



CITY OF BOSTON LAW DEPARTMENT

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Mayor

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MEMORANDUM

To: Cabinet Officers and Department Heads

From: William F. Sinnott, Corporation Counsel

Date: September 17, 2009

RE: Interim Email Retention Policy—Effective Immediately

For the past several years the City of Boston has been grappling with the establishment of an email retention policy that will effectively address the City's obligations under both the new Federal Rules of Discovery as well as the Massachusetts retention guidelines for public records. This challenge is complicated by technological and fiscal realities for the City as well as the uncertainty of a relatively new legal landscape. While the City Clerk Archives and Records Management Division is working on the implementation of a more long-term and comprehensive management system with respect to public records, it is the Corporation Counsel's opinion that a more immediate policy is required in the short term. As such, the following interim guidelines represent best efforts in this current fiscal, technological and legal environment. As outlined below, these guidelines put certain obligations on the sender and receiver of electronic mail and certain obligations on MIS.

(1) MIS shall retain all electronic mail sent and received by City of Boston employees for three years (with the exception of SPAM, invitations to work-related events, notifications of upcoming meetings, and similar records which may be deleted) on an interim basis while implementation of the comprehensive retention and disposal policy is ongoing. MIS shall have the capability for searching and retrieving emails within this three-year period and shall ensure that emails are automatically destroyed after three years.

(2) Each Department Head, with guidance from the City Clerk Archives and Records Management Division and the Law Department shall inform all employees that any electronic mail the content of which is subject to retention requirements shall be retained by the sender/recipient for the appropriate length of time. It is the responsibility of the Department Heads, with the assistance of the City Clerk Archives and Records Management Division and the Law Department, to ensure that their employees understand the relevant retention/disposal periods. Many retention obligations are less than three years, however the sender/recipient may not rely on MIS to fulfill their individual obligations; the sender/recipient must retain emails the content of which is subject to retention requirements. It is within the discretion of each Department Head whether to instruct employees to retain the email electronically, for example in Outlook folders or personal network drives, on disk, or to print them out and retain them with the paper file. Please refer to the recent retention policy, promulgated by the City

Clerk Archives and Records Management Division, approved by the Supervisor of Records, attached hereto and posted on the Hub, which provides guidance in determining the length of retention for emails. Please also refer to the following link for various specific departmental retention obligations: <http://www.sec.state.ma.us/arc/arcrmu/rmurds/rdsmds.htm>

(3) Each Department Head, with assistance of the Law Department, is responsible for instructing its employees regarding litigation holds. When an employee is notified of a litigation hold said employee must retain all relevant emails both retroactively and prospectively. MIS will also be notified of the litigation hold so that they can search and retrieve the emails stored for the prior three years.