

KERN REGIONAL CENTER
BOARD OF DIRECTORS POLICY

SUBJECT: ELECTRONIC COMMUNICATIONS POLICY
POLICY NO.: TBD
DATE: Board of Directors Approval Date: 11/18/2025

ARTICLE I. PURPOSE

The purpose of this Policy is to establish standard operating procedures, guidelines, and clear and concise direction regarding the retention of emails, including their attachments, in the possession of the Kern Regional Center (“Center”). The intent of this Policy is to prevent the unauthorized access to or disclosure of sensitive information prepared, owned, used, or retained by the Center and to comply with the California Electronic Communications Privacy Act¹, California Public Records Act (“CPRA”)² and all other state and federal regulatory requirements.

ARTICLE II. DEFINITIONS

Section 2.1 Definitions

- A. **Account** shall mean any private or Center email account used for Center Business.
- B. **Center Business** center business shall be construed broadly to mean information relating to the conduct of the public’s business or communications concerning matters that support the Center’s mission.
- C. **Center Network** any Internet access, computer server, computer network, intranet, local area network, wireless network, e-mail system, cloud storage system, or file-sharing system owned or made available by the Center.
- D. **Center Personnel** shall collectively refer to all Center employees, board members³, appointed officials, and anyone who prepares, owns, uses, or retains public records on behalf of the Center.
- E. **Center Staff** any employee of the Center and any other non-employee in lawful possession of electronic communications related to Center Business.
- F. **CPRA Analyst** Chief Equity Officer or his/her designee.
- G. **CPRA Portal** is a web-based system where members of the public may submit CPRA requests to the Center and the Center may respond, including the production of records.

¹ Pen. Code, § 1546

² Gov. Code, § 7920.000 *et seq*

³ Welf. & Inst. Code, § 4622

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- H. **CPRA Request** is a request by a member of the public to inspect and/or to receive a copy of Center records. Commonly requested records include emails related to a particular subject matter, and Center contracts.
- I. **Deletion** complete destruction of email without permitting duplicates, either electronic or hard copies.
- J. **Electronic Communications** any and all electronic transmissions, and every other means of recording upon any tangible thing in any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored. Without limiting the nature of the foregoing, “electronic communications” include e-mails, texts, voicemails, and include communications on or within commercial applications (“Apps”) such as Facebook Messenger, Twitter, WhatsApp, etc.
- K. **Electronic Device** a device depending on the principles of electronics and using the manipulation of electron flow for its operation, including but not limited to cellular telephones, laptops and desktop computers, hotspots, tablets, pagers, cameras, televisions, and DVD/CD players.
- L. **Electronic Mail** or (“Email”) messages sent within the Center’s Electronic Messaging application.
- M. **Electronic Messaging Account** any account that creates, sends, receives, or stores electronic communications, such as email messages or text messages, or voicemail messages.
- N. **Excessive Use** is defined as “Excessive” if it interferes with normal job functions, impacts responsiveness, and/or the ability to perform daily job activities.
- O. **Exchange Email Server** the server used to store the Center’s electronic messages.
- P. **Listservs** a messaging function hosted by server computers that automatically mails messages to subscribers and can be referred to as “electronic bulletin boards.”
- Q. **Public Record** shall mean “Public Record” as defined in the California Public Records Act (“CPRA”).⁴ The CPRA defines “public records” as “any writing containing information relating to the conduct of the public’s business prepared, owned, used, or retained by any state or local agency regardless of physical form or characteristics” and further defines a “writing” as “any handwriting, typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures,

⁴ Gov. Code, § 7920.000 et seq.

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sounds, or symbols, or combinations thereof, and any record thereby created, regardless of the manner in which the record has been stored.”⁵

- R. **Retention** preservation of an email in such a way that does not permit additions, deletions, or changes to the original document, without creating a duplicate of the record.
- S. **Writing** shall mean any typewriting, printing, photostating, photographing, photocopying, transmitting by electronic mail or facsimile, and every other means of recording upon any tangible thing any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof, and any record thereby created, regardless of the manner in which the record has been stored.

Section 2.2 General Scope

This Policy shall apply to all Center Personnel who may have access to or use of the Center Network and shall be interpreted to be consistent with other Center-wide policies. This includes all who may have been issued Center-owned technology or a Center-issued electronic messaging account, including all Center Personnel and Center Staff. Furthermore, this Policy applies when Center-issued technology is used on or off Center property and when non-Center devices access the Center Network or private information prepared, used, or retained by the Center.

Hardware and software issued to Center Personnel is the property of the Center and may only be used for approved purposes.

Personal use of the Center Network, that is deemed to be excessive, interferes with performance by Center Personnel, or that is intended for personal monetary gain, is strictly prohibited.

Those in violation of this Policy could be subject to disciplinary action up to and including dismissal and/or termination of contract, as described in further detail under the “Violations” Section of this Policy.

All questions regarding the interpretation or applicability of this Policy should be directed to the Chief Equity Officer or his/her designee for clarification.

