

IDEM E-Mail Retention Policy

Executive Summary

The Indiana Public Records Act defines e-mail created or received by a public agency as a public record. Most of these documents are subject to public scrutiny and legal discovery. Therefore, e-mail must be managed as any other public record, including producing an e-mail upon request and following an approved retention schedule.

For this reason, assume that the content and tone of every e-mail could be viewed by the public and act accordingly. Every e-mail you send and every e-mail you receive from outside the agency is your responsibility to manage and retain according to the appropriate retention schedule. If you plan to manage your e-mail by printing for long-term archives you must include the properties page that tells the date and time sent and received, who received, who opened the e-mail, etc. as part of the record.

Retention schedule for agency e-mail is determined by the Indiana Commission on Public Records (ICPR) who provides guidance for the retention schedule. Each section of IDEM has a series of retention schedules for documents and e-mail falls under that same series of schedules.

If IDEM has a specific retention schedule for an e-mail (or any other document) and there is a general state retention schedule that could also apply to an e-mail, then the IDEM specific schedule rules. It is possible that our specific schedules would be in response to federal delegation, which trumps the general State policy. Examples of general retention schedules that may apply to all state agencies, and their e-mails, are as follows:

General Files

This includes memos, letters from staff as a response to routine public inquiries, general information concerning agency programs, products and services, and other non-policy related files. These can all be destroyed every three years.

Policy Files

These office files document substantive actions of an administrative agency. Files of this nature constitute the official record of agency performance records such as correspondence, memos, reports on policy and procedure. These must be transferred to the State Archives after three years.

Budget

This includes deliberative papers relating to formulation of a budget that is eventually prepared by the State Budget Agency. The administrative agency is responsible for retention, not the budget agency. Retain for two years past the budget cycle, then transfer to the State Archives.

Public Information Files

Typical information in an administrative file such as correspondence, maps, drawings and related records or notes. These files could be used to respond to public inquires on policies, programs or individual projects. Should be transferred to the State Archives when outdated or replaced.

Code and Rule Draft Work Papers

Including comments and response to information requests about a proposed rule or code, the e-mail or document must be retained for two years after the rule is published or the statute is introduced, then transfer to the State Archives. In some cases these e-mail or documents may be confidential.

Some material (deliberative material is one example) may be considered confidential and not available for public access. If you create this type of e-mail it must be clearly marked as confidential and must comply with the guidelines for confidential material. Once a confidential e-mail is accidentally forwarded to an outside party the e-mail loses its legal confidential status and becomes a public record, subject to public scrutiny.

E-mail that may be deleted in the ordinary course of business includes:

- personal e-mail, which should be minimal or none based upon the agency's computer usage policy;
- attachments to an e-mail that are duplicate to forms or records stored outside the e-mail system;
- e-mail that is facilitative in nature and not used to convey information, but only an attachment;
- spam, unsolicited advertisements or sales promotions

Each section in conjunction with your branch chief and assistant commissioner within IDEM should create an e-mail filing system that all employees of the section use consistently. Much like a paper filing system, the e-mail files will assist employees in recognizing and following an appropriate retention schedule.

E-mails should be filed, archived (printed and stored in the correct place) and deleted on a regular basis in order to comply with retention schedules and public access laws. Actively managing e-mails will help reduce the strain on technology resources. It is up to each assistant commissioner to ensure that retention schedules are up-to-date and that employees are systematically using the schedules. E-mail relevant to pending or reasonably anticipated litigation must be retained even if a retention schedule allows for its alteration or destruction.

If an employee leaves service at IDEM it is the employee's responsibility to review e-mail records, download those e-mail that need to be retained onto a disk, archive (printed and stored in the correct place) or delete all e-mail according to the established retention schedule prior to leaving. The employee's manager is responsible to apply the schedule to any e-mail remaining after the employee leaves.

Each assistant commissioner is responsible for his or her office (branches and sections) so that employees are using the e-mail and document retention schedules to ensure compliance with the law. **As you clean-up your e-mail files, please review the full policy and all retention schedules available at [s:/agency/public records/e-mail procedures](#).** OLC is available for specific guidance.

IDEM
E-mail Management Procedures

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1. Introduction

(a) E-mail Management Requirements

E-mail created or received by a public agency is a public record as defined by the Indiana Public Records Act. E-mail must therefore be managed like other public records in accordance with the requirements of that act and other applicable laws. Those requirements include that e-mail must be made available for inspection and copying by the public upon request unless an exception to public disclosure allows the e-mail to be held as confidential.

