

# New Email Retention Policy Announced

## **Background, Timeframes and FAQs**

The Department of Health (“the Department”) is transitioning to a new 90-day email retention policy for all staff.

Since the Department has started a pilot project to transition email to the cloud-based Office 365 email platform, staff will participate in the 90-day retention system if they are now on Office 365 or when they migrate from Lotus Notes to Office 365. Additional information will be provided concerning transition timeframes when it becomes available. If there are delays in transition to Office 365, ITS staff will address the functionality of a similar 90 day retention period to Lotus emails.

Background information and the timeframes for staff currently on Office 365 follow.

## **Background**

The State has been engaged in several initiatives to help government work more efficiently and consistently, including IT consolidation and transformation. A more efficient and consistent government means that we are more accountable, responsive and transparent to the public we serve. A next step in making government work better is standardizing how we, as a State, manage our email.

At its current pace, the State is creating enormous amounts of email data that is difficult to manage and interferes with operations. The State Archives has determined that most email communication does not constitute records that must be preserved under the law.

Retaining only email that is directly relevant to operations and/or that is required by law to be retained will improve agency operations, knowledge transfer and succession planning.

Federal agencies and corporations have implemented email management policies wherein email messages are purged from their systems 30, 60, or 90 days from the date sent or received, for example. Such a system will aid the State in improving its email management.

# Timeframes

Standard email management will also ease migration of State email systems to the cloud, something that, as you may know, will be taking place in the upcoming months. Therefore, starting on July 30, 2013, email sent and received by persons working for the Department of Health and who are on Office 365 will be subject to a 90-day preservation period. As described in more detail below, you will have at least 30 days (at least until August 30) to review and appropriately save email sent or received prior to July 30, 2013. Email boxes that are subject to a legal or litigation hold will not be subject to the 90-day email preservation period. You will never be required to delete email that you need to save.

## How the 90-day Email Preservation Period Works

The 90-day email preservation period will be effective July 30, 2013.

Any email that you send or receive on or after July 30, 2013 will automatically be purged 90 days after it is sent or received, EXCEPT:

1. Email content in DOH email boxes that are subject to a litigation hold (see FAQ 3 below) or other legal hold, e.g., it may be responsive to a current FOIL request.
2. Email content that must be saved for longer than 90 days or is needed for ongoing operational purposes (it must be appropriately saved by the user, otherwise the email will be subject to the 90-day email preservation period. See FAQs 2, 4 and 5.).

You may have a significant amount of email in your DOH active mailbox that pre-dates July 30, 2013. You will have at least 30 days to review old email in your active mailbox.

<b>Date Email is Sent/Received</b>	<b>Date Automatically Purged</b>
On or Before 6/1/13	8/30/13
After 6/1/13	90 Days after Sent/Received

*Example: Email received on 6/2/13, will be purged 8/31/13*

All email 60 or more days old on July 30, 2013 (i.e. all email from June 1, 2013, and earlier) will not be deleted until August 30, 2013, 30 days after the new schedule is implemented. This is also the date on which it will be 90 or more days old. All email less than 60 days old on July 30 will be purged when it reaches 90 days old (i.e. email from June 30, 2013 will be purged on September 28, 2013).

This means you have until August 30, 2013, to:

1. Review the email in your active mailbox that was sent or received by you on or before June 1, 2013;
2. Identify email that you are required to save and/or need to save for ongoing operational project purposes and appropriately save those emails.

## Frequently Asked Questions (FAQs)

### **1. What is the active mailbox?**

Your active mailbox is what you would typically call your inbox and outbox or “sent mailbox,” as well as subfolders. It contains the email you send or receive until it is deleted from your active mailbox.

### **2. How do I identify email messages that are required to be saved for longer than 90 days?**

In addition to legal or litigation holds (see next FAQ), email content may be required to be retained for certain periods of time pursuant to existing agency records retention schedules. The records retention schedules applicable to you will not be changing at this time, so anything you would have saved pursuant to the schedule prior to implementation of the 90-day email preservation period should still be saved. This 90 day retention process for email should not present any new issues.

DOH records retention schedules are broken up by business function. It is a good time to review the schedules and the types of records you create – both in email and otherwise – so that you can retain these records appropriately and consistently. Records retention schedules for DOH are addressed in the NYSDOH Administrative Policy and Procedures Manual No. 36, titled “Records Retention & Disposition,” and in the NYS Education Department’s “General Retention and Disposition Schedule for New York State Government Records” and are

available here. If you have questions about the application of ITS's records retention schedules to your records, please contact your supervisor or Counsel's Office.

According to NYS Archives, most email communications are not records that must be retained and are therefore suitable for immediate destruction. Some messages and attachments are records and should be maintained in appropriate electronic or paper files and disposed of consistent with applicable records retention schedules. NYS Archives has material, resources and guidelines, much of which is available online, to help individuals identify records that must be retained for records retention purposes. Visit NYS Archives' website for guidance and information on records retention. (Workshop handouts can be found here.)

### **3. My email is subject to a legal or litigation hold. How will the 90-day email preservation period affect me?**

The 90-day email preservation period does not apply to ITS email that is subject to a litigation hold. If an employee's email is on legal or litigation hold, none of his/her email will be purged until the legal or litigation hold is released by DOH Counsel. The 90-day email preservation period will go into effect for that email once the hold is released (the user will be given time to review contents), so it is still important that users retain any records received by email in an organized fashion in accordance with retention schedules. If the contents of an employee's email are potentially responsive to a FOIL request, the email account should be put on hold until all required documents have been produced to the FOIL officer.

### **4. How do I identify email messages that need to be saved for longer than 90-days for ongoing operational project purposes?**

We recognize that some email is not required to be saved pursuant to records retention schedules but is highly relevant and useful to the execution and implementation of ongoing DOH work. Email content that will enable the furtherance of DOH work should be retained outside of active mailboxes. Email content that is non-essential to DOH work, outdated or related to resolved matters and serves no further purpose should not be saved, unless the email content is required to be saved for legal reasons.

### **5. How do I appropriately save email content that is required or needs to be saved for longer than 90 days on Office 365?**

For DOH employees the appropriate way to save email content that must be saved for longer than 90 days is to mark it with a special retention tag in your active Office 365 mailbox called

"Never Delete (Never)." Information specifically about how to save email content that is required or needs to be saved for longer than 90 days on Office 365 is provided in these instructions.

/s

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*New Email Retention/Destruction Policy Tied to Microsoft System*, Albany Times Union, August 14, 2013. Link: <http://blog.timesunion.com/capitol/archives/193168/new-email-retentiondestruction-policy-tied-to-microsoft-system/>