



Travis County Commissioners Court Voting Session Agenda Request

Meeting Date: March 24, 2015

Agenda Language:

Consider and take appropriate action to approve the order of adoption of Chapter 42 of the Travis County Code, County Records.

Prepared By/Phone Number: Madison A. Gessner (4-9333)

Elected/Appointed Official or Department Head: Commissioner Gerald Daugherty

Commissioners Court Sponsor(s): Commissioner Gerald Daugherty

Background/Summary of Request and Attachments:

The purpose of Chapter 42, a new chapter of the Code, is to educate and provide guidance to County employees and agents with respect to their use of electronic communications technologies in the County workplace, while endeavoring to ensure the County continues to meet its legal obligations regarding public information and records retention. As the role of technology in the workplace has continued to increase and evolve, the laws passed by our Legislature and the Courts' analysis of them as they pertain to the government workplace continue to evolve as well ¹. Travis County needs to provide guidance to assist its workforce in use of electronic communications technologies that is compliant with the County's legal obligations.

Staff Recommendations:

Approval

Issues and Opportunities:

N/A

Fiscal Impact and Source of Funding:

N/A

Required Authorizations:

Commissioner Gerald Daugherty

¹ See, Tex. Gov't Code, § 552.002; Tex. Loc. Gov't Code 201.003(8). (Attached.)

AGENDA REQUEST & BACKUP MATERIALS DEADLINE: Agenda requests and backup materials must be submitted in PDF format via email to agenda@traviscountytx.gov by **12 noon on Tuesday** in order to be considered for inclusion in the following week's voting session.

Texas Government Code Chapter 552. PUBLIC INFORMATION

Sec. 552.002. **DEFINITION OF PUBLIC INFORMATION; MEDIA CONTAINING PUBLIC INFORMATION.** (a) In this chapter, "public information" means information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body;
- (2) for a governmental body and the governmental body:
 - (A) owns the information;
 - (B) has a right of access to the information; or
 - (C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

(a-1) Information is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer's or employee's official capacity, or a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body.

(a-2) The definition of "public information" provided by Subsection (a) applies to and includes any electronic communication created, transmitted, received, or maintained on any device if the communication is in connection with the transaction of official business.

(b) The media on which public information is recorded include:

- (1) paper;
- (2) film;
- (3) a magnetic, optical, solid state, or other device that can store an electronic signal;
- (4) tape;
- (5) Mylar; and
- (6) any physical material on which information may be recorded, including linen, silk, and vellum.

(c) The general forms in which the media containing public information exist include a book, paper, letter, document, e-mail, Internet posting, text message, instant message, other electronic communication, printout, photograph, film, tape, microfiche, microfilm, photostat, sound recording, map, and drawing and a voice, data, or video representation held in computer memory.

Added by Acts 1993, 73rd Leg., ch. 268, Sec. 1, eff. Sept. 1, 1993. Amended by Acts 1995, 74th Leg., ch. 1035, Sec. 2, eff. Sept. 1, 1995.

Amended by: Acts 2013, 83rd Leg., R.S., Ch. 1204 (S.B. 1368), Sec. 1, eff. September 1, 2013.

LOCAL GOVERNMENT CODE

Chapter 201

Sec. 201.003. DEFINITIONS. In this subtitle:

(8) "Local government record" means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business.

The term does not include:

- (A) extra identical copies of documents created only for convenience of reference or research by officers or employees of the local government;
- (B) notes, journals, diaries, and similar documents created by an officer or employee of the local government for the officer's or employee's personal convenience;
- (C) blank forms;
- (D) stocks of publications;
- (E) library and museum materials acquired solely for the purposes of reference or display;
- (F) copies of documents in any media furnished to members of the public to which they are entitled under Chapter 552, Government Code, or other state law; or
- (G) any records, correspondence, notes, memoranda, or documents, other than a final written agreement described by Section 2009.054(c), Government Code, associated with a matter conducted under an alternative dispute resolution procedure in which personnel of a state department or institution, local government, special district, or other political subdivision of the state participated as a party, facilitated as an impartial third party, or facilitated as the administrator of a dispute resolution system or organization.

