Are e-mail messages considered public records?

At MSU, all e-mail messages are considered university records, with exception of personal e-mail messages. Personal messages are not public records and should be deleted as soon as possible from the user’s e-mail system.

What are university records?

At MSU, all e-mail messages are considered university records, with the exception of personal messages.

How do I know when an e-mail message is a record?

Work-related e-mail messages created and received by university employees during the course of business are university records and should have the same retention as similar paper-based records with a few exceptions. Messages with continuing value, such as those that document administrative decision making and committee, faculty, and campus activities, are considered records.

Examples of messages that may have continuing value are those that:

• Approve or authorize actions or expenditures
• Are formal communications between staff, such as correspondence or memoranda relating to official business
• Signify a policy change or development
• Create a precedent, such as messages issuing instructions or advice
• Relate to the substantive business of the work unit or university
• Involve negotiations on behalf of the university
• Have value for other people or the work unit as a whole

Faculty correspondence, research data, and external scholarly communications that are not administrative in nature may still have significant archival value.

Junk e-mail and personal messages are not university records and routinely should be identified, separated, and removed from the e-mail system.

What should I know about the Michigan Freedom of Information Act?

At MSU, university employees need to know that there is a state law governing their actions with regard to public records. They should be familiar with its basic concepts:

• All paper and electronic documents created, processed, or maintained on state time at state expense are public records.
• Public records belong to the citizens of Michigan and must be made available when requested either free or at minimal cost.
• Some public records, such as student academic, personnel, and medical records, are protected by specific confidentiality laws and may not be made available.
• Public records may not be destroyed without an approved records retention and disposition schedule authorizing destruction.
Specific types of items that qualify as public records include:

- Papers
- Letters
- Maps
- Books
- Photographs
- Films
- Sound recordings and magnetic or other tapes
- Electronic data-processing records and artifacts
- Other documentary records

For help in determining appropriate retention periods or in locating your office’s approved records retention and disposition schedule, contact the University Archives & Historical Collections (UAHC) staff at (517) 355-2330.

What is a records retention schedule?

A retention schedule is a list of types of records, often called a record series, in your office that specifies the length of time records need to be kept according to state or university requirements. The UAHC staff works with your office to identify these records and create this schedule. The schedule may include information regarding the retention of documents in active office areas or inactive storage areas and when and if such series may be destroyed or formally transferred to the UAHC for preservation.

What are record series and how do they relate to e-mail?

A record series is a group of similar or related records that are normally used and filed as a unit, which permits evaluation as a unit for retention scheduling purposes. E-mail is not a record series but rather a means of transmission of information. Its retention and disposition depends on the function and content of individual messages.

What do I do with e-mails that are considered records?

Messages with continuing value, such as those that document administrative decision making and committee, faculty, and campus activities, should be retained in paper or electronic copy until no longer administratively useful. Then they either should be destroyed or transferred to UAHC according to the appropriate retention schedule. (For more information, contact the UAHC staff.)

Electronic messages whose loss would pose a significant fiscal, legal, or administrative risk to the university if no longer accessible should not be deleted unless retained in an acceptable paper format. Electronic copies can be deleted if paper copies are maintained.

You may keep e-mail messages in either a print or electronic format. If kept in a print format, send them to UAHC according to your office’s records retention schedules. It is a good practice to print the most important messages and keep them along with the other records in a specific record series.

If kept in an electronic format, maintain those messages in your office in a format in which you potentially can transfer them to UAHC when appropriate university policies have been established. If saved in their native file formats, messages will be accessible only as long as the e-mail application is supported. If you save messages in an open format, such as ASCII text, you increase the chance of
accessing the messages in the future; however, you will lose formatting that exists in the native format.

For more information about keeping e-mail records, see the “Management” FAQ section.

**What do I do with e-mails that are not considered records?**

Messages with short-term value should be deleted and purged once their purpose has been fulfilled. Such messages include:

- Those distributed to a number of staff for information only, such as news bulletins, circulars, meeting notices, copies of documents, and drafts
- Those created solely as part of preparation for other records
- Personal messages and announcements not related to work
- Junk mail

**How can e-mail messages be considered authentic records?**

When determining the admissibility of records into evidence, courts consider the reliability and accuracy of the process or the system used to produce or reproduce and maintain the records rather than its format. The following laws allow records, regardless of format, to be accepted by the courts without condition:

- Federal Rules of Evidence
- University Business Act
- Uniform Business Records Act
- Uniform Rules of Evidence
- Uniform Photographic Copies of Business and Public Records as Evidence Act

Records usually are deemed admissible into a court of law when it can be demonstrated that the workflow process used to create and maintain the records is proven trustworthy in producing accurate documents. The output of e-mail messages to a particular format is acceptable as long as the result accurately reflects the original message and the method used is consistent and reliable. Once these records are accepted into courts, the accuracy of the content may still be challenged.

For more information, contact the Office of General Council.

**Are e-mail records handled differently than paper?**

E-mail messages should be managed by their content, not their format. Whether you keep an e-mail message depends on its value, subject, and function.

See “Managing E-mail” FAQs for further guidance on this topic.