**Communication on Personal Email Accounts and Personal Computing Devices**

*Background*

On March 2, Justice Carol A. Corrigan on behalf of California Supreme Court ruled that emails on private email accounts and text messages on private phones are in the scope of public records if they are used to deal with the official business of a state or local government agency. Therefore, emails on private email accounts and text messages on private phones, if related to work, must be disclosed upon a public record request. The trigger of this ruling was a public record request made by a citizen of the City of San Jose, Ted Smith, for the emails and text messages regarding a property development proposal by the former City of San Jose Mayor Tom McEnery, who received a $6 million loan from the city’s Redevelopment Agency. The public records request included email and text communications of the then-Mayor Chuck Reed, two City Council members, and their staff. The City’s Attorney Rick Doyle argued that emails on private accounts and text messages on private phones were not subject to disclosure under California Public Records Act. The City refused to turn over the requested records***. Simply put, the California Supreme Court ruled that public employees’ communications about official business is within the scope of California Public Records Act regardless of the type of email account or devices used in transmission.***

*California Public Records Act (CPRA)*

The full content of California Public Records Act (CPRA) can be accessed here: <https://leginfo.legislature.ca.gov/faces/codes_displayText.xhtml?division=7.&chapter=3.5.&lawCode=GOV&title=1.&article=1>.

*Implications of Recent Court Ruling*

The implication of the recent court ruling is that there is no more ambiguity if emails on private accounts or text messages on private phones are in or out of the scope of public records. Upon a public records request, we are obligated to turn over any and all email and text messages regardless of the type of the email accounts or electronic devices used for the communication if the content of the email and text messages are related to the University business.

*Best Practice*

* Avoid using personal email accounts or computer devices to transmit work-related messages. A public records request may make the content of your personal email accounts or computer devices subject to disclosure.
* Avoid using University email accounts or electronic devices to communicate personal matters. A public records request may accidentally disclose your personal matters communicated on University email accounts or devices.

*An Important Note*

However, when a notice to preserve evidence (i.e., litigation hold) has been received, we cannot delete the requested information. The duty to preserve evidence arises when there is pending litigation or such litigation is reasonably anticipated. Any routine disposal practice must be halted when evidence preservation is required.

For information about CSULB procedure for responding to public records requests, please visit; <https://daf.csulb.edu/offices/vp/information_security/public_records_req_res.html>

For information about CSULB Email, Text & Calendar Usage Guideline, please see <http://daf.csulb.edu/admin_guidelines/guidelines/email-service-usage.html>