When an e-mail can be deleted and how it must be managed is determined by IC 5-15-5.1. If an e-mail does not qualify as a “record” as defined in IC 5-15-5.1-1, then the Indiana Commission on Public Records (ICPR) refers to it as not being a “retainable record and it can be deleted in the ordinary course of business. (See IC 5-14-3-4(e)) Whether an e-mail qualifies as a retainable record under IC 5-15-5.1 depends on the content of the e-mail. How to determine if an e-mail qualifies as a retainable record will be examined in greater detail later in these procedures.

If an e-mail qualifies as a retainable record under IC 5-15-5.1, it must be filed and managed and may not be deleted except in accordance with a record retention schedule (RRS) or other written approval from the Indiana Commission on Public Records (ICPR). The applicable record retention schedule will be determined by the content of the e-mail. How to manage e-mails that qualify as retainable records under IC 5-15-5.1 will be examined in greater detail later in these procedures.

As a whole, the following policies and procedures are designed to ensure that all staff properly manages all e-mail, as required by law.

(b) Staff Responsibilities Generally

All IDEM staff are responsible for managing their e-mail in a manner consistent with applicable laws and in a manner consistent with these management procedures. Supervisors are responsible for ensuring that staff complies with these procedures. Supervisors are also responsible for ensuring the appropriate management of e-mail for staff members who leave the supervisor’s section.

In order to comply with these procedures, employees must actively manage their e-mail just as they must actively manage their paper records. To avoid duplication of effort and to ensure that someone is responsible for every e-mail, each employee is exclusively responsible for all the e-mail he/she sends and all e-mail she/he receives from outside IDEM. That means that every time an employee hits the “send” button on an e-mail, he/she is exclusively responsible for saving, filing, retrieving, archiving and deleting that e-mail in accordance with the record retention procedures outlined in this document. The same e-mail management responsibilities apply each time an employee receives an e-mail from outside the agency.

E-mail received from others inside IDEM may be deleted by the recipient at any time because the sender is responsible for saving and managing it. Staff may retain and file e-mail received from other IDEM staff for other work related purposes, but unneeded e-mail should be deleted as soon as it is appropriate to do so. Only the person who sent the e-mail, or received it from outside the agency, is responsible for managing and producing that e-mail when it is requested.

If you have questions on how to file, retrieve or otherwise manage e-mail, you can contact the IT help desk or sign up for one of the Q + A sessions to be held in the IT training room. A schedule of the Q + A sessions will be distributed separately.

2. Procedures for managing e-mail

Each employee is exclusively responsible for managing all the e-mail they send and all e-mail they receive from outside IDEM. Managing those e-mail means that each employee must sort, file, retrieve, and archive or delete the e-mail in accordance with these procedures.

(a) Sorting involves promptly deleting e-mail when allowed by IC 5-15 and the applicable record retention schedule. *(See Appendix A for guidance on how to determine whether an e-mail is a retainable “record” under IC 5-15.)* Sorting also involves routinely filing e-mail that must be retained for the applicable retention period. *(See Appendix B for guidance on which record retention schedule may apply to a particular e-mail.)* To avoid wasting computer storage space, e-mail

should be deleted promptly if it is not a record under IC 5-15 and if it has no further value.

- (b) **Filing** e-mail for short-term storage involves moving the e-mail into folders created within the e-mail software. For e-mail that must be retained for longer timeframes, it may also mean printing and filing hard copies of e-mail in a paper file or converting the e-mail into another software format for long-term electronic filing.

Please note the “properties page” of the e-mail is considered part of the e-mail to the extent that it contains additional information about the e-mail, such as who received it and when they opened it. Accordingly, the properties page portion of the e-mail must be retained and filed with the e-mail when it is printed or converted to another software format for long term storage.

When filing e-mail that qualify for confidential treatment, it is a good idea to create a confidential folder and place it within the project folder so you have a place for the confidential e-mail that relate to that project.

E-mail that qualifies as a retainable record under IC 5-15-5.1 must be retained in accordance the applicable record retention schedule (RRS) that has been approved by the Indiana Commission on Public Records (ICPR). The content of the e-mail will determine which RRS applies.

