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**Date:** October 28, 2024

**To:** Andre Avramchuk, Chair  
Academic Senate

**From:** Lettycia Terrones, Chair  
Faculty Policy Committee

**Copies:** T. Bettcher, V. Green, E. Heise, H. Riggio, R. Roquemore

**Subject:** **Proposed Policy Modification of Chapter III of the *Faculty Handbook*:  
FPC 23\_2.5 Policy on Electronic Mail Privacy**

Faculty Policy Committee (FPC) considered the *Policy on Electronic Mail Privacy* (contained in Index E in the Faculty Handbook) for most of Spring and Fall 2024, with the primary modification goal of updating the policy to better protect faculty privacy. Additions to the policy focused on including new legislation affecting electronic mail (henceforth *email*) privacy, emphasizing the importance of fair due process and notifications to faculty, limiting the scope of email searches in terms of email content and people with access to such searches, and emphasizing faculty representation and other rights during email searches. FPC deliberated about the policy over many meetings and unanimously approved the modification on October 21, 2024.

The following points summarize the proposed changes to the policy:

- Line 4: The word “current” is added to modify reference to state and federal laws.
- Lines 7-8: The phrase “when relevant to requests received by the University” is added to limit the occurrence of email searches.
- Line 8: The word “is” is substituted with the words “may be” to limit email searches depending on relevant requests.
- Lines 9-10: The word “California” is added to clarify the state Public Records Act, and reference to the Federal Freedom of Information Act is added.
- Lines 10-11: Language is added to refer to requests made to the University during civil litigation, the word “in” is replaced by the word “during.”
- Lines 11-14: Language is added to restrict email searches occurring outside of formal discovery requests, with those searches occurring only after all parties agree on the scope of any search.
- Lines 15-16: New language is added to limit access to email to University personnel with a direct need for resolving specific issues, with oversight.
- Lines 17-19: New language is added to emphasize continuing rights to privacy when email is searched, and again calls for agreement as to the scope of any search.

- Lines 20-22: New language is added to indicate faculty rights to representation before, during, and after any email search.
- Line 23: We changed CSLA to the now accepted Cal State LA.
- Lines 28-33: New language is added to maintain confidentiality during any email search to the fullest extent possible.
- Line 36: The word “a” is modified to “any” and add an “s” to “problem” as more than one problem may be at issue.
- Lines 36-38: New language is added to require communication with faculty regarding any identified technical problems that necessitate an email search.
- Lines 39-41: New language is added to require communication with campus Academic Senate regarding any changes to this policy.
- Lines 42-45: New language is added to require communication with campus Academic Senate and affected faculty regarding any changes to a Presidential designee indicated in this policy.
- Lines 46-53: New language is added to require formalized procedures regarding email searches.
- Lines 54-55: The words “computer user” are deleted and the word “faculty” is used to replace them.
- Line 55: The phrase “receive notice” is changed to “be personally notified.”
- Lines 56-59: New language is added to require communication to affected faculty about specific details of any planned email search, including search terms, time period of search, and justification for search.
- Lines 59-61: New language is added to require notification to affected faculty of any and all emails searches, and when any email content is disclosed to any person(s) or entity.
- Lines 61-62: New language is added to require notification to affected faculty of what specific content was accessed from email in any search.
- Lines 63-65: New language is added to require a notification of 10 business days to affected faculty before a search begins and allowing time for objection by affected faculty.
- Lines 65-67: New language is added to modify the previous phrase requiring communication to affected faculty within 3 business days of any email search if advanced disclosure is not possible.
- Lines 68-69: Existing policy language regarding notification of affected faculty is deleted (replaced by the above section lines 63-67).

1 **Policy on Electronic Mail Privacy**

2 (Senate: 2/27/96; President: 4/30/96)

3 California State University, Los Angeles supports privacy in the use of electronic mail to the  
4 maximum extent possible under CURRENT State and Federal laws, consistent with computer  
5 system maintenance demands.

6 California State University, Los Angeles will inform all authorized accounts of the Electronic  
7 Mail Privacy policy and the limitations of privacy on electronic mail. WHEN RELEVANT TO  
8 REQUESTS RECEIVED BY THE UNIVERSITY, electronic mail is MAY BE subject to  
9 disclosure under the CALIFORNIA Public Records Act AND THE FEDERAL FREEDOM OF  
10 INFORMATION ACT, and when relevant, to discovery REQUESTS MADE TO THE  
11 UNIVERSITY DURING in civil litigation. THE UNIVERSITY SHALL NOT SEARCH  
12 FACULTY ELECTRONIC MAIL ACCOUNTS OUTSIDE OF FORMAL DISCOVERY  
13 REQUESTS, AND ONLY AFTER THE PARTIES, INCLUDING FACULTY GRIEVANTS  
14 AND LITIGANTS, AGREE ON THE SCOPE OF ANY SEARCH.

