Board of County Commissioners
Leon County, Florida

Policy No. 96-4

Title:	Public Records Law, E-mail, Social Media/Networking, and Archiving
Date Adopted:	April 12, 2011
Effective Date:	April 12, 2011
Reference:	Ch 119, F.S.; Policy No. 91-1, "Photocopying Fees"; Policy No. 01-01, E-mail/Internet Use
Policy Superseded:	Policy No. 96-4, "Public Records Law and E-mail," adopted February 13, 1996

It shall be the policy of the Board of County Commissioners of Leon County, Florida, that Policy No. 96-4, adopted by the Board of County Commissioners on February 13, 1996, is revised and amended, to-wit:

I. Purpose

It shall be the policy of the Board of County Commissioners that all County officials, officers, appointees, and employees will comply with the Public Records Law and State Retention Schedules for Public Records, including electronic mail (e-mail) and digital communications, via social media/networking. County e-mails will be archived and retained by the County in order to comply with the Public Records Law by utilizing E-mail Archiving Software.

II. Definitions

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

1) "Digital Communications" means electronic modes and media of communications via means to include, but not limited to, the Internet, computer networks, telephones, personal data assistants (PDAs), smart phones, and other electronic devices. Media of digital communications could include formatted files (PDFs), spreadsheets, images, audio files, and video files.
2) "E-mail" (e-mail) means an electronic communication.
3) "E-mail Archiving Software" means software that captures and preserves all e-mail traffic flowing into and out of an e-mail server so it could be accessed quickly, at a later date, from a centrally managed location.
4) "Metadata" means data that provides information about or documentation of e-mails managed within the e-mail server.

5) "Public Records" means all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software or other material, regardless of physical form, or 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.
6) "Public Records Law" means Chapter 119, Florida Statutes, as amended from time to time.
7) "Records Custodian" means the elected or appointed County or State officer charged with the responsibility of maintaining the office having Public Records, or his or her designee.
8) "Social Media/Networking" means Internet-based technologies that enable individuals to communicate through the sharing of content, interacting and collaborating through bi-directional applications or messaging, and developing communities around common interests.

III. Rule

E-mail and digital communications, via social media/networking, created or received by any County elected official, officer, appointee, or employee in connection with official business, which perpetuates, communicates, or formalizes knowledge, constitutes a Public Record; and, if not exempt, is open for inspection by the public.

IV. E-mail Archiving and Records Retention

A. Purpose of E-mail Archiving

1. The use of E-mail Archiving Software by the County is designed to allow the County e-mail to be stored in a central location, which will act as an electronic file cabinet for County e-mail. In addition, the E-mail Archiving Software will act as a search assistant for the Records Custodian in retrieving County e-mail. This will allow for more efficiency and control of County e-mail.
2. The E-mail Archiving Software will allow for the County e-mail system to group and retain e-mail for the required length of time, in compliance with the Public Records Law and state retention schedules for Public Records. Nevertheless, the responsibility for determining how long to retain e-mail in compliance with retention schedules, will remain with the Records Custodian.

B. What will be Archived
1. All e-mail will be archived and retained for a specified period of time.
2. All archived e-mail will be automatically tagged with Metadata in order to make e-mail headers, content, attachments, and text fully searchable.

C. E-mail Records Retention

1. Public Records E-mail will be deleted after it has been retained for the correct period of time, as determined by the appropriate retention schedule. A Public Record that is stored and accessible after this time will remain a Public Record and will be produced upon request, unless an exemption to disclosure applies.

2. Approval by the Records Custodian or other appropriate authority will be required

prior to the scheduled destruction of County e-mail.

3. Retention of most e-mail records falls within the following two categories:
   (a) Retain until administrative purpose is served.
   (b) Retain for three fiscal years.

V. Procedures

A. Generally

Public Records may not be deleted or destroyed except as provided by law. Unless it falls within one of the specific exemptions described in the Public Records Law, or other statutory or constitutional provision the County will produce any e-mail or digital communication message or other document that constitutes a Public Record to any person, upon request. A person need not have a specified need for any Public Record to be entitled to inspect same. The County is not required, however, to create records when they do not currently exist.

