



December 29, 2023

Staff of the Legislative Council
State Capitol Building
200 East Colfax
Denver, Colorado 80203

Dear Staff of the Legislative Council:

In accordance with Section 24-72-204.5(3), C.R.S., I am pleased to present you with a report outlining the electronic mail ("email") retention policy of the Colorado Department of Labor and Employment.

Statute requires reporting to the Staff of the Legislative Council. Specifically:

On or before January 1, 2024, each member of the general assembly, the governor's office and each office of the governor, and each state agency and institution shall submit a report to the staff of the legislative council of the general assembly outlining its respective electronic mail retention policy. The members of the general assembly may submit individual reports or may submit a report that specifies the electronic mail retention policies of multiple members of the general assembly.

The Department of Labor and Employment's (Department) email retention policy is attached. The Department's policy will go into effect on January 1, 2024, and follow a 6 month implementation period with retention rules being applied no later than July 1, 2024.

Sincerely,

A handwritten signature in black ink, appearing to read "JB", with a long horizontal flourish extending to the right.

Joe Barela
Executive Director
Colorado Department of Labor and Employment



CDLE Email Retention Policy

Overview

C.R.S. 24-72-204.5. (SB 23-286) requires state agencies to submit their electronic mail retention policy by January 1, 2024, to the Office of Legislative Council.

Purpose

The purpose of this policy is to outline the email retention policy and processes for the Department of Labor and Employment. This policy establishes how long an email will remain in your state email account before being deleted automatically, what emails need to be preserved, and how to prevent emails from being auto-deleted. It is a best practice to automate the retention management of emails so that they are removed from the system in a consistent manner without any manual intervention. Doing so eliminates storage of digital assets no longer needed, human error, and any potential bias.

Scope

This policy applies to all classified and non-classified employees within the Department including full or part-time permanent and temporary employees, independent contractors, volunteers, and interns, regardless of physical work location.

The application of this policy applies to emails that are in the state enterprise Google environment and not any emails that are correspondence generated or received through an application environment like Salesforce, MyUI+ application, FAMLI Benefits application (MyFAMLI+), etc. which are subject to division or office-specific retention policies instead.

Procedures

The following identifies procedures for email retention:

- All emails that are older than 4 years, other than emails with a DONOTDELETE label, will be auto-deleted. This includes email in inbox, sent, and other labels.
- If an employee needs to keep an email longer than 4 years, the employee must apply a DONOTDELETE label to the email. [DONOTDELETE Label Google Instructions](#).
- Employees shall periodically review emails with the DONOTDELETE label and remove the label when the email no longer needs to be retained. Then, the email will be auto-deleted.

Emails that should be retained permanently or longer than the retention period:

Emails with lasting long-term administrative, policy, legal, fiscal, historical, or research value, related to policy issues and actions or activities in which an important precedent is set, document historic events, and other similar shall be retained permanently. Examples include, but are not limited to:

- Emails documenting rulemaking decisions. This does not include notices about rulemaking

meetings, Google document change notices, or other “working” documentation, etc.

- Emails documenting policy decisions. This does not include all working emails leading up to policy decisions
- Emails for which a legal or sensitive hold has been received until released. These dates may exceed the retention period.
- Emails within an investigation the agency conducts, pursuant to its legal authority, in which further litigative or administrative appeals may be reasonably anticipated.
- Emails that are the subject of a CORA request until fulfilled. These dates may exceed the retention period.
- Emails related to any commitment document and/or vendor selection must be retained in the Official Contract File. These emails are retained for the applicable record retention period. Once they have been uploaded into the Official Contract File, the email may be deleted.

Emails that should be retained for 4 years:

Emails that have routine operating documentation or have limited administrative, legal, fiscal, historical information, or statistical value should be retained and will be auto-deleted after 4 years.

- Emails that are of importance to ongoing work.
- Emails that are required for reporting purposes.

Emails that should not be retained:

Emails that are transitory, routine in nature, or of time-limited value, because they serve a time-defined administrative purpose and have no documentary or evidential value, should be deleted by the user as soon as their usefulness has ended or auto-deleted after 4 years. Examples of these types of emails include but are not limited to the following:

- Meeting or schedule notices, unless required by a business process.
- Routine inquiries and advertisements.
- Lunch or break arrangements.
- Emails flagged as spam or suspicious in nature.

Prohibited practices under this policy:

- Downloading or printing emails for the sole purpose of duplicate storage unless it is required by a business process.
- Using unapproved software to automate the saving and/or storing of work emails.
- Forwarding work emails to a personal email account for the sole purpose of storing those emails. Excluded from this may be emails related to personnel (benefit decisions, FML, etc.)
- Using a personal peripheral storage device such as a jump drive or other storage devices to save and store work emails.
- Deleting any email the employee has been informed is the subject of a CORA request or an active legal hold.

Responsibilities

Employees are required to:

- Routinely manage their state email box.

- Apply the DONOTDELETE label in accordance with the standards set forth in the section above.
- Periodically review emails with the DONOTDELETE label and remove the label when the email no longer needs to be retained.

Colorado Opens Records Act (CORA)

All public records, including email, shall be open for inspection by any person, except as otherwise provided by law. Correspondence by electronic mail may be a public record and subject to public inspection under the Colorado Open Records Act (CORA), C.R.S. 24-72-201 et seq. Any email to or from an employee's office email account may also be subject to a legal hold and may be subject to public inspection.

Any email that is the subject of a CORA request or a legal hold request shall be preserved from the date of the request regardless of any maintenance, retention, or deletion policy or practices utilized by the custodian for that email. The email may only be deleted when the CORA request has been fulfilled and/or the legal hold has been lifted.

For more information about CORA, refer to the Department's [CORA SPP](#).