- (c) **Retrieving** e-mail means that, upon request, employees must promptly retrieve e-mail for which they are exclusively responsible (that is, sent or received from outside IDEM). E-mail that is retrieved must include the transmission properties of the e-mail. Upon receipt of a public records request or discovery request the IDEM employee responsible for the requested e-mail must find and retrieve it in a timely manner just as they must be able to quickly retrieve and produce paper documents in their possession or control. Each section will develop its own specific system for uniform file-folder creation and filing. This system should be based on, or consistent with, the section’s paper filing system. Each section should also develop a system for how and when to convert e-mail to paper or microfiche for long term storage. This long-term storage may require amending or creating applicable record

retention schedules. These section-specific procedures will allow staff and their Section Chiefs to more easily locate and retrieve e-mail.

(d) **Archiving or deleting** filed e-mail must be done according to a record retention schedule approved by the ICPR. Archiving for the purposes of IC 5-15-5.1 involves the long-term storage of a record, including e-mail, according to the applicable retention schedule. The ICPR requires that long-term archiving of any record be done in a format that is “eye-readable-without-translation”. This generally means printed out or stored on microfiche. As always, the transmission properties of the e-mail are considered part of the e-mail and must be archived with the e-mail.

(1) The content of the e-mail determines the applicable retention schedule. Record retention schedules (RRS) must be created and amended to meet programmatic needs. The Indiana Commission on Public Records (ICPR) must approve RRSs before they are effective. *(See Appendix B for guidance on how to ascertain which RRS applies to an e-mail and how to update RRSs as needed.)*

(2) To avoid wasting computer storage space, e-mail should be deleted or archived promptly when authorized by the applicable retention schedule. However, records relevant to pending or reasonably anticipated litigation must be preserved even if a RRS allows for its destruction. Such records will be subject to a litigation hold by the Office of Legal Counsel or the Attorney General’s office.

As noted elsewhere in these procedures, Section Chiefs will need to fine-tune the application of the procedures to their respective sections. This fine-tuning will include how to name and organize file folders for easy retrieval, when to convert e-mail from electronic to paper storage, and when to update record retention schedules that apply to records handled by the section.

3. **Procedures for managing e-mail when employees leave**

- (a) Each employee is responsible for organizing, filing and archiving e-mail before leaving his or her position at IDEM.
- (b) Supervisors are responsible for ensuring that staff completes their final organization of e-mail before leaving. Supervisors are also responsible for managing, filing, retrieving and archiving the e-mail of their former staff.

4. **Appropriate content and distribution of e-mail**

(a) Carefully consider what you say in e-mail

Staff should always ensure that the content of their e-mail is professional, courteous and appropriate. Even e-mail that qualifies for confidential treatment can have its confidential character waived by inadvertent disclosure to individuals outside IDEM. It may also have to be revealed to an opposing party in litigation if the e-mail can not be shown to be privileged. Before sending any e-mail, staff should consider how it would reflect on them individually and on IDEM collectively if the e-mail were to appear in the news media, because in some circumstances **IT COULD!**

(b) Know which e-mail can be kept confidential

Every e-mail written or received during the course of your work as a public employee is considered a “public record” by Indiana’s Access to Public Records Act (“APRA”). See IC 5-14-1. This means the public has a right to inspect and copy every e-mail that a public employee writes or receives as part of his job unless the e-mail fits a specific exception to public disclosure in APRA.

The APRA defines public record broadly as: “any writing . . . that is created, received, retained, maintained, used or filed by or with a

public agency and which is generated on paper, . . . magnetic or machine readable media, electronically stored data, or any other material, regardless of form or characteristics.” This clearly includes e-mail.

As a public record, e-mail must be made available for public inspection and copying, upon request, during normal business hours, unless the e-mail is specifically excepted from disclosure. The important thing to remember is that e-mail, like all public records, is presumed to be disclosable to the public unless an exception to disclosure clearly applies.

(c) Exceptions to public disclosure requirements

The Public Records Act specifically lists 31 types of records that may be kept confidential by a public agency. Those most relevant to e-mail at IDEM are as follows:

- (1) Records declared confidential by state law, including, for example, CTAP documents, some Voluntary Remediation documents and some documents exempted from Indiana’s public right-to-know law;
- (2) Records containing information claimed to be, or determined to be confidential as a trade secret;
- (3) Records covered by executive privilege: intra-agency or interagency advisory or deliberative material that are expressions of opinion or are of a speculative nature, and are communicated for the purpose of decision-making;
- (4) Records that are subject to the attorney-client privilege;
- (5) Investigatory records of a law enforcement agency;
- (6) Work product of an attorney representing a public agency; and
- (7) Portions of personnel files.

