

# Board of County Commissioners

## Leon County, Florida

### Policy No. 96-4

Title: Public Records, Electronic Communications, and Records Retention

Date Adopted: January 26, 2021

Effective Date: January 26, 2021

Reference: Chapter 119, F.S. (Public Records); Chapter 257.36, F.S. (Records and information management); Board Policy No. 97-4 (Photocopying Fees); Board Policy No. 01-01 (E-mail/Internet Use)

Policy Superseded: Policy No. 96-4, “Public Records Law, E-mail, Social Media/Networking, and Archiving” adopted February 13, 1996; revised April 12, 2011

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It shall be the Policy of the Board of County Commissioners of Leon County, Florida, that Policy No. 96-4, “Public Records Law, E-mail, Social Media/Networking, and Archiving”, adopted April 12, 2011, is hereby amended and superseded, and Policy No. 96-4, to be entitled “Public Records, Electronic Communications, and Records Retention”, is hereby adopted in its place, to wit:

#### I. Purpose

It is the policy of the Board of County Commissioners that all County Commissioners, officers, appointees, and employees shall comply with the *Public Records Law* and *State Records Retention Schedules*.

#### II. Definitions

As used in this Policy, these terms will have the following meaning:

*Archiving Software* means software utilized and maintained by the Office of Information Technology to capture, archive, and retrieve e-mails, calendar items, and tasks, as well as text messages on County-issued Android devices, including the *Metadata* of such e-mails, calendar items, tasks, and text messages.

*County Public Records* shall mean *Public Records* created or received by any County Commissioner, officer, appointee, or employee in connection with the official business of the County, and which perpetuates, communicates, or formalizes knowledge. The definition of *County Public Records* is interpreted liberally to include *Electronic Communications* made or received on privately-owned or leased electronic devices.

*Electronic Communications* means all communications, regardless of the technology or means of transmission, transmitted electronically from one device to another. This includes electronic mail (e-mail), SMS messages (text messages), MMS (multimedia/picture messages), and postings on *Social Media* (including, but not limited to, Facebook, Instagram, YouTube, Twitter, and similar applications).

*Metadata* means data that provides information about or documentation of an electronic document's characteristics, fields, origins, and usage (such as, for example, author, recipient, date and time created, date and time modified, and file size).

*Public Records* shall have the definition set forth in Section 119.011(12), Florida Statutes, as may be amended from time to time, which currently reads:

all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.

*Public Records Law* means Chapter 119, Florida Statutes, as may be amended from time to time.

*Social Media* means the various forms of Internet-based user-created content tools that provide information sharing platforms, such as social networks, web and mobile phone applications, blogs, photo and video sharing, podcasts, wikis, message boards, and online forums. Examples of *Social Media* applications include, but are not limited to, Facebook, Twitter, Instagram, YouTube, and similar applications, both current and future, that provide internet-based information sharing platforms. Postings on *Social Media* are included in the definition of *Electronic Communications*.

*State Records Retention Schedules* means the retention schedules and disposal processes for *Public Records* that are established by the State of Florida, Department of State, Division of Library and Information Services. The *State Records Retention Schedules* officially establish the minimum length of time that a *Public Record* must be retained. The County abides by the General Records Schedule GS1-SL for State and Local Government Agencies, as may be amended from time to time.

### III. Rule

*County Public Records* may be inspected and copied by any person desiring to do so, at any reasonable time, under reasonable conditions, and under the supervision of the custodian of the *County Public Records*, or the custodian's designee. All *County Public Records* are open for inspection and copying, with the exception of records made confidential or exempt from disclosure pursuant to Florida or federal law, or court order.

IV. Requests for *Public Records*

A. Generally

1. Requests for *Public Records* may be made in writing or orally to any County Commissioner, officer, appointee, or employee.
2. Persons making a request for *Public Records* are not required to identify themselves or to provide a reason for requesting the records.

