

California State University, East Bay
Email Retention Policy Task Force Report

1. Email Retention Policy Task Force
 - a. Membership: Cal Caplan (CEAS), John Charles (CIO), Bill Dinehart (SA), Armando Gonzales (AA), Pat Guthrie (CLASS), John Lane (AF), Chris Lubwama (CBE), Colin Ormsby (PEM), and Eddie Reiter (COS)
 - b. Charge – derived from consultations with President Qayoumi and Academic Senate Chair Reichman following discussion of the proposed policy during the November 6, 2007 ExCom meeting.
 - 1) Review applicable electronic records retention literature, requirements, and best practice guidelines;
 - 2) Consider email retention strategy options;
 - 3) Recommend an appropriate email retention policy for CSUEB; and
 - 4) Prepare a report summarizing the email retention situation and recommendations.

2. Background Situation – Why this new policy is necessary.

- a. Change in Federal Rules of Civil Procedure.

In December 2006, new rules took effect in federal courts governing the discovery of electronically stored information – information that is stored within emails, instant messages, voice-mails, text messages, documents, spreadsheets, databases, files, metadata, images, diagrams, etc.¹ The new rules apply to every type of electronic media including hard drives, thumb drives, computer memory, server storage, handheld devices, optical disks, etc.

Under the new federal rules, the courts may not impose sanctions when a party destroys electronically stored information as part of its “routine, good faith” operations. This “safe harbor” is one of the strongest reasons for a university to create email retention and destruction schedules that are part of its records/information management program. Written retention policies, coupled with evidence that the policy is routinely followed, are essential to show that the destruction of information was in good faith.

The ease with which electronic information can be generated, stored, altered, transmitted, and destroyed has complicated the discovery process, as has the sheer volume of information that is processed and the various formats in which it can be created, stored, and produced.²

Consequently, universities must now begin actively managing their electronically stored information – failure to do so will increase costs of litigation and risks of sanctions.

- b. CSU Executive Order 1031, Systemwide Records/Information retention and Disposition Schedules Implementation. Effective date: February 27, 2008.³ (Superseded EO 1027)

The purpose of this executive order is to improve operational efficiency and effectiveness while at the same time ensure that legal and regulatory requirements associated with the retention and disposition of CSU records/information are met.

Each university president is responsible for ensuring that appropriate departments implement records/information retention and disposition schedules – resulting in timely and appropriate disposal of records/information in accordance with schedule timeframes. Institutional email retention policies are of particular concern.

- c. CSUEB Email Practices & Electronic Storage Trends

CSUEB must manage a rapidly increasing volume of email while reconciling the competing needs for storage, access and discovery imposed by academic, administrative, regulatory and litigation requirements. Nationally, the volume of email processed by the average user is increasing at a rate of 33% per year, and the average size of email messages is also increasing.⁴

Similarly, the volume and size of electronic documents, spreadsheets, images, video streams, etc, generated and stored by CSUEB faculty, staff and students is increasing exponentially. The combined effect is that CSUEB's electronic storage requirements are doubling every 9 to 10 months – creating significant financial and infrastructure challenges.

Email practices and behaviors of many faculty and staff tend to exacerbate the situation. For example, 56% of read and unread messages retained on the CSUEB email server are more than 120 days old. Contents of email messages that have lasting value are sometimes retained only within personal email folders and not managed in accordance with records/information retention and disposition schedules. Often messages marked for deletion sit for long periods of time in electronic recycling bins before emptied/deleted.

- d. CSUEB needs a legally defensible email management policy that brings us into compliance with legal and regulatory requirements, lowers our infrastructure costs, and improves our operational efficiency and effectiveness.

3. Consideration of Retention Strategy Options

- a. The Sedona Conference⁵ on email strategies outlined two legally defensible options for managing retention of email messages on an active email server:⁶
 - 1) Retention for a relatively short period, which is enforced by automatic deletion from the active email server; or
 - 2) Retention for a relatively short period, which is enforced by automatic archiving (to an inactive/tiered storage system) and retained indefinitely.
- b. Both options comply with Federal and CSU requirements, help reduce the rate of growth of additional storage space required within our active email server system, and require faculty and staff to move messages with lasting value to appropriate local or office/departmental records retention systems.
- c. With Option 3.a.1) the user must take an explicit action to prevent the loss of a message. Users are expected to read and delete or move messages to local or departmental/office storage within the specified retention period. CSUEB's Microsoft Exchange email system enables faculty and staff to configure their email client software to automatically file, forward, or copy email messages to dedicated local storage on their desktop computers, departmental/office electronic file systems, or other types of electronic document management systems. This process can be scheduled to automatically occur at regular time intervals – shorter than the default retention period.
 - **Pros:** Faculty and staff selectively retain messages that have longer term value – they are best situated to make this determination.
 - **Cons:** Retention of email messages in local/distributed storage systems makes responses to e-discovery/litigation orders more complex. Faculty or staff who fail or forget to save important messages will lose them.
- d. Option 3.a.2) would require CSUEB to purchase, install, and maintain a centrally operated email archiving system. A central archiving system would automatically journal/copy all email messages sent or received by CSUEB faculty and staff. Access to this archive/journal could be restricted to searches conducted in response to e-discovery/litigation orders -- individual users could have access to their messages within the archival system. Dozens of new commercial products specifically designed for these purposes are now available – Google "email archiving appliances".
 - **Pros:** Responses to e-discovery/litigation orders can be handled quickly and efficiently by central staff using sophisticated search capabilities of the centrally operated email archiving system. Reduces motivation to store messages locally.
 - **Cons:** Added expense associated with acquiring and maintaining a centrally operated email archiving system.