There may be others that apply, but if the e-mail fits into one of these or the other 24 exceptions to disclosure, it does not have to be made available for inspection and copying upon request of the public.

(d) Labeling confidential e-mail

Every effort should be made to protect confidential information from being disclosed and from losing its confidential status. Privileged e-mail that is intentionally or accidentally forwarded to someone outside IDEM can lose its privilege. To ensure confidential information is properly protected, employees should do the following before including confidential information in an e-mail:

- (1) Clearly label the e-mail as confidential, and warn the recipient not to forward the e-mail to anyone who is not authorized to receive it. Labeling the subject line of the e-mail as confidential in **bold face type** will make the confidentiality claim apparent when the e-mail is still in the recipient's inbox. This, in turn, will make it less likely that the recipient will accidentally forward the confidential e-mail to someone who is not authorized to see it.
- (2) Create a signature block that claims the e-mail as confidential.
- (3) Name the exception(s) to disclosure you are relying upon for the claim of confidentiality.
- (4) Be aware that public employees who intentionally or knowingly disclose information that is classified as confidential commits a class A misdemeanor. In addition, an employee who recklessly discloses or fails to protect confidential information may be disciplined under personnel policies. See IC 5-14-3-10.
- (5) Be aware that e-mail may be inadvertently transmitted to parties outside IDEM, which can waive any claim of privilege.
- (6) Be aware when sending extremely sensitive information, such as a company's trade secret, that it is possible for e-mail transmitted over the Internet to be intercepted and copied.

(7) Confirm that a more secure form of communication is unavailable or inappropriate.

(e) Distribution of e-mail

Carbon copies should only be sent to those who need a copy.

Care should be taken with blind carbon copies.

When replying to an e-mail sent to you as part of a group, be sure to check the “Reply to sender” box to make sure you’re not sending it to the entire group when you intended it for the sender only. Before you respond to all recipients, check to make sure that you are not sending internal, privileged material to someone outside IDEM. Such a disclosure of privileged material will usually waive the agency’s ability to claim the privilege.

5. Permissible use of state resources

Indiana Ethics: A Guide to the Ethics Laws says: “You may not use state materials, funds, *property*, personnel, facilities or equipment for anything other than state business unless the use is permitted by written policy or regulation.” (Emphasis added.) Using state computers and electronic communications system for personal use violates the state’s ethics policy, unless the use is authorized by the IDEM policy on Limited Personal Use of State Resources(*Footnote1*).

Prior to being given access to an IDEM computer, IDEM employees are required to sign a user’s agreement that prohibits them from using state resources or e-mail for anything other than state business. A copy of that signed agreement is maintained in each employee’s personnel file. In accordance with that agreement, “IDEM reserves the right to monitor the use of state-provided equipment and information including, but not limited to, electronic mail, Internet, Intranet, and

¹ The full text of the IDEM de minimis use policy is on the IDEM shared drive at: Shared drive/Agency/Policies/Limited Personal Use of State Resources Policy.

Extranet.” While IDEM will refrain from accessing employee’s e-mail unless there is reasonable cause for doing so, IDEM may review e-mail correspondence for any employee at any time for business, policy, security, legal, or personnel actions without the foreknowledge of that employee. Therefore, employees should exercise professionalism in all e-mail communication. Misuse of the e-mail system may result in disciplinary action, up to and including termination.

Appendix A

E-mail that do not qualify as “records” under IC 5-15-5.1

The Public Records Act provides: “(1) public records subject to IC 5-15 may be destroyed only in accordance with record retention schedules under IC 5-15; or (2) public records not subject to IC 5-15 may be destroyed in the ordinary course of business.” IC 5-14-3-4(e) (*underline added*)

Public records not subject to IC 5-15 are those that are not covered by the definition of “record” (*Footnote 2*) under IC 5-15-5.1-1, which provides:

“Record” means all documentation of the informational, communicative or decisionmaking processes of state government, its agencies and subdivisions made or received by any agency of state government or its employees in connection with the transaction of public business or government functions, which documentation is created, received, retained, maintained, or filed by that agency or its successors as evidence of its activities or because of the informational value of the data in the documentation, and which is generated on:

- (1) paper or paper substitutes;
- (2) photographic or chemically based media;
- (3) magnetic or machine readable media; or
- (4) any other materials, regardless of form or characteristics. (*underline added*)

Accordingly, for an e-mail to qualify as a retainable “record” under this definition it must be:

1. documentation of the informational, communicative or decisionmaking processes of state government that is;
2. made or received in connection with the transaction of public business or government functions; and
3. which is created, received, retained, maintained or filed by the agency as evidence of its activities or because of the informational value of the data in the document.

