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I. INTRODUCTION

This Policy governs the College's retention of electronic records, including electronic mail ("email") and instant messages. The Policy is intended to provide guidance on the need for retention of electronic records and messages sent and received by College employees. The College will retain and destroy electronic records, including email and instant messages, in accordance with this Policy, State Guidelines for Managing Trustworthy Digital Public Records, and the most recently approved Record Retention and Disposition Schedule ("the Schedule") for community colleges adopted by the North Carolina Department of Cultural Resources and the North Carolina State Board of Community Colleges. For the purposes of this Policy, the term "electronic records" is defined to include electronic mail and instant messages.

This Policy will be reevaluated every five (5) years, or upon the implementation of a new information technology system and will be updated as required.

II. NORTH CAROLINA PUBLIC RECORDS ACT

Electronic records made or received in connection with the transaction of public business are public records pursuant to the North Carolina Public Records Act, as defined by the North Carolina Public Records Act, N.C.G.S. Chapter 132. Examples of electronic records that are public records include but are not limited to: messages that include information about policies or directives, official business correspondence, official reports, or material that has historic or legal value.

Public records, including electronic records, may not be deleted, or otherwise disposed of except in accordance with the Schedule. The content of the electronic record determines its retention requirement.

The content of the email, not the method or device in which it was sent, dictates whether the email is a public record. For example, if an employee has work email on his private, personal email account, that email remains a public record. For this purpose, employees are strongly encouraged to use only their work email address for work emails. In the event that an employee, however, does have work emails on their personal email accounts, they are responsible to properly maintain the email and, if necessary for retention purposes, transfer the email to another medium for proper retention.

III. ELECTRONIC RECORDS CUSTODIAN

Because electronic messages can be sent and forwarded to multiple people, copies of the messages may exist in the accounts of multiple users. In most cases, the author, or originator, of the electronic message is the legal custodian and is responsible for maintaining the "record" copy. However, in cases in which the recipient has altered the message (made changes, added attachments, etc.), or when the message is coming from outside the college, the recipient is the one responsible for retaining the message.

When the custodian of an electronic message leaves the employment of the College, it is the responsibility of the supervisor to ensure all public records remaining on the computer and the messaging account are retained or disposed of appropriately.

The College additionally stores all email and instant messages as a fail-safe archive in the event of system failure or unlawful tampering. All messages which are sent or received using the College's email and instant messaging system are copied and retained by this system for at least (3) three years. All messages which are sent or received using other systems such as phone SMS or voicemail are not retained by the college. This storage mechanism is intended as a safety measure and does not replace the individual employee's legal responsibility for retaining and archiving electronic messages in accordance with the state of North Carolina's record retention laws.

IV. TYPES OF ELECTRONIC MESSAGES

For retention purposes, email messages generally fall into the following two categories:

1. Email of limited or transitory value. For example, a message seeking dates for a meeting has little or no value after the meeting. Retaining such messages serves no purpose and takes up space. Messages of limited or transitory value may be deleted when they no longer serve an administrative purpose.

2. Email containing information having lasting value. Email is sometimes used to transmit records having lasting value. For example, email about interpretations of an agency's policies or regulations may be the only record of that subject matter. Such records should

be transferred to another medium and appropriately filed, thus permitting email records to be purged.

V. PROCEDURES FOR COMPLIANCE

While the methods for reviewing, storing, or deleting electronic records may vary, compliance with the retention requirements may be accomplished by one of the following:

- **Retention of Hard Copy**. Print the record and store the hard copy in the relevant subject matter file as would be done with any other hard-copy communication.

- **Electronic Storage of Records and Email**. Electronically store the record or email in a file, on a disk or a server, so that it may be maintained and stored according to its content definition under this Policy and any underlying Procedures.

VI. LITIGATION HOLD

A litigation hold is a directive not to destroy electronic records, including email, which might be relevant to a pending or imminent legal proceeding. The President may establish a committee to oversee and monitor litigation holds; such committee may contain a member of the Information Technology Department, the College's legal counsel, and a member of the Administrative Team. In the case of a litigation hold, the committee shall direct employees and the Information Technology Department, as necessary, to suspend the normal retention procedure for all related records.

VII. OUTSIDE INSPECTION

The College recognizes the judicial system may request pretrial discovery of the information technology system used to produce records. The College will honor requests for outside inspection of the system and testing of data by the courts and government representatives. Records must continue to exist when litigation, government investigation, or audit is pending or imminent, or if a court order may prohibit specific records from being destroyed or otherwise rendered unavailable.

VIII. RECORD DISPOSITION

Records may only be disposed of in accordance with the Schedule. Prior to the disposition of any record or record group after the applicable retention period, the records custodian will create and maintain a destruction log.

REFERENCES

Statutory References	N.C.G.S § 121-5, Ch. 132
Regulatory References	None

Relevant Guidance	*Records Retention & Disposition Schedule - Colleges in the North Carolina Community College System* (2021)
Policy Manual Cross-References	Referenced by: ● Policy 2.3.8 - College Records ● Policy 7.1.2 - Internet and Network Acceptable Use

POLICY HISTORY

September 12, 2023	Adopted.