

## **Statewide Policy: Appropriate Use of Electronic Communication and Technology**

The State of Minnesota provides a variety of electronic tools such as telephones, computers, facsimile machines, pagers, electronic mail (e-mail) systems, and Internet access for employees whose job performance would be enhanced by the technology. The State faces the challenge of making maximum use of the benefits of such tools, meeting legal requirements for access to information, and providing adequate protection for proprietary information. This policy memorandum governs access to and the appropriate use of State provided electronic tools and technology at all times, including both work and non-work time, by State employees in the executive branch, consultants and/or contractors.

Employee access to and use of electronic tools such as e-mail and the Internet is intended for business-related purposes. Limited and reasonable use of these tools for occasional employee personal purpose that does not result in any additional costs of loss of time or resources for their intended business purpose is permitted.

**Department Head Responsibility:** Appointing authorities are encouraged to use this policy as a framework for issuing their own departmental policies. Modifications may be made to accommodate individual departmental needs, so long as they do not enlarge or diminish what the statutes allow. In the event that an appointing authority does not promulgate an agency specific policy, this policy shall be the applicable policy.

**Employee Responsibility:** Executive branch employees are responsible for appropriate use of electronic tools, including telephones, computers, facsimile machines, pagers, e-mail and Internet access. They are expected to adhere to the highest ethical standards when conducting State business and to follow the Code of Ethics and related State statutes applicable to executive branch employees. For example:

**M.S. 43A.38, Subd. 4 provides “Use of state property”:**

- (a) An employee shall not use or allow the use of state time, supplies, or state owned or leased property and equipment for the employee’s private interest or any other use not in the interest of the state, except as provided by law.
- (b) An employee may use state time, property, or equipment to communicate electronically with other persons including, but not limited to, elected officials, the employer, or an exclusive bargaining representative under chapter 179A, provided this use, including the value of time spent, results in no incremental cost to the state or results in an incremental cost that is so small as to make accounting for it unreasonable or administratively impracticable.

**M.S. 43A.39, Subd. 2 provides “Noncompliance”:**

Any employee who intentionally fails to comply with the provisions of Chapter 43A shall be subject to disciplinary action and action pursuant to Chapter 609.

Managers and supervisors are responsible for ensuring the appropriate use of all electronic tools, including e-mail and Internet access through training, supervising, coaching and taking disciplinary action, when necessary.

Each agency is responsible for establishing internal policies regarding password management, encryption, data practices, monitoring access, records retention, and the like, and for communicating those policies to staff. Each agency will ensure that the responsible authorities within their agencies know who can access what, using what technology, and under what conditions.

**Appropriate Use:** State employees need to use good judgment in the use of the State provided electronic tools and technology, including Internet access and e-mail use. They are expected to ensure that messages conveyed are appropriate in both the types of messages created and the tone and content of those messages. Employee use of all State provided electronic tools and technology, including e-mail and the Internet must be able to withstand public scrutiny without embarrassment to the agency or the State of Minnesota.

Examples of inappropriate use include, but are not limited to:

1. Illegal activities;
2. Wagering, betting, or selling;
3. Harassment, disparagement of others, stalking, and/or illegal discrimination;
4. Fundraising for any purpose unless agency sanctioned;
5. Commercial activities, e.g., personal for-profit business activities;
6. Promotion of political or religious positions or activities;
7. Receipt, storage, display or transmission of material that is or may be reasonably regarded as violent, harassing, discriminatory, obscene, sexually explicit, or pornographic, including any depiction, photograph, audio recording, or written word;
8. Downloading or installing software (including games and executable files) unless agency-sanctioned;
9. Unauthorized accessing of non-public data;
10. Non-State employee use (e.g. family member or friend) at work or at home;
11. Uses that are in any way disruptive, or harmful to the reputation or business of the State;
12. Purposes other than state business, except incidental or minimal use.

Engaging in any of the above listed activities may subject an employee to discipline, up to and including discharge.

The traditional communication rules of reasonableness, respect, courtesy, common sense, and legal requirements also apply to electronic communication. Actions that are considered illegal such as gambling and harassment are not up to the discretion of individual agencies or individual

managers or supervisors, and such actions will subject the employee to disciplinary action up to and including discharge.