ARTICLE III. POLICY & PROCEDURES

Section 3.1 Policy and Procedures

1. All Center Personnel shall be assigned a Center issued Electronic Messaging Account.
2. Center accounts shall be used to conduct Center Business.

⁵ Gov. Code, § 7920.530

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3. All Center Personnel shall, within [15 days] following the adoption of this Policy, search all private, non-Center issued electronic messaging accounts to which they have user access and locate any electronic communications that might constitute a Public Record, because it involves Center Business, as set forth above. All such communications shall be forwarded to the Center Personnel's Center provided account. To the extent the Center Personnel believes that any part of such communications contain personal matters not related to the conduct of the public's business, the Center Personnel shall provide a declaration, as set forth in paragraphs 10 and 11, below.
4. The Center account, along with the access to the Center's account server, are solely for the Center and Center Personnel's use to conduct Center Business and shall not be used for personal business or political activities. Incidental use of Center electronic messaging accounts for personal use by Center Personnel is permissible, though not encouraged.
5. If a Center Personnel receives an electronic message regarding Center Business on their non-Center electronic messaging account, or circumstances require such person to conduct Center business on a non-Center account, the Center Personnel shall either: (a) copy ("cc") any communication from a Center Personnel's personal electronic messaging account to their Center electronic messaging account; or (b) forward the associated electronic communication to their Center account no later than [10 days] after the original creation or transmission of the electronic communication.
6. Center Personnel shall endeavor to ask persons sending electronic communications regarding Center Business to a personal account to instead utilize the Center Personnel's account, and likewise shall endeavor to ask a person sending an electronic communication regarding non-Center Business to use the Center Personnel's personal or non-Center electronic messaging account.
7. Center Personnel understand they have no expectation of privacy in the content of any electronic communication sent or received on a Center account or communication utilizing Center servers. Center-provided electronic devices, including devices for which the Center pays a stipend or reimburses the Center Personnel, are subject to Center review and disclosure of electronic communications regarding Center Business. Center Personnel understand that electronic communications regarding Center Business that are created, sent, received or stored on an electronic messaging account, may be subject to the CPRA, even if created, sent, received, or stored on a personal account or personal device.
8. In the event a CPRA request is received by the Center seeking electronic communications of Center Personnel, the Chief Equity Officer or his/her designee shall promptly transmit the request to the applicable Center Personnel whose electronic communications are sought. The Chief Equity Officer or his/her designee shall communicate the scope of the information requested to the applicable Center Personnel, and an estimate of the time within which the Chief Equity Officer or his/her designee intends to provide any responsive electronic communications to the requesting party.

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9. It shall be the duty of each Center Personnel receiving such a request from the Chief Equity Officer or his/her designee to promptly conduct a good faith and diligent search of their personal electronic messaging accounts and devices for responsive electronic communications. The Center Personnel shall then promptly transmit any potentially responsive electronic communications to the Chief Equity Officer or his/her designee. Such transmission shall be provided in sufficient time to enable the Chief Equity Officer or his/her designee to adequately review and provide the nonexempt electronic communications to the requesting party.
10. In the event a Center Personnel does not possess, or cannot with reasonable diligence recover, responsive electronic communications from the Center Personnel's electronic messaging account, the Center Personnel shall so notify the Chief Equity Officer or his/her designee by way of a written declaration, signed under penalty of perjury. In addition, a Center Personnel who withholds any electronic communication identified as potentially responsive must submit a declaration, signed under penalty of perjury with facts sufficient to show the information is "personal business" and not "public business" under the CPRA. The form of the declaration is attached hereto as Attachment A.
11. It shall be the duty of the Chief Equity Officer or his/her designee, in consultation with the Center's General Counsel, to determine whether a particular electronic communication, or any portion of that electronic communication, is exempt from disclosure. To that end, the responding Center Personnel shall provide the Chief Equity Officer or his/her designee with all potentially responsive electronic communications, and, if in doubt, shall err on the side of caution and should "over produce.". If an electronic communication involved both "public business" and a personal communication, the responding Center Personnel may redact the personal communication portion of the electronic communication prior to transmitting the electronic communication to the Chief Equity Officer or his/her designee. The responding Center Personnel shall provide facts sufficient to show that the information is "personal business" and not "public business" by declaration. In the event a question arises as to whether or not a particular communication, or any portion of it, is a public record or purely a personal communication, the Center Personnel should consult with the Chief Equity Officer or his/her designee or the Center General Counsel. The responding Center Personnel shall be required to sign a declaration, in a form acceptable to the Center General Counsel, attesting under penalty of perjury, that a good faith and diligent search was conducted and that any electronic communication, or portion thereof, not provided in response to the CPRA request is not Center Business.
12. Center Personnel understand that electronic communications regarding Center Business are subject to the Center's approved Records Retention Schedule, even if those electronic communications are or were created, sent, received or stored on a Center Personnel's personal electronic messaging account. As such, unless the Center Personnel has cc'd/transmitted electronic communications in accordance with paragraph 5 above, that Center Personnel must retain all electronic communications regarding Center Business, in accordance with the Center's adopted Records Retention Schedule, regardless of whether such electronic communication is originally sent or received on a personal electronic messaging account.
13. This Policy does not waive any exemption to disclosure that may apply under the CPRA.