² As a point of clarity, the ICPR prefers to refer to “records” subject to IC 5-15-5.1-1 as “retainable records.”

IDEM e-mail is clearly documentation of its communicative process. However, some of those e-mail are not “made or received in connection with the transaction of public business or government functions.” For example, personal e-mail would not qualify if it is not related to IDEM business. Similarly, unsolicited sales offers, commonly referred to as “spam,” would also not qualify as being received in connection with the transaction of public business. Personal e-mail and spam would therefore not qualify as retainable records under IC 5-15-5.1, which means that they could be deleted in the ordinary course of business.

Even if IDEM e-mail relates to “the transaction of public business or government functions,” it still might not qualify as a retainable “record” under IC 5-15. If the e-mail is not also created, received, retained, maintained or filed by IDEM “as evidence of its activities” or “because of the informational value of the data in the [e-mail]” then it may be deleted in the ordinary course of business. It is not always completely clear when IDEM has an e-mail but not “as evidence of its activities” or “because of the informational value of the data in the [e-mail].” Examples of these types of e-mail could include an e-mail scheduling a meeting or a conference call, or an e-mail used to transmit attached materials that does not add information to the transmitted materials. Such facilitative e-mail does not have the informational value to qualify as a retainable record.

Two (2) additional examples of documents that are not retainable records for the purposes of IC 5-15 are defined in IC 5-15-5.1-1 as “nonrecord materials” and “personal records”.

“Nonrecord materials” is defined as “all identical copies of forms, records, reference books, and exhibit materials which are made, or acquired, and preserved solely for reference use, exhibition purposes, or publication and which are not included within the definition of record.” (*underline added*). This term specifically includes identical copies and reference materials, but can also include other documents not included within the definition of record.

"Personal records" means:

- (1) all documentary materials of a private or nonpublic character which do not relate to or have an effect upon the carrying out of the

constitutional, statutory, or other official or ceremonial duties of a public official, including: diaries, journals, or other personal notes serving as the functional equivalent of a diary or journal which are not prepared or utilized for, or circulated or communicated in the course of, transacting government business; or
(2) materials relating to private political associations, and having no relation to or effect upon the carrying out of constitutional, statutory, or other official or ceremonial duties of a public official and are not deemed public records. (*underline added*)

IDEM has developed the following list of the types of e-mail that are not retainable records under IC 5-15-5.1 and may therefore be deleted in the ordinary course of business. This list has been submitted to and approved by the ICPR in accordance with IC 5-15-5.1-6. (*Footnote 3*) This list may be supplemented and resubmitted for approval to the ICPR when additional types of e-mail are identified as not qualifying as retainable records.

1. Personal e-mail unrelated to IDEM business.
2. Spam or unsolicited advertisements or sales promotions.
3. E-mail that is only facilitative and not substantive. For example, e-mail that does nothing more than schedule a meeting, or e-mail used to transmit attached materials that does not add information to the transmitted material. (*Please note that on some occasions it will be appropriate for staff to save these facilitative e-mail as evidence of the transmission.*)
4. Attachments to e-mail that are identical copies of forms, records, reference books, and exhibit materials which are made, or acquired, and preserved solely for reference use, exhibition purposes, or publication.
5. Attachments to e-mail that are identical to documents or records that are stored and managed outside the e-mail system pursuant to approved record retention schedules.

³ IC 5-15-5.1-6 provides in pertinent part: “The commission shall . . . apply the definition of record to any governmental material so questioned . . . “

Appendix B
Record Retention Schedules as they apply to E-mail

As mentioned in the foregoing procedures, e-mail that qualifies as a “record” under IC 5-15-5.1, may be deleted, destroyed or archived only when authorized by the applicable record retention schedule (RRS). The applicable RRS for e-mail is determined by the content of the e-mail. For example, e-mail advising on a particular permit issuance or denial will likely be covered by the RRS for internal correspondence about that type of permit. Similarly, e-mail received as a public comment on a permit will be covered by the retention schedule for such a public comment.