B. Exemptions from Disclosure

State and Federal law exempts certain categories of documents from disclosure under the Public Records Law. These categories include:

1. Certain Agency administration documents.
2. Certain documents pertaining to Agency investigations.
3. Certain documents dealing with Agency security.
4. Certain documents containing Agency personnel Information.
5. Certain documents containing personal information, including but not limited to, medical information.
6. Certain documents containing attorney/client and attorney work product material.

C. Responding to a Public Records Request

1. Public Records requests may be made in writing or orally to the Public Information Officer. All public records requests should be referred to the appropriate program manager. The program manager or administrative supervisor is responsible for appointing one or more persons to gather the requested public records and then either arranging a time for inspection of the public records or making copies available to the requestor. E-mail or digital communications that do not constitute a public record will not be produced. E-mail or digital communications that constitute a public record, but contains exempt information, will be produced, but the exempt information must first be redacted. If in doubt as to whether an e-mail message or digital communication is a public record or contains exempt information, the program manager or administrative supervisor should contact the County Attorney's Office, as necessary.
2. If the person making the public records request wishes to obtain copies of the documents, the Public Records Law permits the County to charge 15 cents per one-sided copy.

In addition, if copying the Public Record requires extensive use of information technology resources or clerical and/or supervisory assistance, the County may assess a reasonable service charge, based on the County's actual incurred costs. An estimate of the charges should be given to the requestor and approval obtained prior to responding to the request. All charges must be collected before producing the documents; no invoices may be issued for this service.

D. Retention Periods for Public Records

1. Retention periods for public records, including e-mail and digital communications, could be found in the State's records retention schedule. Each year, administrative offices are required to file records-destruction requests through the Director of Facilities Management for any obsolete public records that they wish to destroy. E-mail files and digital communications should be a part of these destruction requirements.
2. Retention of most e-mail records or digital communication falls within the following two categories:
   (a) Retain Until Administrative Purpose is Served:
      (1) Routine announcements and information, including notices of seminars or workshops, query regarding processes of ideas, and general information regarding programs;
      (2) Reference files that are general-information files used in daily functions of the administrative area; and
      (3) Meeting notices, minutes, statistical records, reading files, and recipient's inter-departmental memoranda.
   (b) Retain for Three Fiscal Years:

      General correspondence, sender's inter-department memoranda, and most fiscal and budget records.
3. Retention schedules are based on a public records's informational content, not its format. E-mail or digital communication that fall into the category of "retain until administrative purpose is served" may be deleted on a daily basis once the records-destruction requests have been submitted in advance through the Director of Facilities Management. E-mail or digital communications that have a longer retention period, such as correspondence or sender's memoranda, must be kept through the three-year retention period.

E. While methods for reviewing, storing, or deleting e-mail and digital communications vary, employees may comply with the retention requirements of the Public Records Law by doing one of the following:

1. Print the e-mail or digital communication and store the hard copy in the relevant subject matter file as with any other hard-copy communication. Printing the e-mail or digital communication permits keeping all information on a particular subject matter in one central location, enhancing its historical and archival value. The employee must determine if incoming e-mail or digital communication must be printed before being deleted from your system.

2. Electronically store your Public Record E-mail and Digital Communications according to the conventions of your e-mail or social media/network system and retain it electronically, pursuant to the County's retention schedules.

F. The technical details and methods of storing, retrieving, and printing e-mail and digital communications depend on the e-mail or social media/network system. Consult with the Management Information Services Division (MIS), or your program manager, for details.

Some automatic periodic back-up of e-mail by Leon County MIS or by individual program managers is done under the County's disaster recovery plan. It is not designed to comply with the Public Records Law. Thus, employees must set up their own retention procedures, as previously outlined to ensure Compliance with this policy.

VI. Violation of Policy

It is a violation of this policy to dispose of any public record, including e-mail, digital communications, via social media/networking, instant messenger, and voice communications, in a manner not consistent with this Policy. Any County employee found to be in violation of this Policy will be subject to disciplinary action, up to and including dismissal, civil and/or criminal liability.

Revised 4/12/2011