

California State University
MEMORANDUM

Office of General Counsel

To: Office of the Chancellor Employees

Date: July 26, 1995

From: Christine Helwick
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Subject: Legal Issues Related to E-Mail

Several of you have raised questions about the legal ramifications of e-mail use. E-mail lies somewhere between written and telephone communications, and, quite frankly, the law has not yet caught up with the technological advances. Therefore, most of the case law precedent which exists is not on point. Nevertheless, the cases do provide a general framework which suggests caution in e-mail use.

E-mail is commonly, and incorrectly, assumed to be both impermanent and private. It is therefore sometimes accompanied by a disarmed casualness which can later result in personal embarrassment, or worse yet, institutional liability. It is important to be aware of the following information to limit unanticipated problems which might result from uninformed e-mail use:

1. E-mail, like other office communication tools, should be limited to legitimate CSU business purposes. It should not be regarded as a tool for personal or private communication.
2. E-mail communications, unless subject to a specific privilege, are public and therefore subject to production under the Public Records Act and, when relevant, to discovery in civil litigation.
3. E-mail communications which have been deleted can still be retrieved by anyone other than the intended addressee. But in limited and appropriate circumstances (e.g. where there is reason to believe an employee has engaged in wrongdoing), e-mail messages may become subject to internal monitoring by an employment supervisor.

E-mail is a convenient and wonderful tool. But it must be used intelligently and responsibly at all times. Should you have any specific questions related to your e-mail usage, this office would be pleased to be of assistance to you.