Each section must determine which record retention schedules apply to their commonly created and received records, including e-mail. Sections may also need to occasionally review their retention schedules and amend and update them as necessary. Record retention schedules can be created or updated in consultation with the Office of Legal Counsel and the Central File Room. New or amended RRSs must be approved by the Indiana commission on public records before becoming effective.

In addition, general record retention schedule, or those that have been approved for use by all state agencies, may be applicable to some e-mail. The following examples of general record retention schedules have been copied from the ICPR web page and may be applicable to some e-mail:

GRADM-3

POLICY FILES-APPOINTING AUTHORITIES, DEPUTIES, AND DIVISION DIRECTORS

These office files document substantive actions of administrative agency appointing authorities, deputy directors, and division directors. These records constitute the official record of an agency's performance of its functions and the formation of policy and program initiatives. This series may include various types of records such as correspondence, memos, and reports concerning agency policy and procedures, organization, program development and reviews. May be partially Confidential, [IC 5-14-3-4(b)(6), (2003 IC Supplement)]

TRANSFER to the COMMISSION ON PUBLIC RECORDS, STATE ARCHIVES DIVISION, after three (3) years; for EVALUATION, SAMPLING, or WEEDING pursuant to archival principles.

GRADM-4

GENERAL FILES

These could includes memos and letters from the following categories:

- a) Staff response to routine public inquiries,
- b) General information concerning an administrative agency's programs, products and/or services,
- c) Any other non-policy related file.

DESTROY after three (3) years.

GRADM-5

BUDGET WORKING PAPERS

Deliberative papers related to budget formulation process for a state agency. These records may be examined by authorized staff of the State Budget Agency engaged in preparing the budget report [see IC 4-12-1-8(a), 1998 Edition)] These records are retained by a state administrative agency and are **not** the records maintained by the State Budget Agency. May be Confidential, [IC 5-14-3-4(b)(6), (2003 IC Supplement)]

TRANSFER to the RECORDS CENTER two (2) years after the end of the affected biennial budget. DESTROY after an additional four (4) fiscal years in the RECORDS CENTER. TOTAL RETENTION: Eight (8) fiscal years after the end of that biennial budget period.

GRADM-6

CODE AND RULE DRAFT WORKING PAPERS

Includes records created by a state agency related to the legislature's review of proposed laws or adoption of administrative rule(s). These records may be Confidential, [IC 5-14-3-4 (b)(6), (2003 IC Supplement)].

TRANSFER to the COMMISSION ON PUBLIC RECORDS, STATE ARCHIVES DIVISION, for EVALUATION, SAMPLING, or WEEDING pursuant to archival principles; two (2) years after the end of the year the statute was first introduced in the General Assembly or the proposed or final rule first published in the Indiana Register.

GRADM-7

AS SUBMITTED BUDGETS

Includes new programs requested, justifications, and breakdown of money requested. Also may include back-up media for the electronic record copy of the As-Submitted Budget. The State Budget Agency lists this record on its latest approved Records Retention and Disposition Schedule with transfer to the State Archives Division, Commission on Public Records, after four (4) years. This record is the copy retained by a state administrative agency and **not** the record copy maintained by the State Budget Agency.

TRANSFER to the RECORDS CENTER two (2) years after the end of the affected biennial budget. DESTROY after an additional four (4) fiscal years in the RECORDS CENTER. TOTAL RETENTION: Eight (8) fiscal years after the end of the biennial budget period.

GRADM-8

PUBLIC INFORMATION FILES

Typical administrative files could contain correspondence, publications, maps, drawings and related records. Administrative files could be used to respond to public inquiries on policies or programs or miscellaneous agency projects.

TRANSFER to the COMMISSION ON PUBLIC RECORDS, STATE ARCHIVES DIVISION, for EVALUATION, SAMPLING or WEEDING pursuant to archival principles when outdated or replaced.

Archiving E-mail

Please remember that the Indiana Commission on Public Records requires that final archiving of e-mail must be done in a format that is “eye-readable-without-translation.” This means that it must be printed on paper or stored on microfiche or microfilm. Record retention schedules should reflect this.

Records subject to a “litigation hold”

Even if a record retention schedule provides for the destruction or alteration of a record (including an e-mail), if that record is relevant to “pending or reasonably anticipated litigation” it must be preserved as potential evidence in that litigation. Such records will be subject to a “litigation hold” by the office of legal counsel or the Attorney General’s office. If you believe a record is relevant to pending or anticipated litigation, check with the office of legal counsel before destroying the record.