
INDIANA DEPARTMENT OF LABOR AGENCY POLICY

COVERAGE: AGENCY WIDE

AUTHORIZED: LORI TORRES, COMMISSIONER

SUBJECT: EMAIL RETENTION

EFFECTIVE DATE: JUNE 3, 2009

PURPOSE:

To establish guidance and reference to the requirements for retaining email records that are sent or received on computers and other devices owned by the Indiana Department of Labor and/or State of Indiana.

SCOPE:

This policy applies to all IDOL employees and persons communicating with the Indiana Department of Labor via E-mail.

RESPONSIBILITIES:

All staff of IDOL is responsible for properly handling and guarding confidential information as well as reading, understanding, and following the Email Retention Policy.

The Agency Records Coordinator is responsible for coordinating IDOL record management activities with ICPR and Divisional Records Coordinators and scheduling agency file clean-ups.

Each division of IDOL has its own record retention schedule that applies to its commonly created and received records, including email. It is the responsibility of the Divisional Records Coordinators to consult with the Agency Records Coordinator to review its retention schedules and request amendments and updates.

Each employee is exclusively responsible for managing all of the email they send and receive. To avoid utilizing unnecessary email storage space, managing emails means that each employee must sort, file, archive, and/or delete the email at minimum, **quarterly**, and in accordance with the applicable record retention schedule.

In the case of a departing employee, Supervisors are responsible for ensuring that their staff completes the final organization of email before leaving. Supervisors are also responsible for managing filing, retrieving, and archiving the email of their former staff.

POLICY:

All e-mails sent or received on government computers and other devices are owned by the State of Indiana and may be public records as defined by the Access to Public Records Act. (See IC 5-14-3-2). E-mails are not treated differently than any other records; it is the substance (i.e. content) of the e-mail that is the determining factor establishing the document's retention or destruction. The State's retention schedules are available at: General Retention Schedule (All Agencies) <http://www.in.gov/icpr/files/gr.pdf> and Agency-Specific Retention Schedule http://www.in.gov/apps/icpr/retention/icpr_retention.

E-mails can be categorized within three broad categories:

- “Transitory” and duplicate messages, including copies of e-mails sent to several persons, as well as casual routine or personal communications.
- Public records with a less than permanent retention period.
- Public records with a permanent or archival retention period.

Retention guidelines for each of these categories are as follows:

- “Transitory” and duplicate messages – These are not required to be retained and may be deleted.
- Less than Permanent - Follow retention period for equivalent hard copy records as specified in a retention schedule. The record must be in hard copy or electronic format, which can be retrieved and interpreted for the legal retention period. When there is a doubt about the ability to retrieve an electronic record over the retention period of that record, the record may be printed out.
- Permanent or Archival - Retention may be in the form of a hard-copy printout or microfilm that meets 60 IAC 2. The information must be eye-readable without interpretation.

Defining Transitory Records:

“Transitory” messages do not a) set policy, b) establish guidelines or procedures, c) certify a transaction, or d) become a receipt. Transitory documents serve to convey information of temporary importance. The following types of e-mail are considered transitory, and may be deleted unless additional substantive (*i.e. non-transitory*), information is included in the correspondence:

- Incoming List Serve Messages
- Personal e-mails
- Spam
- Non-policy agency announcements
- Telephone messages
- Published reference materials
- Invitations to meetings and replies.
- “Thank you”
- Out of Office auto-replies

Defining Duplicate Records:

Many e-mails are sent to multiple people within State government. Information transmitted in this manner is considered a duplicate record. If retention is required of the original, the sender has the obligation to retain the e-mail in accordance with the appropriate retention schedule.

Examples of e-mail message categories requiring some level of retention include the following:

- Containing information developed in preparing position papers, reports, and studies;
- Reflecting official actions taken in the course of conducting agency business;
- Conveying information on agency programs, policy decisions, and essential transactions;
- Conveying statements of policy or the rationale for official decisions or actions;
- Documenting oral exchanges, such as meetings or telephone conversations, during which policy was discussed or formulated;
- E-mail calendars reflecting the daily appointments of officials conducting state business;
- Distribution lists for state business mail.

Examples of Common IDOL Documents with less than permanent retention required:

All:

GRADM-4	GENERAL FILES These include, but are not limited to, 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) calendar years.
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IOSHA:

84-512	INSPECTION CASE FILES - FATALITIES Each case file may contain one or more Inspection Report(s). Each Inspection Report may contain: One IOSHA Safety and Accident Cover Sheet (Report Identification Data); one narrative sheet listing participants; Safety Orders and Penalty Sheets (SF 3668) if issued; all of the Inspectors' worksheets, notes and materials gathered during the inspection or investigation; pictures and negatives, if they are developed; all letters, documents and papers that may have been generated by contest procedures and/or litigation; case files are arranged alphabetically by company. Confidential, [IC 5-14-3-4(b)(2), (1993 Edition)] Retention based on (federal) OSHA Instruction ADM 12.5 (November 15, 1989), and June 11, 1997 Memo from John B. Jones; Deputy Commissioner, IOSHA. The Chief Counsel for the Indiana Department of Labor stated there is the potential for case information access for at least seven (7) years after closure.	TRANSFER to the RECORDS CENTER seven (7) years after the case is closed. DESTROY after an additional ten (10) years in the RECORDS CENTER. TOTAL RETENTION: Seventeen (17) years after the case is closed.
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Wage & Hour:

