

Attorney General Bill McCollum News Release

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Attorney General: Update Florida's Rules On Retention of Electronic Communication

~ Request comes after findings of McCollum's Sunshine Tech Team ~

TALLAHASSEE, FL – Attorney General Bill McCollum today sent a letter to Secretary of State Kurt Browning asking the Department to update its administrative rules on the retention guidelines for other types of electronic communication. The request was made after the conclusion of the Attorney General's Sunshine Technology Team, which determined that electronic communications were not necessarily transitory by nature and could be retained easily.

"I encourage new technologies to make agencies more efficient and productive, as well as to give our citizens more access to their government," wrote the Attorney General. "I urge the Department of State to consider initiating a rule-making process updating the retention schedule for electronic communication, including a period for public comment, the opportunity for public hearings, and the ability of all parties to submit changes to draft rules."

The Department of State currently maintains administrative rules defining the retention schedule for government agency email. There are no required retention guidelines for other types of electronic communications, however, because the administrative rules describe them as transitory.

Following a controversy at the Public Services Commission (PSC) involving Blackberry PIN messages, the Attorney General formed the Sunshine Tech Team to explore and understand technology in government communications and their implications on Florida's open government laws. One of the team's goals was to "bust the myth" of how these types of communications are handled from an information technology perspective and how they can be captured, retained and disclosed under Florida's Sunshine and public records laws.

The fact-finding group held three meetings attended by open government advocates, agency Chief Information Officers, state and local government representatives, and members of the media. The team received presentations and engaged in discussion on Blackberry communications, Microsoft communication platforms, and social networking such as Facebook and Twitter. The meetings were also attended by open government advocates, including Florence Snyder, a former trustee of the Poynter Institute for Media Studies who has practiced media law for several years and has represented numerous media clients. Florence also currently sits on the advisory board of the Bureau of National Affairs' Media Law Reporter.

A copy of the Attorney General's letter to Secretary Browning is available online at:

[http://myfloridalegal.com/webfiles.nsf/WF/MRAY-83MJ8D/\\$file/BrowningLetter.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MRAY-83MJ8D/$file/BrowningLetter.pdf)

The Attorney General also announced a new Social Networking video has been added to the online series of training videos on topics related to the Sunshine law, which include information on meeting notice requirements, rules for assessing fees and costs when responding to records requests, and exemption and redaction guidelines. The new video provides guidelines for public entities that have Facebook pages or Twitter accounts on how to operate in accordance with Florida's open government and public records laws. For example, the video states that all contents of a city's Facebook page, including information about a city's friend list, would be subject to disclosure under Florida's Public Records Act. The video is available online at: <http://www.myflsunshine.com/sun.nsf/pages/LEO>.