form of electronic media.

2. Appropriate Use

County electronic media systems are made available to employees for the purpose of providing an effective method to communicate, increase productivity, perform research and obtain information that will assist in performing job related tasks.

Employees shall use good judgment at all times when using the Internet or other electronic media. Electronic media shall be used only to send courteous, professional and businesslike communications.

Certain electronic media (especially e-mail or social sites such as Twitter or the use of instant messaging) may not be appropriate to transmit sensitive materials, which may be more appropriately communicated by written document or personal conversation.

Employees must remember that persons other than the sender and the

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recipient might read electronic media communications at a later date. Accordingly, electronic media communications (such as e-mail messages) must be treated as written memos, which may remain on file in various locations.

Electronic media shall not be used in any manner in violation of law or county rules, policies or procedures. Electronic media shall in no manner be used for any improper, illegal, offensive or harassing purpose.

Activities prohibited by this policy include, but are not necessarily limited to the following:

- a. Transmittal of any material or communication in violation of any federal, state or local law, ordinance or regulation;
- b. Transmittal of any material or communication, which includes potentially offensive material (such as sexual, racial or ethnic comments, jokes or slurs);
- c. Misrepresentation under any circumstances of an employee's true identity;
- d. Unauthorized access to any computer system;
- e. Any action intended to accomplish or assist in unauthorized access to computer systems;
- f. Unauthorized or improper downloading, accessing or transmittal of copyrighted information, documents, or software;
- g. Transmittal of unauthorized broadcast communications or solicitations (such as mass e-mail transmittals). All broadcast or solicitation messages must be approved in advance by the Chief Information Officer or Department Head;
- h. Any action that causes the county to incur a fee for which there has not been prior approval;
- i. Use of a security code or password other than as authorized; or

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j. Disclosing your username and password to anyone for any purpose.

3. Notice of County's Right and Ability to Store Communications

Employees are notified that electronic media communication is not necessarily deleted from the system; and that the county may save such communications even though it appears they have been deleted. For example, e-mail users should be aware that when they have deleted a message from their mailbox it may not have been deleted from the e-mail system and that every e-mail message might be saved by the county.

All electronic media communications are considered at all times to be county records. The county has the capability to access, monitor, review, copy, or disclose any electronic media communications; and the county reserves the right to do so for any proper county purpose. The use of security measures (such as individual passwords) or deletion of electronic media communications (such as the deletion of e-mail messages by users) does not affect the county's ability or right to access, review, copy, or disclose such communications under appropriate circumstances. Employee's use of electronic media is consent to such action by the county.

This policy shall not be interpreted to limit the county's access to electronic media communications under appropriate circumstances; and shall not in any way limit the county's control or ownership of its electronic media systems. However, this policy is in no way intended to permit unauthorized access to electronic media communications.

4. Software

Employees shall use software only in compliance with license agreements and copyright or other laws. All "non-standard" (open source, freeware, shareware, or software from home) software must be approved by the Chief Information Officer/Director of Technology Services prior to installation.

5. Portable Storage Media

The use of unapproved portable external storage devices, such as flash

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memory sticks or external hard disk drives is prohibited. External storage devices will be provided to employees by the County. Such devices will have the ability to be encrypted and approved, prior to use, by the Chief Information Officer/Director of Technology Services. Lost or stolen devices must be reported to the Technology Services Department as soon as possible.

6. Personal Computing Devices

Privately owned computing devices, such as laptops and net books are not permitted to be physically connected to the County's computer network. Exceptions for vendor lead Internet based training, or other vendor based activity must be approved by the Chief Information Officer/Director of Technology Services.

7. Smart Phones and Personal Digital Assistants

The use of privately owned Smart Phones (Blackberry, iPhone, etc.) and Personal Digital Assistants to retrieve County e-mail is permitted. Employees choosing to use these devices must register the device with the Technology Services Department. Lost or stolen devices must be reported to the Technology Services Department as soon as possible. Employees acknowledge that the Technology Services Department may delete data from these devices because of loss, theft, or as otherwise directed by the County Administrative Officer, the Director of Human Resources, or County Counsel.

Employees using Smart Phones or Personal Digital Assistants, privately owned or County owned, must password protect the device with the password set to activate in no more than 30 minutes of inactivity.

8. Storage of County Data on Privately Owned Computers

The storage of County data, e-mail or other electronic documents, is not permitted on privately owned computers (with the exception being Smart Phones and Personal Digital Assistants). Employees that need to access County data from privately owned personal computers must use Outlook Web Access, VPN, approved portable external storage devices, or other

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authorized protocol to access the County's data.

9. Portable Computer Hard Disk Encryption

All newly purchased County laptops or similar devices will have hard drive encryption software installed on them or other precautions taken to prevent the unauthorized access of County data.

All County owned laptops or similar devices that contain confidential County data will have encryption software installed or have other precautions taken to prevent the unauthorized access of County data.