Section 3.2 Retention

All Center emails shall be maintained in accordance with the Center's approved Records Retention Schedule, except as provided below.

Emails may be subject to longer retention periods as determined by the content of the email.

A. Applicable Retention Period

- i. Center Personnel may be required to retain emails subject to a longer retention period. This is determined by applicable laws, regulations, Center policies, and/or Records Retention Schedules. Specifically, emails subject to a legal hold, subpoena, CPRA request, claim against the Center, administrative charge or investigation, or similar proceeding, which is in progress or which can reasonably be anticipated, shall also be retained.
- ii. Center personnel shall consider an email's attachments when determining whether the email needs to be retained.
- iii. It is the responsibility of the sender of an internal email to determine the retention period of an email based on the subject matter of the email.
- iv. It is the responsibility of the recipient of an email received from outside the Center to determine the retention period of an email based on the subject matter of the email.
- v. Center personnel may extend the retention period of an email if it has significant or continuing business or historical value.

B. Storing Emails

- i. Center personnel may store emails in subfolders on their Exchange Email Server. Emails in a subfolder shall not be subject to automatic deletion.
- ii. Center personnel may also store emails in locations other than subfolders that appropriately retain the email, including metadata.
- iii. Center personnel **shall not** use PST files to store emails outside of the Exchange Email Server. Any existing PST files shall be provided to the Information Technology Department for inclusion into an email archive solution accessible by the employee providing such data.
- iv. Upon separation of an employee, a copy of that individual's email account shall be created and maintained for a period of [two years] following a review of the emails that may need to be retained longer.

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- v. Emails shall be deleted, when permitted by law and policy, in a timely and cost-efficient manner so as to destroy the writing without permitting duplicates, either electronic or hard copies.

Section 3.3 Legal

If any paragraph, sentence, clause, or phrase of this Policy is held unlawful or invalid for any reason, said unlawfulness or invalidity shall not affect the remaining portions of this Policy. Additionally, due to the ever changing facets of the realm of Information Technology and its related areas, this Policy shall not be construed to be all inclusive. Revisions to this Policy shall be made periodically in an effort to keep up with changing technology.

HISTORY

Approved on

Board of Directors

Attachment A

DECLARATION

[Attached on following page]

In the matter of:

California Public Records Act Request
Pursuant to Gov. Code § 7920.000 *et seq.*

Re: _____

Insert shorthand name of record request, including
request number, if applicable

Requester: _____
Print or type name of requester

Declaration of:

Print or type name of Personnel

**Re: Search of Personal Electronic Messaging
Account**

STATE OF CALIFORNIA
COUNTY OF [INSERT COUNTY]
KERN REGIONAL CENTER

I, _____ declare:
Print name

1. I received notice of a California Public Records Act ("CPRA") request regarding a search of my personal electronic messaging account(s).
2. I understand that the CPRA request seeks:

_____.

I am the owner or authorized user of the following personal electronic messaging account and have the authority to certify the records.

3. I have made a good faith, diligent, thorough, and complete search of the above mentioned personal electronic messaging account(s) for all electronic communications potentially responsive to the above mentioned CPRA request.
4. Any responsive electronic communications discovered, and referenced below, were prepared or used by me in the ordinary course of business at or near the time of the act, condition, or event.
5. Any responsive electronic communications discovered, and referenced below, are true copies of all records described in the above mentioned CPRA request.

Check the applicable box:

- I certify that I do not possess responsive electronic communications.
- I certify that I cannot reasonably recover responsive electronic communications.

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(Explain efforts to retrieve responsive electronic communications and why you were unable to recover responsive electronic communications.)

- I certify that I discovered potentially responsive electronic communications from my personal electronic messaging account, but I am withholding that information because the information is “personal” business. This is for the following reasons:

_____(Describe with sufficient facts why the contested information is personal business and not subject to the CPRA. Attach additional pages, if necessary.)

- I certify that I discovered potentially responsive electronic communications from my personal electronic messaging account. I am providing all responsive information. However, some information is nonresponsive and I am withholding that information, because the information is personal business. This is for the following reasons:

_____(Describe with sufficient facts why the contested information is personal business and not subject to the CPRA. Attach additional pages, if necessary.)

I declare under the laws of the State of California that the foregoing is true and correct and that I have personal knowledge of the facts set forth above.

Executed this ___ day of _____ 20___, in _____, California.

By: _____
Print Name: _____

ATTACHMENT B

Email Retention Policy Acknowledgment

I hereby acknowledge that I have received a copy of the Kern Regional Center's Electronic Communications Policy and that I understand that I am to read and comply with its contents. I am aware that failure to comply with this Policy will lead to disciplinary action, up to and including termination. I further understand that if I have any questions about this Policy or its contents, I am to discuss them with my supervisor or Chief Equity Officer or his/her designee.

Print Employee Name

Employee Signature