Employees should be aware that they might receive inappropriate, unsolicited e-mail messages. Any such messages should be reported immediately to the employee's supervisor or manager and any other designated official with the employee's agency. Under no circumstances should an employee either forward or reply to these messages prior to consulting with management.

While employees may make personal use of State technology such as e-mail and Internet access, the amount of use during working hours is expected to be limited to incidental use. Excessive time spent on such personal activities during working hours will subject the employee to disciplinary action.

**Union Use:** In the interest of maintaining effective labor-management relationships and efficient use of State time and resources, State e-mail systems may be used by employee representatives of the union for certain union activities, in accordance with provisions of applicable bargaining unit agreements.

State owned property or services including the e-mail system may not be used for political activities fund-raising, campaigning for union office, union organizing activities, or solicitation of employees for union membership.

Union use of electronic communication technology is subject to the same conditions as employee use of such technology, as set forth in this Policy Memorandum. This includes the conditions set forth in the paragraph below entitled, "Monitoring."

**Monitoring:** Electronic communication devices such as telephones, facsimile machines, pagers, State e-mail systems and Internet access are State property. Like other State resources, they are intended to be used for State business and other agency-sanctioned activities. Accordingly, the State reserves the right to monitor any and all telephone<sup>1</sup>, facsimile, pager, e-mail and Internet activities that occur on State equipment, including those which may be of a "personal" nature. State owned telephones, facsimile machines, pagers, e-mail and Internet systems and any and all software, data, or other information stored on a State owned computer are the property of the State and may be monitored, read, examined, seized, or confiscated as necessary. Therefore, employees should not expect that any facsimile, voicemail, or e-mail message either sent or received, or any Internet activities will remain private<sup>2</sup>. The State reserves the right to monitor any use of these systems, including use of these systems while the employee is on his/her own

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<sup>1</sup> However, electronic monitoring of telephone conversations will only occur if proper notice has been given, in accordance with Federal regulations for Stored Wire and Electronic Communications and Transactional Records Access Federal Wire Tap Regulations) – See 21 U.S.C. 2701-2711.

<sup>2</sup> Similarly, other State owned property, including, but not limited to, locked/unlocked desk drawers and cabinets, vehicles, and equipment may also be seized, confiscated, and/or searched as necessary. Employees should not expect any personal property that is maintained and/or stored in State owned property would remain private.

time, to access any information on these systems, and to take any action it determines to be appropriate with respect to that information.

Data that agencies maintain electronically are government data and, as such, are subject to classification and access under the Minnesota Government Data Practices Act, Minnesota Statutes, Chapter 13. Employees should understand that electronic data may not be completely secure. They should also understand that e-mail messages and Internet transactions, including those they delete or erase from their own files, may be backed up or recorded and stored centrally for system security and investigative purposes. E-mails and records of Internet activities may be retrieved and viewed by someone else with proper authority at a later date. It is the user's responsibility to use care in communicating information not meant for public viewing.

Because electronic communication systems, such as facsimile, e-mail and Internet systems may not be secure, it is recommended that employees not send any data classified under the Minnesota Government Data Practices Act as not public (private or confidential data on individuals or nonpublic or protected nonpublic data not on individuals) through unsecured facsimiles or over the e-mail or Internet systems unless the data are encrypted or encoded.

**Record Retention Schedules:** Record retention schedules are the same regardless of the medium used to create or store the record. As a result, many electronic records and e-mail messages are official records of the agency and must be retained in accordance with the agency's approved record retention schedule appropriate for the type, nature and content of the record. Improper disposal may subject the employee and the agency to legal sanctions and other administrative or legal consequences. The same rules that are used to determine if a paper, microform or videotaped record should be retained apply to electronic records or e-mail messages.

This policy memorandum was developed with the assistance of State human resources managers and information technology and policy managers under the auspices of the departments of Employee Relations and Administration. It will be updated and revised as needed. **If you have questions, please contact your agency human resources office or the designated official in your agency.**

**Issued: November 15, 1997**

**Revised: September 27, 2002**

**Additional References:**

Administrative Procedure 1.2 Harassment Prohibited

Statewide Policy – Zero Tolerance for Sexual Harassment

MINN. STAT. 1.50 – Freedom From Violence

MINN. STAT. 15.86 – State Agency Actions

MINN. STAT. Chapter 13 – Government Data Practices

MINN. STAT. 138.17 – Government Records; Administration