Disk encryption software or other precautions must be approved by the Chief Information Officer/Director of Technology Services.

10. E-Mail Retention

Calaveras county e-mail systems are transitory-communications systems and are not intended as mechanisms for storing records.

a. E-Mail Retention Period

- i. E-mail messages will be retained in the county's online e-mail systems for 60 days after they are created in or received into the e-mail system.
- ii. Automatic archival of e-mail messages is prohibited on the Calaveras County e-mail systems and each user must not activate the auto-archiving features.
- iii. The use of personal e-mail files, referred to as "pst" files, to store e-mail is prohibited.

b. E-mail Deletion Schedule

- i. Each user's e-mail messages must be deleted from the county's online e-mail systems after the retention period has expired. E-mail messages that constitute public records are governed by section 6, infra.

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- ii. All “In” and “Sent” box items (whether read, opened, or unopened) will be purged after the 60 day e-mail retention period has expired.
- iii. E-mail items will be backed-up during routine server back-ups. Back-up tapes allow data recovery in the event of a systems crash but must be retained no longer than 15 days.

11. Public Records

- a. Notwithstanding Section 5b of this Policy titled E-mail Deletion Schedule; any information transmitted by e-mail that meets the definition of “public record” under the California Public Records Act may not be deleted or otherwise disposed of except with general guidelines as to as set forth in Attachment 1 or section 7, infra.

12. Litigation Hold Procedure

- a. This policy is subject to litigation holds. A “litigation hold” is the process used to notify County departments about pending or reasonably anticipated litigation involving the County of Calaveras and the department’s potential obligation to preserve relevant electronic data (including email) by suspending e-mail deletion involving any potentially relevant information transmitted by e-mail and preserving all other relevant electronic information.
- b. The Administrative Office, County Counsel, or Human Resources and Risk Management are authorized to direct any county department to place a litigation hold whenever electronic information exists or may be created relevant to pending or reasonably anticipated litigation involving the County of Calaveras.
- c. When any county department is directed by the Administrative Office, County Counsel, or Human Resources and Risk Management to institute a litigation hold, the department must promptly contact and coordinate with personnel from the Technology Services Department to implement the litigation hold.

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- d. Each department must establish and implement the litigation hold procedure with the following general guidelines:
 - i. Each department must designate "Litigation Hold / Public Records Act" personnel to serve as a liaison with outside legal counsel, Administration, County Counsel, Human Resources and Risk Management, Technology Services personnel, and litigation hold personnel from other County departments.
 - ii. The department "Litigation Hold / Public Records Act" personnel are responsible for the following:
 - 1. Helping legal counsel place a litigation hold on e-mails that are or may be relevant to pending or reasonably anticipated litigation involving the County of Calaveras.
 - 2. Providing sufficient information regarding the subject of the pending or reasonably anticipated litigation to allow departmental employees to conduct a reasonable search for potentially relevant electronic information.
 - 3. Coordination with Technology Services personnel to place litigation hold on potentially relevant electronic information.
 - 4. Coordinating with litigation hold personnel from other County departments, if any, involved in the pending or reasonably anticipated litigation.

13. Electronic Project Files

- a. Some County departments have significant interaction with private individuals, businesses, and enterprises in connection with large projects (e.g., development projects, reorganizations, redevelopments, revenue generation, bidding, contract administration, applications, and other miscellaneous issues.) Each department head must instruct staff to create a separate electronic project file when the department head anticipates that a project will result in significant and voluminous e-

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mailing, or electronic document submission to county users by outside parties including, among others, consultants, vendors, and concerned citizens.

- b. Technology Services shall be responsible for creating necessary and corresponding e-mail addresses. Once an e-mail address has been created, all outside parties shall be instructed to submit electronic media to that e-mail address and that all electronic correspondence and attachments submitted to private e-mails officially will not be acknowledged.
 - i. E-mails accounts created in response to a request from a department head related to a project will not be subject to a 60 day retention period.
 - ii. E-mail in accounts created in response to a request from a department head related to a project will not be deleted without authorization from County Counsel.

14. Public Records Requests

- a. Departments shall immediately notify County Counsel or the Director of Technology Services of any requests to produce copies of or provide access to electronic media or data. The response to any such requests shall be made in coordination with County Counsel.

15. Violation of Policy

- a. Violation of this policy may result in disciplinary action under County Code 2.64.525 et. Seq. or any other applicable provision under local or State law.

16. Training and Education

- a. Human Resources will be responsible for providing concurrent and ongoing training and education to all County employees regarding applicable policies and procedures for e-mail communication, electronic document retention, deletion, litigation holds, and the California Public

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Records Act, including any applicable retention requirements.

17. Written Acknowledgement

- a. Department heads shall have all employees acknowledge in writing that they have received and read this policy. Such written acknowledgement shall be retained by Human Resources. Failure to provide such acknowledgement shall not in any way limit the county's ability to enforce this policy.

