



UNIVERSITY of WASHINGTON

Ana Mari Cauce
Professor of Psychology
PRESIDENT

August 20, 2020

Dear Colleagues,

I understand that there have been lots of concerns about how we access emails for public records requests and/or legal proceedings. Unfortunately, the answer is not a straightforward one – we work through schools and colleges, which have their own procedures. I've tried to boil things down to the main issues.

Key background information:

- We have a legal obligation to be responsive to requests for communications about university related issues and business. In our state, public records rules are fairly wide-ranging, and requesters can make very specific or rather broad requests for emails/written communications for lengthy periods of time, sometimes several years back.
- We must provide this information in a timely fashion and can, in fact, face substantial fines for either not responding in a timely fashion or for not turning in all emails that are responsive.
- There are few allowable reasons for not releasing information in a communication that is responsive to a request – FERPA and HIPAA are good examples.
- Regardless of whether an email resides in a UW account or a personal account, if it is about university related issues or business and is responsive to a public records request, the UW is required to produce it in response to the request.
- Copies of emails and other records can be stored in many places, and people are often surprised to find additional copies of things that they thought had been deleted. There are many ways this arises, but here are three common scenarios that people overlook:
 - Marking an email as deleted does not necessarily mean it is gone. Some email software is configured so that deleting a message in the “Inbox” or a folder moves

that copy to a “Deleted Items” or “Trash” folder. Information contained in email persists until all messages containing the content are deleted and the “Deleted Items” or “Trash” folder is emptied.

- Many email systems have some protections to recover recently deleted items to help people and organizations avoid accidental data loss. The UW email systems provided by UW-IT (UW Office 365 and UW G-Suite) maintain a copy of deleted emails for about one month, in most cases, to allow for recovery due to system failure or other types of data loss. Other UW schools, colleges, and departments that run their own email servers may have recovery features that differ.
- Still, a great number of individuals at the UW use email software (such as Microsoft Outlook, Apple Mail, Windows Mail, or Mozilla Thunderbird) on their UW computers that makes a local copy of information from email servers. These local copies of emails may include both UW-provided email accounts and personal email accounts if the email software is used to access them. Additionally, copies of these messages may exist on both a current computer, as well as old, unused computers that have not been erased.

The process for collecting records (emails or written communications) responsive to public records requests:

- When we receive a public records request, our Office of Public Records writes to the relevant Dean or University Administrator, shares with them a copy of the request and asks that they provide us with all records responsive to the request. Each Dean has assigned one of his/her staff members to act as the college’s public records liaison. The liaison oversees the college’s compliance with the public records process and keeps the Dean apprised of their progress. It is up to the school or college to identify responsive records.
- In most cases the school/college goes directly to the faculty or staff member and they work collaboratively on identifying responsive records. Faculty members work with the school/college’s public records liaison, or they may work with the school/college’s IT department to collect the emails on the faculty/staff members account. It is also not unusual for faculty or staff members to ask the school/college to “take care of it” and this is often done by reporting back to the Office of Public Records that they are unable to provide the records. The Office of Public Records will then work directly with UW-IT for a snapshot of all content. Faculty members often call the Office of Public Records when making decisions about what emails are responsive.
- Faculty/staff are often surprised at the breadth of data, information and records that the statute requires in response to a public records request. Again, emails about your university work held on personal computers or personal email accounts is defined as a public record under Washington law. And while it is not routine for the UW to ask

faculty/staff to turn over their personal phones or computers for a public records request, there are times when this might happen when the request for information is related to a legal issue.

- State law and our university records retention policies specifically outline what records must be retained and the length of time they must be retained. If there are questions, we suggest consultation or training with our Office of Public Records or Records Management Office to make sure we're adhering to state law. "Willfully" destroying a public record is illegal and can be met with serious penalty (RCW 40.16.010).

I recognize that this probably raises as many questions as it answers, but it provides a general overview. What is important to remember is that anything you put on email related to a university matter can become a public record and you might be obligated to turn it over.

Sincerely,

A handwritten signature in black ink that reads "Ana Mari Cauce". The signature is written in a cursive, flowing style.

Ana Mari Cauce
President
Professor of Psychology