4. Recommended Email Retention Strategy for CSUEB

- a. After considerable debate, members of the Task Force agreed that retention of email on the active server for 120 days (enforced by automatic deletion)

would appropriately balance the competing needs for compliance, personal productivity, and cost containment.

- b. Furthermore, the committee agreed that emails should generally fall into one of two categories:
 - 1) Transitory messages that should only be retained for short-term periods and then deleted; and
 - 2) Messages of lasting value that should be moved to appropriate local or office/departmental records retention systems.
 - c. See attached policy statement – as revised by the Task Force.
5. Consideration of Implementation Issues

a. Office Operations & Business Processes

Divisions and colleges need to review and revise their respective unit-level records management programs in order to comply with CSU EO 1031. These programs must include procedures for appropriately storing and disposing of records/information communicated via email in accordance with CSUEB's Email Retention Policy.

Department managers and chairs need to inform their staff and faculty of the revised procedures.

b. Changes in faculty and staff email practices

Faculty and staff should be urged to adopt new email practices and behaviors:

- 1) Routinely delete messages that no longer have significance; and
- 2) Routinely move messages that have significance (beyond the default 120 day retention period) to appropriate alternative storage locations.

Faculty and staff should consider use of automatic archiving features within MS Outlook as a safety mechanism for moving messages that have significance (beyond the default 120 day retention period), but do not have lasting value (as defined by University, College, and Department policies), to email folders stored on local desktop computers or departmental/office file servers.

Faculty and staff need instructions, documentation, and the opportunity for training on how to use the archiving features of MS Outlook and other widely used IMAP-capable email client software products.

c. Technology Infrastructure & Support Services

Departments/offices need access to secure electronic document management systems for storage of electronic records/information/messages that have

lasting value and need to be managed in accordance with applicable records retention schedules.

Faculty and staff need training, instructions, and access to published procedures, FAQs, and other documentation necessary for properly using electronic document management systems.

d. Communications & Managing Change

Given that the new email retention policy will impact faculty and staff, careful attention and adequate lead time must be given to preparing our university community for this transition. Adequate communication, training and support, must be provided at all stages of the implementation.

e. Outcomes Assessment

Questions about the impact of the 120 day retention period should be addressed using an outcomes assessment process. There should be a commitment to adjust the default retention period if necessary for productivity, operational effectiveness, or other issues. Other aspects of the implementation of the policy must also be assessed: effectiveness of training, value of documentation, etc.

6. Recommended Implementation Timeline

Approximate Date of Activity	Action Taken
March 7 –April 18, 2008	Task force review and revision of the proposed email retention policy, and preparation of report.
April 21 – May 9, 2008	The report and revised policy document will be shared with UIT, Provost Council, Cabinet, Academic Senate Executive Committee, and the University community.
May 9, 2008	Comments will be considered by the task force.
May 12, 2008	Final report and policy document will be submitted to the Cabinet for approval – effective January 2009
Summer 2008	Information Technology Services (ITS) will: <ul style="list-style-type: none"> • Implement the necessary technologies to execute the policy. • Meet with the leadership of the colleges and administrative divisions to brief them on the implementation process and timetable. • Prepare communications and training plans. Leaders of the colleges and administrative divisions will be asked to help develop and coordinate communications and training plans for their respective faculty and staff.
September – November 2008	Conduct training for staff and faculty on appropriate processes for retention of information with lasting value, and how to archive

	email messages that have importance beyond the 120 day retention period.
January 31, 2009	Implementation effective date for the new email retention policy.
April 2009	Conduct an outcomes assessment of the new retention policy.

Notes:

¹ Federal Rules of Civil Procedure, see http://www.uscourts.gov/rules/EDiscovery_w_Notes.pdf.

² M. Peter Adler, *Electronically Stored Information and the Federal Rules of Civil Procedure*, EDUCAUSE Review (May/June 2007).

³ CSU Executive Order 1031. See <http://www.calstate.edu/eo/EO-1031.html>.

⁴ According to the Radicati Group, email traffic per user has increased at a rate of 33% per year. See <http://www.the-infoshop.com/study/rd44619-corp-survey.html>.

⁵ The Sedona Conference. See <http://www.thesedonaconference.org>.

⁶ The Sedona Conference Working Group on Electronic Document Retention and Production, eMail Management and Archiving Special Project Team, *Commentary on Email Management: Guidelines for the Selection of Retention Policy*, The Sedona Conference Journal, Volume 8 (Fall 2007). See http://www.thesedonaconference.org/content/miscFiles/Commentary_on_Email_Management_revised_cover.pdf.