

KOPELMAN AND PAIGE, P.C.

Memorandum to Municipal Clients

Page 2

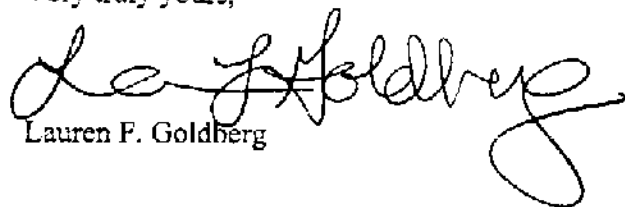
- Reports in the press have suggested that e-mail must be retained for a period of two years. Such a general statement is simply incorrect. Instead, the Administration and Personnel retention schedule provides that "correspondence," which term could include e-mail depending on the content of a particular e-mail, must be maintained for a period of two years only if the content of the e-mail contains "no informational or evidentiary value."
- Subject to very few exceptions, the written approval of the Supervisor of Records must be sought prior to destruction of any public record. G.L. c.66, §8.

The below bulletins, issued by the Supervisor of Records, provide additional information regarding the application of the Public Records Law to e-mail:

- Electronic Mail:
<http://www.sec.state.ma.us/arc/arcrmu/rmubul/bul199.htm>
- Backing Up and Archiving of Electronic Records:
<http://www.sec.state.ma.us/arc/arcrmu/rmubul/bul196.htm>

In summary, for purposes of the Public Records Law, e-mail should be treated in the same manner as paper documents. To ensure compliance with the law, municipalities may wish to consider whether any of the following actions are appropriate: review existing public records retention policies or adopt such a policy; require employees to print all e-mails of a substantive nature or copy e-mails to a specific employee tasked with printing the same; examine whether existing computer systems store data on a routine basis (to preserve data inadvertently deleted from an individual computer).

Very truly yours,



Lauren F. Goldberg

382812