



Office of the City Attorney

201 Delafield Street, Suite 330
Waukesha, Wisconsin 53188-3646

Telephone (262) 524-3520
Fax (262) 650-2569
Email attorneys@waukesha-wi.gov

Brian E. Running
City Attorney
Miles W.B. Eastman
Assistant City Attorney
Julie M. Gay
Assistant City Attorney
Anne Marie Iselin
Assistant City Attorney
Linda M. Lamm
Legal Assistant

January 28, 2022

Memorandum

To: IT Board
From: Brian Running
Re: Proposed City Email Policy

Attached to this Memo is a draft of an email policy that would apply to all use of City email communications. The draft addresses the following general points:

- That City email is to be used only for City business.
- That City email is the property of the City and users have no right to privacy when using City email.
- That City email is a government record subject to public records laws.
- That email is a potential major security opening.

The first three bullets relate to the state public records laws. Users of City email have to be aware that City email is not for personal use, and their email is not their personal property. Wisconsin Statutes §19.21 requires all city officers and their deputies to maintain all government records in their custody, and to deliver them to their successors when their time in office expires. "Officers" includes all elected officials and all administrative officials appointed by the Common Council, which encompasses the City Administrator and all department heads. Emails concerning City business are clearly government records and are subject to public disclosure. In order to stay out of gray areas and avoid violations of the public records law, we should assume that every person who is given a City email account is subject to the public records law, and should therefore be subject to this email policy.

The draft requires using City email only for City business, and that all emails concerning City business are done using only City email. If users conduct City business using personal email accounts, those emails will be records available to the public under the state open records law, and the personal email may become subject to search and public disclosure. Having all City Emails in City accounts makes it simple to pass the emails on to a successor, and does not require retrieving messages from personal accounts. Responding to open-records requests is also much simpler when emails can be retrieved from one location.

The other points addressed by the draft should be self-explanatory.

Note that this draft is headed as a Human Resources policy, not an IT policy. That's because IT policies apply to the IT Department, whereas this policy is a work-rule policy that's applicable to all City employees. We recommend having all work rules appear in one place, making it easier for employees to find them without having to search through multiple sets of policies. HR Policies are the logical place for that.

Also, this draft is numbered according to a numbering system that is being recommended for all City policies, but which has not been adopted for use yet. The current numbering system is ridiculously cumbersome, and we'd like to see it replaced with the draft's system. "Chapter 12" and section "12.01" are just random place-holders, not actual things.

Please let me know if you have any questions about this draft. Remember not to discuss it among yourselves outside of a formal ITB meeting.

City of Waukesha Human Resources Policies

Chapter 12

12.01 Email

- (a) **Purpose.** This email policy is necessary to protect the security of the City's computer and communications network, to ensure compliance with state laws regarding government records, and to inform all users of City email of their rights, obligations, and privacy expectations.
- (b) **Definitions.** For purposes of this Policy, capitalized terms have the following meanings:
- (1) **City Email** means any of the following:
 - (A) Any email message sent or received using an email address or account with a waukesha-wi.gov, ci.waukesha.wi.us, or waukesha-water.com domain.
 - (B) Any message sent or received using the City's Microsoft Teams or SharePoint accounts.
 - (C) Any attachments to those messages.
 - (2) **Sensitive Information** means credit card information, bank account and routing numbers, information relating to a person's health, Social Security numbers, taxpayer identification numbers, driver's license numbers, City employee home addresses, City employee personal email addresses, City employee home telephone numbers, and any other similar information that should reasonably be recognized as sensitive.
 - (3) **User** means any person using, reading, sending, or receiving City Email, specifically including but not limited to City employees; City officers; elected officials; contractors; part-time, limited-term, or seasonal employees; and volunteers.
- (c) **Applicability.** This policy applies to any use of City Email, regardless of whether:
- (1) The use of City Email occurs on City property or anywhere else in the world.
 - (2) The use of City Email occurs during a User's on-duty work hours or at any other time.
 - (3) The use of City Email is done with a City-owned device or a computer, phone, tablet, or any other device owned by any other person or entity.
 - (4) The content or subject matter of the City Email relates to City business or not.
- (d) **Rules of Use.** The following rules must be followed by all Users:
- (1) City Email shall not be used for personal or commercial purposes. City Email is only for City business.

Note: The occasional receipt of personal emails is unavoidable, and they may be viewed and responded to, provided that doing so does not interfere with employees' duties. However, Users may not initiate the personal use of City Email. Users should keep in mind that all City Emails, including personal emails, are subject to monitoring and are government records available to the public under the state open records law.

- (2) City business shall not be conducted using personal email accounts. Any emails pertaining to City business shall be done using City Email only.
 - (3) City Email must not be deleted before its retention period has expired. City Email is a government record, and is subject to the City's records-retention policy. Consult the City's Records Retention Schedule or the City Attorney's Office before deleting any City Email.
 - (4) The subject and content of City Email shall not include any offensive, abusive, defamatory, discriminatory, sexist, racist, pornographic, obscene, or illegal content; and City Email shall not be used for harassment or bullying.
 - (5) City Email shall not be used for expression of social, political, or religious opinions, or for any other matters not related to City business.
 - (6) City Email shall not be used for political campaigning or candidate advocacy.
 - (7) City Email shall not be used to transmit copyrighted material without appropriate permission, or otherwise in violation of intellectual-property rights.
- (e) **Security.** Every User has a responsibility to help protect the City's network from malicious threats. The following rules must be followed by all Users:
- (1) All suspicious emails shall be reported to the IT Department using the Phish Alert Button or as otherwise directed by the IT Department.
 - (2) Users shall notify the IT Department immediately if a link has been clicked or an attachment has been opened that the User believes may have compromised the computer or the City network. Time is of the essence, so telephone or in-person notification of the IT Department should be done whenever possible.
 - (3) If a User believes a computer has been compromised, it should be disconnected from the network immediately, if possible.
 - (4) Users shall stay current with, and shall follow at all times, all security training provided by the IT Department.
- (f) **Ownership and Privacy.**
- (1) All City Email is the property of the City, and is not the property of the User.
 - (2) Users have no privacy rights in any City Email.

- (3) City Email may be monitored and read by City administration at any time, without notice to the User. Use of City Email is deemed to be consent to the monitoring of Users' messages.
 - (4) City Email is a government record, and is subject to disclosure to the general public under the state open-records law.
- (g) **Transmitting Sensitive Information.** When it is absolutely necessary to transmit Sensitive Information by City Email, it shall be encrypted. Contact the Information Technology Department for encryption information.
- (h) **Best Practice Recommendations.** The following recommendations should be followed whenever possible.
 - (1) City Email should be professional in appearance. Proof-read emails before sending, use spell-checker, do not compose in capital letters, avoid emojis.
 - (2) Compose every email as if it might appear on the front page of a newspaper.
 - (3) Do not use City Email to transmit confidential information that you would not want to become public unless absolutely necessary. Communicate such information by telephone or in-person conversation whenever possible.
- (i) **Monitoring of City Emails.** Monitoring of City Emails shall be done only by the City Administrator, Mayor, City Attorney, City department heads, or others determined by those individuals to have a need to know.
- (j) **Penalties for Violations.** Violations of these rules will subject the User to discipline, up to and including termination, as provided in Human Resources Policy G-3.