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ATTACHMENT 1

GENERAL GUIDELINES ON PUBLIC RECORDS

- 1) With respect to an e-mail message that is prepared, owned, used or retained by the county, the content of such e-mail message or attachment determines whether or not it is a public record. Public Records should not be deleted unless done in accordance with state law or an applicable record retention policy
 - a) An e-mail message is generally considered to be a public record if it contains information relating to the conduct of the public's business.
 - b) An e-mail message is generally not considered to be a public record if it contains only purely personal information unrelated to the conduct of the public's business.
- 2) Some guidelines for making the determination as to whether or not electronic information is public record or exempt from disclosure include:
 - a) E-mail message that are SPAM, or commercial solicitation, or are of a personal nature which have no relevance to the conduct of county business shall not be considered to be public records and do not need to be retained.
 - b) Preliminary drafts, notes, or interagency memoranda or intra-agency memoranda that are not normally retained by the county.
 - a. These may generally include e-mail messages, memoranda, or other communications that are pre-decisional communications to the extent they contain advice, recommendations, opinions, and deliberation in the policy-making processes and are not customarily preserved or retained. Such documents may be destroyed once a superseding finalized document or memorandum has been created.
- 3) The County's integrated phone/e-mail system creates e-mail from voicemail

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messages. These voicemail messages may be deemed a public record not exempt from disclosure depending on the content and circumstances. Therefore, department head and employees should take the following action:

- a) Voicemail attachments that are personal in nature and not related to the conduct of county business should be deleted immediately.
- b) Voicemail attachments that are in whole or in part related to the conduct of County business and are of such import that the content would normally be retained, should be memorialized in writing and such writing placed in an appropriate physical file before deletion, which should occur as soon as practicable after receipt.
- c) Voicemail that pertains to threatened or actual legal proceedings should be identified and brought to the attention of county counsel for legal advice as to disposition

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ATTACMENT 2

**ACKNOWLEDGEMENT OF
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I have received a copy of and am fully aware of the County of Calaveras' electronic media and use policy; and I agree to abide by the terms of this policy. I also agree to remain apprised of future revisions to this policy by reading revisions as I am made aware of them and to abide by the terms of all such revisions.

Employee Name: _____

Employee Signature: _____

Date: _____

This form shall be retained in Human Resource files.

1 **BOARD OF SUPERVISORS, COUNTY OF CALAVERAS**
2 **STATE OF CALIFORNIA**

3 July 24, 2012

4 **RESOLUTION**
5 **NO. 2012-097**

RESOLUTION AUTHORIZING THE DISTRICT
ATTORNEY TO DESTROY CLOSED INFRACTION
CASE FILES OLDER THAN 2 YEARS, CLOSED
MISDEMEANOR CASE FILES OLDER THAN 3 YEARS,
AND CLOSED FELONY CASE FILES OLDER THAN 5
YEARS NOT REQUIRED TO BE MAINTAINED
PURSUANT TO PENAL CODE SECTION 290.08

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7
8
9 **WHEREAS**, the District Attorney opens case files for every infraction, misdemeanor
10 and felony action handled by the Office and

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12 **WHEREAS**, these files are not public records and contain duplicates of original
13 documents, pleadings, and reports maintained by the courts and various law enforcement
14 agencies and

15
16 **WHEREAS**, these files are closed and stored at the conclusion of each case and

17
18 **WHEREAS**, these closed case files may be destroyed pursuant to Board authorization
19 under Government Code sections 26201 and 26202 and

20
21 **WHEREAS**, on March 27, 1995, the Board of Supervisors passed Resolution No. 95-83
22 adopting the retention guidelines as listed in Accounting Standards and Procedures for Counties
23 which recommends such records be retained for two (2) years, and

24
25 **WHEREAS**, the District Attorney's Office has reached the limits of its available storage
26 space for closed files.

27
28 **NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors of Calaveras
County, does hereby authorize the District Attorney to destroy closed infraction case files older

1 than two years, closed misdemeanor case files older than three years, and closed felony case files
2 older than 5 years and not required to be maintained under Penal Code section 290.08.

3
4 **ON A MOTION** by Supervisor Callaway , seconded by Supervisor Wilensky
5 the foregoing Resolution was duly passed and adopted by the Board of Supervisors, County of
6 Calaveras, State of California, this 24 day of July by the following vote:

7
8 **AYES:** Supervisors Tofanelli, Wilensky, Callaway and Tryon

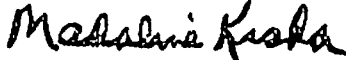
9 **NOES:** Supervisor Spellman

10 **ABSENT:** None

11 **ABSTAIN:** None

12
13 
14 _____
15 Gary Tofanelli
16 Chair

17 **ATTEST:**

18 

19 _____
20 County Clerk and Ex-Officio Clerk to
21 the Board of Supervisors, County of
22 Calaveras, State of California
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