Amended by Acts 1989, 71st Leg., ch. 1248, Sec. 1, eff. Sept. 1, 1989; Acts 1995, 74th Leg., ch. 76, Sec. 5.95(90), eff. Sept. 1, 1995; Acts 1997, 75th Leg., ch. 31, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 1352, Sec. 3, eff. Sept. 1, 1999.

**Order of the Travis County Commissioners Court
Amending the Travis County Code**

Pursuant to Chapter 2 of the Travis County Code, it is ordered that the Travis County Code is amended by adopting *Chapter 42. County Records* as shown in the attached Exhibit 1

ORDERED on: (date) _____.

Travis County Commissioners Court

Sarah Eckhardt
Travis County Judge

Ron Davis
Commissioner, Precinct 1

Brigid Shea
Commissioner, Precinct 2

Gerald Daugherty
Commissioner, Precinct 3

Margaret Gómez
Commissioner, Precinct 4

Chapter 42. County Records¹

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Subchapter A. General Provisions of Chapter

42.001 Authority

The Travis County Commissioners Court adopts this chapter under the authority of the laws of the State of Texas.

42.002 Intent of Chapter

Existing and emerging electronic communications technologies have become an integral part of efficiently and effectively conducting County business. Such technology has the potential to enhance employee productivity and provide a higher level of service to the residents of Travis County. With such technology in the work environment, however, the County must ensure that it continues to meet its legal obligations regarding public information and records retention. To that end, the Travis County Commissioners Court adopts these rules to create a consistent policy for processing written communications regarding county business on electronic communication devices.

42.003 Effective Date

This chapter becomes effective on the date the Commissioners Court adopts it.

42.004 Definitions

In this chapter:

- (1) “County Account” means any County owned, leased, or controlled account issued to a County employee or agent for communicating or maintaining County Public Information. County Account includes email, text message, social media, and instant message accounts.

¹ Chapter 42 was adopted by Travis County Commissioners Court on (DATE), Item (AGENDA ITEM).

- (2) “County Device” means a County owned, leased, or controlled device issued to a County employee or agent for communicating County Public Information. County Device includes tablets, cell phones, and laptops.
- (3) “County Public Information” means information that is written, produced, collected, assembled, or maintained in connection with the transaction of official County business by a County employee or agent in the employee's or agent's official capacity. County Public Information includes emails, text messages, instant messages, social media content, images, and attachments.
- (4) “Personal Account” means an account that a County employee or agent uses for communication that is not County owned, leased, or controlled. Personal Account includes email, text message, social media, and instant message accounts.
- (5) “Personal Device” means any device that a County officer, employee, or agent uses for communication that is not County owned, leased, or controlled. Personal Device includes tablets, cell phones, and laptops.
- (6) “Record Retention Period” means the length of time that County Public Information must be kept according to Texas law as determined by the County's Local Government Records Management Officer.

(42.005 – 42.009 Reserved for Expansion)

Subchapter B. Records on Electronic Communications Devices

42.010 Conducting County Business

- (a) Whenever feasible County employees or agents will use a County Device or County Account to transmit the County's Public Information.
- (b) If circumstances require a County employee or agent to use a Personal Device or Personal Account to transmit the County's Public Information, the communication must be forwarded to a County Account for retention, so long as the information's Record Retention Period requires it to be kept.
- (c) Once the County's Public Information has been forwarded to a County Account, the information will be retained according to the applicable Records Retention Period. The County employee or agent is responsible for any application or other technology needed to forward the County's Public Information to a County Account.
- (d) Executive Managers will ensure that all of their respective employees or agents are trained on this policy. In addition, the County's Human Resources Management Department will train all new hires on this policy at employee orientation. A county employee or agent will acknowledge in a verifiable

manner the training that was provided to them by their department or at employee orientation, whichever applies.