78-1281	COMMON CONSTRUCTION WAGE SCALES This file contains adopted wage scales and related documents.. Retention partially based on IC 22-2-2-9, (2004 Edition)	TRANSFER to the RECORDS CENTER after three (3) calendar years. DESTROY after an additional two (2) calendar years in the RECORDS CENTER. TOTAL RETENTION: Five (5) calendar years.
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Examples of Common IDOL Documents with Permanent Retention Required

All:

GRADM-3	<p>POLICY FILES-APPOINTING AUTHORITIES, DEPUTIES, AND DIVISION DIRECTORS</p> <p>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. Disclosure of these records may be affected by the discretion of a public agency per IC 5-14-3-4(b)(6).</p>	TRANSFER to the COMMISSION ON PUBLIC RECORDS, STATE ARCHIVES DIVISION, after three (3) calendar years; for EVALUATION, SAMPLING, or WEEDING pursuant to archival principles.
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Office of the Commissioner:

85-746	<p>GRANT FILES</p> <p>Each year's file includes a grant application and award, correspondence, monthly reports and a final expenditure report.</p>	TRANSFER to the COMMISSION ON PUBLIC RECORDS, STATE ARCHIVES DIVISION, for EVALUATION, SAMPLING or WEEDING pursuant to archival principles after ten (10) years.
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Office of Chief Counsel - IOSHA

94-06	<p>IOSHA LEGAL CASE FILES</p> <p>These cases consist of decisions by the Board of Safety Review in Administrative Adjudication Act cases submitted by the Indiana Department of Labor's Chief Counsel. A typical legal size folder consists of correspondence, notes, interrogatories, pleadings and any offers of settlement. Any formal, written settlement agreement signed by the alleged IOSHA violator and the Indiana Department of Labor is also included. Disclosure of these records may be subject to IC 5-14-3-4(a)(4), IC 5-14-3-4(b)(2), (Versions a and b, (2007 Indiana General Assembly; and IC 22-8-1.1-24.1, and IC 22-8-1.1-48.4, (2004 Edition)] Retention based on IC 34-13-1-1, (2004 Supplement)</p>	TRANSFER to the RECORDS CENTER two (2) years after approval of the settlement agreement. TRANSFER to the COMMISSION ON PUBLIC RECORDS, STATE ARCHIVES DIVISION, for EVALUATION, SAMPLING, or WEEDING pursuant to archival principles; after an additional eight (8) years in the RECORDS CENTER. TOTAL RETENTION prior to COMMISSION ON PUBLIC RECORDS, STATE ARCHIVES DIVISION TRANSFER: Ten (10) years after approval of the settlement agreement.
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Office of Chief Counsel – Wage & Hour/Child Labor

94-07	<p>WAGE AND HOUR AND BUREAU OF CHILD LABOR LEGAL CASE FILES</p> <p>Alleged violations of the Bureau of Child Labor and Wage and Hour statutes and rules are heard by an Administrative Law Judge with the ultimate decision made by the Commissioner of the Indiana Department of Labor. Typical contents are similar to the IOSHA Legal Case Files. Disclosure of these records may be subject to IC 5-14-3-4(b)(2), Versions a and b, (2007 Indiana General Assembly) Retention based on IC 34-13-1-1, (2004 Edition)</p>	TRANSFER to the RECORDS CENTER three (3) years after approval of the settlement agreement. TRANSFER to the COMMISSION ON PUBLIC RECORDS, STATE ARCHIVES DIVISION, for EVALUATION, SAMPLING or WEEDING pursuant to archival principles after an additional seven (7) years in the RECORDS CENTER. TOTAL RETENTION prior to COMMISSION ON PUBLIC RECORDS, STATE ARCHIVES DIVISION TRANSFER: Ten (10) years after approval of the settlement agreement.
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Public Records Requirements, Litigation Related and Confidential Emails

Every email written or received during the course of one's employment as a State employee is considered a "public record" by Indiana's Access to Public Records Act. This means that the public has the right to inspect and copy such records unless the email fits a specific exception to public disclosure. The reviewers and responders to all IDOL public records requests are addressed in the Indiana Department of Labor's Public Record Policy and Procedures. [S:\ALL IDOL\Agency Policies](#)

Records relevant to pending or reasonably anticipated litigation must be preserved even if a record retention schedule allows for its destruction. Such records will be subject to a litigation hold by the Agency's General Counsel.

Every effort should be made to protect confidential information from disclosure. An employee's personal emails are not confidential. Be aware that any employee who intentionally or knowingly discloses information that is classified as confidential commits a crime. In addition, an employee who recklessly discloses or fails to protect confidential information may be disciplined under personnel policies. See Indiana Department of Labor's Confidentiality Policy [S:\ALL IDOL\Agency Policies](#) and IC 5-14-3-10.

This policy repeals and replaces all prior policies related to the same subject matter.

REFERENCES:

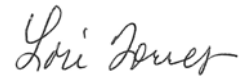
Retention Schedules: [S:\ALL IDOL\Records Retention](#)

ICPR: <http://www.in.gov/icpr/>

IDOL Email Retention Policy: [S:\ALL IDOL\Agency Policies](#)

IDOL Public Record Policy and Procedures: [S:\ALL IDOL\Agency Policies](#)

Effective: June 3, 2009



Lori Torres, Commissioner of Labor