B. Receipt of a Request for *Public Records*

1. Requests to inspect or copy *Public Records* shall be acknowledged promptly by the County and responded to in good faith. A good faith response includes making reasonable efforts to determine from County Commissioners, officers, appointees, or employees whether such a record exists, and if so, the location at which the record can be accessed.
2. Upon receiving the request for Public Records, the request must be forwarded to the County Attorney's Office for coordination of the response, unless the custodian of the responsive *County Public Records*, or the custodian's designee, directs otherwise.

C. Gathering Responsive *County Public Records*

1. All County Commissioners, officers, appointees, and employees are responsible for gathering *County Public Records* in their possession that are responsive to the request for *Public Records*. This includes:
  - (a) *Electronic Communications* made or received on privately-owned or leased electronic devices, including e-mail, text messages, multimedia messages, and postings on *Social Media*; and
  - (b) records in paper format; and
  - (c) records located on other databases utilized by County departments.

Such records must be gathered and forwarded to the County Attorney's Office for review and coordination of the response, unless the custodian of the responsive *County Public Records*, or the custodian's designee, directs otherwise.

2. If the records responsive to the request include *County Public Records* located on *Archiving Software*, the County Attorney's Office will coordinate with the Office of Information Technology to search and retrieve the responsive records.

3. If responding to the request for *Public Records* will require extensive use of County information technology resources or extensive clerical or supervisory assistance, the County Attorney's Office must be contacted in advance of gathering the records, unless the custodian of the responsive *County Public Records*, or the custodian's designee, directs otherwise. The County may be able to assess a reasonable special service charge, which is to be based on the actual costs incurred to respond to the request. However, the County must notify the requester of the special service charge before the records are gathered.
4. The County is required to gather all responsive *County Public Records* that exist as of the date a request is received. However, the County is not required to create records, aggregate data from different records into a new record, produce records that may be created in the future, or convert records into a different format.

D. Reviewing the Responsive *County Public Records* for Exemptions

1. For requests that are being coordinated for response by the County Attorney's Office, the County Attorney's Office will determine whether any of the responsive *County Public Records* are confidential or exempt from disclosure pursuant to Florida or federal law, or court order.
2. If an exemption applies to a portion of a responsive *County Public Record*, that portion of the record to which the exemption applies shall be redacted, and the remainder of such record shall be provided for inspection and copying. The basis for the exemption, including the applicable statutory citation or court order, shall be stated in the response to the requester.
3. If an entire *County Public Record* is exempt from disclosure, such record will be withheld from disclosure. The basis for the exemption, including the applicable statutory citation or court order, shall be stated in the response to the requester.
4. Examples of the types of records that are exempt from disclosure include, but are not limited to:
  - (a) Personal information (such as home addresses, personal telephone numbers, dates of birth, photographs) of certain employees (such as, for example, active or former paramedics, firefighters, prosecutors, probation officers, code enforcement officers, animal control officers, and human resource directors and managers, or the spouses or children of same). To maintain the exempt status of such personal information, a written request for the exemption may be required.
  - (b) Medical records, medical claims records, and medical reports.
  - (c) Social security numbers, bank account numbers, and debit, charge, and credit card numbers.

- (d) Attorney work product prepared for, or in anticipation of, civil litigation or adversarial administrative proceedings.
- (e) Security system plans held by the County.
- (f) Records of emergency calls which contain patient examination or treatment information.
- (g) Building plans, blueprints, schematic drawings, and diagrams which depict the internal layout and structural elements of a building or facility owned or operated by the County.
- (h) Library registration and circulation records.

E. *Providing the County Public Records*

1. *County Public Records* may be inspected and copied by the requester at a reasonable time, under reasonable conditions, and under supervision by the custodian of the records, or the custodian's designee.
2. If possible, and acceptable to the requester, access to the *County Public Records* will be provided to the requester by electronic means, such as by e-mail or OneDrive.
3. If paper copies of the *County Public Records* are provided, a charge will be assessed in accordance with Board Policy No. 97-4, "Photocopying Fees", and Section 119.07(4), Florida Statutes.

