

# North Carolina Department of Cultural Resources



## Best Practices for Electronic Communications Usage in North Carolina: Text and Instant Message

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## **1. PURPOSE**

Mobile devices and instant messaging services provide a new dimension to the workplace and workday. Direct communication is possible almost anywhere at any time, from short messages to long exchanges.

Text messaging (text) and instant messaging (IM) provide many benefits in the workplace. As mobile devices with messaging capabilities are widespread, text/IM can offer an alternative to voice communications.

As with any tool for communication, employees must balance the capabilities of these technologies with standards and guidelines for recordkeeping, transparency, security, and professionalism.

Employees have a duty to manage records related to public business according to North Carolina statutes<sup>1</sup> and existing guidelines by the Department of Cultural Resources. This includes communication enabled by instant messaging and text messaging. Employees must also remember that these forms of communication, like e-mail or social media correspondence, may result in a record being hosted by a third-party service provider or forwarding service. These work-related communications are subject to the same rules and regulations as other public records, regardless of whether the employee uses a personal or workplace-issued device.

Additionally, when text and instant messaging are used for work-related conversations, employees should apply the same professional standards to these exchanges as they do to work-related electronic-mail (e-mail) or letters. While text/IM allow for quicker response and rapid exchange of ideas, employees should keep personal and work-related messages separate.

All agency communication tools and methods should be used in ways that maximize transparency, maintain the security of the network, and adhere to professional standards. This will help ensure that employees avoid issues with these new media while reaping the benefits.

## **2. WHAT IS TEXT MESSAGING? WHAT IS INSTANT MESSAGING?**

### **2.1 TEXT MESSAGING**

Text messaging, sometimes called ‘texting’, usually refers to the use of a “short message service” (SMS), to send an onscreen message to the recipient’s phone. SMS

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<sup>1</sup> North Carolina General Statute 132.

messages are limited to 160 characters. A character is defined as any symbol that requires one byte of storage, including numbers, letters, symbols, spaces, and punctuation. Other forms of text messaging include multimedia message service (MMS), which allows users to send pictures, video, and other non-text media, and enhanced message service (EMS), which can include formatted text.

Text messages are exchanged by “piggy-backing” on small information transfers that regularly occur between a phone and a carrier’s infrastructure. Messages are not sent directly from phone to phone but are stored and forwarded by phone networks using standard communication protocols. Text messages “wait” for the recipient to receive signal if the phone is off or has no signal.

Every text message also contains data about the message, including the sender and recipient’s phone number of the message, a time stamp, the destination phone number, and the format. This important information, which describes context and content of other data, is known as metadata.<sup>2</sup>

Messages do not have to be sent by phones. E-mail software and online services can also send text messages to mobile devices. Text messages can also be sent from one source to many different recipients, allowing an office to quickly contact many of its employees or clients at once, such as during an emergency.<sup>3</sup>

## **2.2 INSTANT MESSAGING**

Instant messaging (‘IM’) is an online service where a user employs client software on a phone, personal computer (‘PC’) or other device to communicate with someone using compatible software. Instant messaging clients include AOL® Instant Messenger® (AIM®), Windows Messenger®, iChat™ service from Apple®, the Gchat™ service linked to Gmail® client from Google®, the BlackBerry® Messenger® (BBM®) used on BlackBerry® smartphones, and the Qik™ messenger available on Android™ smartphones and the Apple iPhone®.

Even ‘basic’ mobile phones capable of sending and receiving data often feature pre-installed instant messaging software, allowing users to communicate with other users of these services from their mobile devices.

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<sup>2</sup> “Metadata as a Public Record in North Carolina: Best Practices Guidelines for Its Retention and Disposition” describes guidelines for metadata. [http://www.records.ncdcr.gov/guides/Metadata\\_Guidelines\\_%2020101108.pdf](http://www.records.ncdcr.gov/guides/Metadata_Guidelines_%2020101108.pdf)

<sup>3</sup> One example is Alert Carolina, a text-messaging service that notifies UNC students, faculty, and staff of emergency situations on campus. See <http://alertcarolina.unc.edu>.

When a user logs on, the server loads a list of available recipients (a ‘friends list’). After connecting the user to another user, the service allows each user’s software to ‘talk’ to software directly on the other end without further use of the server. This is the traditional model of instant messaging, but newer services sometimes use a server to store and transfer messages in between users.

IM users must keep in mind that messages they send may be stored temporarily on a server, a concern that until recently did not apply to user-to-user communication through instant messaging.

The ease of use and instantaneousness of IM and text messaging mean that employees must keep in mind the guidelines for using text/IM and for managing the messages being communicated when they constitute records under the public records law.

## **2.3 CONVERSATIONS**

While even single text messages and instant messages that concern public business are public records, communications on newer messaging services often result in *conversations*. These are a record of the messages exchanged between individuals, kept in chronological order, much like an e-mail exchange. Some devices retain or display messages in conversation form automatically, and others include it as an optional setting. Some devices do not retain or display messages as conversations.

## **3. GUIDELINES**

### **3.1 IMPLEMENTATION**

In implementing policies or allowing text and instant messaging tools, agencies should consider the positive and negative aspects of using these media for conducting public business. Each agency’s officers and managers should be aware of the widespread use of these services and should notify employees of appropriate use of text/IM. Agency leaders should also account for the benefits of text/IM for their employees, and work to retain these benefits or find alternatives while adhering to records retention and disposition responsibilities.

