



May 7, 2008

The Honorable Franklin Freeman
Chairman
E-Mail Records Review Panel
Office of the Governor
Raleigh, North Carolina 27601

Re: Response to Request for Comment / "EMail Retention Training" / "EMail Archiving Solutions"

Dear Franklin:

In response to the Panel's request at its April 30 meeting for the North Carolina Press Association's comment on proposed training and archiving "solutions," the NCPA offers the following:

- The only email-specific "retention training" guidepost necessary for state employees is that they be reminded not to delete or destroy any email made or received that relates to government business. That is every state employee's obligation under the current Public Records Law. And for reasons the NCPA has detailed for the Panel, state employees' legal obligation to preserve email and other public records should not change.
- Each of the four scenarios presented in the working paper on possible archiving solutions lacks the same feature central to North Carolina's public records law structure: it authorizes a state employee to follow a records retention policy that permits immediate deletion or destruction of public record email (that which relates to government business) deemed not to have lasting value.

Therefore, the NCPA and its 200+ member newspapers recommends another scenario.

SCENARIO FIVE

FILTER SPAM AND SAVE ALL REMAINING EMAIL FOR A FIXED PERIOD OF TIME; IMPLEMENT DOCUMENT RETENTION SCHEDULES THAT REQUIRE ARCHIVING OF ALL PUBLIC RECORD EMAIL FOR AT LEAST THE MINIMUM, FIXED "PRESERVATION" TIME

This differs from "Scenario Four" in the Panel's 4/30/08 working paper's "Possible Email Archiving Solutions" by eliminating the ability of state employees to immediately delete or destroy email judged not to have "permanent archival value." It would preserve the obligation of government employees under the current Public Records Law to decide whether a record was made or received in connection with government business, and if it is, to preserve it long enough to allow the public to inspect and copy it.

The principal advantages of this scenario include the best of Scenario Four's:

- All email is captured with minimal labor costs.
- It addresses concerns regarding the availability of public records for inspection and copying.
- This scenario maintains the need for all staff to understand the public records law and their responsibilities as state employees.

Under this scenario, the NCPA supports requiring elected officials to ensure that all post-SPAM filtered, public record email be archived for at least 10 years; all other state employees be required to ensure that their public record email is archived for at least 5 years. This model parallels the proposal of San Jose's Sunshine Reform Task Force, described in Mr. Neely's recent correspondence with the Panel. And it preserves the overarching purpose of the Public Records Law by giving the public a meaningful opportunity to inspect and copy records of its government.

Best regards.

Sincerely,



John A. Bussian