V. Retention of *County Public Records*

A. Generally

*County Public Records* will be retained in accordance with the *Public Records Law* and *State Records Retention Schedules*.

B. Retention of *Electronic Communications*

1. *Electronic Communications* that are made or received in connection with the official business of the County and are made through the County e-mail system, as well as text messages on County-issued Android devices, will be retained by the *Archiving Software* utilized by the Office of Information Technology.
2. *Electronic Communications*, including e-mail, text messages, multimedia messages, and postings on *Social Media*, that are made or received in connection with the official business of the County and that are made or received on a privately-owned or leased electronic device must be forwarded to a County e-mail account so that the communications can be retained by the *Archiving Software* utilized by the County.

If a County Commissioner, officer, appointee, or employee does not forward such *Electronic Communications* to a County e-mail account for retention by the *Archiving Software*, the County Commissioner, officer, appointee, or employee is obligated to retain such *Electronic Communications* in accordance with the *State Records Retention Schedules*.

C. Retention of Other Types of *County Public Records*

Other types of *County Public Records*, such as records that are in paper format or records that are located in other databases utilized by County departments, are to be retained in accordance with the *State Records Retention Schedules*.

D. *State Records Retention Schedules* for *County Public Records*

1. The retention schedule for a *County Public Record* is based on the informational content of the record and not its format.
2. The retention schedule for most *County Public Records*, including *Electronic Communications*, falls within the following two categories:
  - (a) Retain until obsolete, superseded, or administrative value is lost (OSA):
    - (1) Administrative support records which relate to internal administrative activities (such as day-to-day office management, daily activity tracking logs, and sign-up sheets for staff use of office equipment or facilities).
    - (2) Drafts and working papers used in developing, compiling, and assembling a final product.
    - (3) Duplicate records (copies of records that are not the official record).
    - (4) Mailing/contact lists.
    - (5) Organizational charts.
    - (6) Spam/junk electronic mail journaling records.
    - (7) Subject/reference files that are maintained as a reference resource for the convenience of staff.
    - (8) Telephone call logs.
    - (9) Training material records (materials used in training, such as slide presentations, manuals, and workbooks).
    - (10) Transitory messages (such as reminders about meetings, telephone messages, announcements of office events, and news releases received strictly for informational purposes).

- (b) Retain for three fiscal years:
  - (1) Attendance and leave records.
  - (2) Budget records supporting documentation (such as working papers, staff analyses, drafts, and budget requests).
  - (3) Committee/board appointment records.
  - (4) Correspondence and memoranda of a general nature that are associated with the administrative practices or routine office activities and issues.
  - (5) Postage/shipping records.
  - (6) Work orders.

- 3. For guidance or questions concerning the retention requirements of a *County Public Record*, contact the County Attorney's Office.

E. Disposition of *County Public Records*

- 1. *County Public Records* which are the subject of an active request for *Public Records*, or which pertain to active, pending, threatened, or anticipated litigation, shall not be disposed of without the written consent of the County Attorney's Office.
- 2. *County Public Records* shall not be deleted, destroyed, or otherwise disposed of until the appropriate retention period has been satisfied and the required records disposition documentation has been completed.
- 3. For guidance concerning the process for the disposition of *County Public Records* or the required records disposition documentation, contact the County Attorney's Office.

VI. Violation of Policy

- A. It is a violation of this Policy to fail to produce *County Public Records*, including any *Electronic Communications* such as e-mail, text messages, multimedia messages, and postings on *Social Media*, that are responsive to a request for *Public Records*.
- B. It is a violation of this Policy to dispose of *County Public Records*, including any *Electronic Communications* such as e-mail, text messages, multimedia messages, and postings on *Social Media*, in a manner inconsistent with this Policy.