Questions to consider:

- How is text messaging/IM currently used in the office? How often?
- Are there any needs specific to your office that text messaging/IM helps to address --administrative purposes or communication with other departments/third parties?

- Do employees or officers use workplace -issued devices for this type of communication? Personal devices? What platforms?
- How have employees been informed about managing electronic communications in accordance with the public records law and other records management responsibilities? How are text messages and instant messages stored and retained currently by your office?
- Is there an existing method for transcribing or storing text messages/IM? If not, how can existing practices be adapted? Or is a new method needed?

Agency leaders can use this information to help determine if and how their agencies should use these media in conducting public business. Communication about government business in *all* formats may result in the creation of public records as defined by North Carolina General Statute §132.

### **3.2 USE**

As with all records, text/IM logs relating to public business must be retained and managed in accordance with the requirements of state law, including in particular the requirements of the public records laws. N.C.G.S. §132 defines public records as including “documents, papers, letters... *regardless of physical form or characteristics*, made or received . . . in connection with the transaction of public business. . .” (emphasis added.)

Text messages and instant messaging are forms of *correspondence* like letters or memoranda. Employees should consult their applicable records retention and disposition schedules (also known as records retention schedules or records schedules), agency policies, or guidelines issued by the Department of Cultural Resources and any state, federal, and local laws regarding the use, management and retention of correspondence.

#### **3.2.1 PERSONAL USE**

Personal correspondence using text and instant messaging is convenient and quick. An employee may find it more efficient during the day to leave a short text message.

Employees should consult their agency policy regarding personal use of workplace-issued equipment. At a minimum, employees shall not use workplace-issued mobile phones to send text messages for political purposes, to conduct private commercial transactions, to engage in private business activities.

### **3.2.2 PROFESSIONAL USE**

Text and instant messaging continue to flourish as workplace tools due to the greater efficiency and accessibility of text/IM as compared to other means of communication. However, employees must pay careful attention to their responsibilities for maintaining public records of text and instant message conversations that involve public business.

Employees should be professional in their communications. They should not mingle personal with business-related content, and should ensure that their messages are legible and concise.

## **4. RECORDS AND RETENTION**

North Carolina General Statute 132 defines public records by their *content*, not by their *media or format*. Both personal and workplace-issued devices, when used by employees to conduct public business, result in communications that constitute public records subject to the requirements of G.S. 132, as further informed by guidance from the North Carolina Department of Cultural Resources.

Employees are responsible for understanding and following the records retention and disposition schedules established for their agencies, which set out how long records should be retained and whether they are to be destroyed or transferred to the custody of the State Archives. Employees should also consult The General Schedule for State Agency Records as that records retention schedule may apply also to text/IM communications. As noted above, records are defined by content and not the source of a given communication, so employees must be aware of their specific duties regarding communications.

Even though agency records retention schedules may not explicitly mention text or instant messaging, communications through these media are nevertheless covered if the records retention schedule includes reference to electronic records, or “correspondence” or other relevant description that would implicate the use of text/IM messages or communications related to public business. Existing records retention and

disposition schedules may include a variety of items that apply to text or instant messaging, which are to be complied with in the retention of records.

Often conversations can be retained all at once, in order to show the exchange from start to finish. Many mobile devices and instant messaging services and programs allow entire conversations to be saved and forwarded.

**\*NOTE\*: Agencies and employees should not rely on service providers to provide records created by text/IM.** Service providers may keep their own records of text and instant messages but they are not automatically obligated to provide a copy of those records to government entities<sup>4</sup>. Additionally, your service provider may offer a service by which all text and IM are saved automatically as it passes through their system. While this service is convenient, the provider is not responsible for managing those messages or retaining them. Employees are responsible for managing these records and ensuring that they be retained longer if the records retention and disposition schedule requires a longer retention period.

**Agencies should be mindful of these issues and seek to address it, in their contracts and or Service Level Agreement with service providers to ensure they can obtain copies of their public records.**

## 5. SECURITY

Mobile devices have become increasingly complex. Just like operating systems and Internet access on computers, phone operating systems and online capabilities raise security issues for users, and employees should exercise caution to prevent the invasion and infection of devices used for business.

Electronic messages are usually transmitted over open networks and devices that make mobile devices susceptible to these threats. Mobile devices now face security threats from the same source as computers: malicious software known as “malware”. Employees should be aware of ways to secure their devices against these and other security threats.

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<sup>4</sup> For more information, please refer to the federal Stored Communications Act,

Many security risks to devices that use text or instant messaging do not come from outside software, but instead take advantage of the users of devices. Legitimate messages from service providers or reliable agencies will *never* ask for a user to send confidential or personal information by text message, instant message, or e-mail.

Users can protect themselves from other security risks by following some simple rules:

- don't let strangers use a workplace-issued device,
- don't leave a device unattended, as this can provide an easy route for others to install software or steal information,
- don't use unsecured devices to send sensitive or confidential information about workplace business.

All users should treat their devices as potential avenues for information theft. Those who use devices for public business should protect them as they would any point of access to secure information.

## **6. CONCLUSION**

Text and instant messaging bring new functions to the workplace, but with corresponding responsibilities. Employees are responsible for properly maintaining records according to statutes and guidelines regardless of their format. Users of these media must also be aware of security and productivity issues raised by text and instant messaging. As these media continue to grow within the workplace, employees must remain mindful of their duties regarding text/IM or similar-type communications.