15 ACCESS TO ELECTRONIC MAIL WILL BE LIMITED TO PERSONNEL WITH A DIRECT  
16 NEED FOR RESOLVING SPECIFIC ISSUES, UNDER STRINGENT OVERSIGHT.

17 FACULTY LITIGANTS DO NOT WAIVE THEIR RIGHTS TO PRIVACY UNDER THIS  
18 POLICY. SEARCHES OF EMAIL MAY ONLY OCCUR AFTER THE PARTIES AGREE ON  
19 THE SCOPE OF ANY SEARCH.

20 FACULTY HAVE THE RIGHT TO REPRESENTATION, INCLUDING FROM THE  
21 CALIFORNIA FACULTY ASSOCIATION, BEFORE, DURING, AND AFTER ANY  
22 SEARCH OF THEIR CAMPUS EMAIL.

23 All electronic mail in authorized accounts stored on the CSLA CAL STATE LA campus data  
24 system shall be considered to be confidential except as follows:

- 25 1. Requests for disclosure of electronic mail or disclosure of confidential  
26 information, for any purpose other than technical problem resolution, will be  
27 reviewed by the President or designee, and honored only when required by state  
28 or Federal law, or when there is probable cause to suspect illegal activity. TO  
29 MAINTAIN THE HIGHEST DEGREE OF CONFIDENTIALITY,  
30 ELECTRONIC MAIL SHALL BE MAINTAINED UNDER ANY AVAILABLE  
31 CONFIDENTIALITY DESIGNATION AT THE REQUEST OF A PARTY  
32 DURING LITIGATION TO THE FULLEST EXTENT AND DURATION  
33 POSSIBLE.
- 34 2. Inspections of electronic mail solely for the purpose of technical problem  
35 resolution must be approved by the appropriate computer affairs administrator and  
36 only for the resolution of aNY specific technical problemS THAT ARE  
37 EVIDENT, WITH THAT EVIDENCE CLEARLY IDENTIFIED AND  
38 COMMUNICATED TO AFFECTED FACULTY.

39 3. ANY CHANGES TO LEGAL REQUIREMENTS OR LAWS AFFECTING  
40 THIS POLICY WILL BE COMMUNICATED BY UNIVERSITY COUNSEL  
41 TO THE ACADEMIC SENATE.

42 4. ANY LONG-TERM OR TEMPORARY DESIGNATION OR DELEGATION  
43 OF DUTIES OF THE PRESIDENT DEFINED IN THIS POLICY SHALL BE  
44 MEMORIALIZED IN WRITING AND COMMUNICATED TO AFFECTED  
45 FACULTY AND THE ACADEMIC SENATE.

46 5. WRITTEN GUIDELINES SHALL BE DEVELOPED AND SHARED WITH  
47 THE ACADEMIC SENATE AND AFFECTED FACULTY DETAILING  
48 PROCEDURES TO BE USED WHEN REQUESTS FOR SEARCHES OF  
49 FACULTY EMAIL ARE MADE IN CIVIL LITIGATION OR THROUGH  
50 FREEDOM OF INFORMATION OR PUBLIC RECORDS ACTS. THESE  
51 PROCEDURES MUST BE FOLLOWED WHEN THE PRESIDENT OR  
52 DESIGNEE CONSIDERS WHETHER AND TO WHAT EXTENT SUCH  
53 REQUESTS ARE TO BE GRANTED.

54 Except under extraordinary circumstances or when prohibited by law, computer users  
55 FACULTY will receive notice BE PERSONALLY NOTIFIED prior to such inspections of  
56 electronic mail, access or disclosure. NOTIFICATION SHALL INCLUDE THE SCOPE OF  
57 ANY SEARCH TO BE UNDERTAKEN, INCLUDING SEARCH TERMS TO BE USED, THE  
58 TIME PERIOD UNDER REVIEW, AND JUSTIFICATIONS FOR ANY SEARCH OR  
59 DISCLOSURE UNDER THIS POLICY. FACULTY WILL BE FULLY NOTIFIED EACH  
60 TIME THEIR ELECTRONIC MAIL ACCOUNT IS ACCESSED, SEARCHED, OR  
61 CONTENTS DISCLOSED TO ANY PERSON(S) OR ENTITY. FACULTY WILL BE FULLY  
62 NOTIFIED OF ALL SPECIFIC CONTENT ACCESSED FROM THEIR ELECTRONIC MAIL.

63 ANY FACULTY PERSON SUBJECT TO SEARCH OF THEIR CAMPUS ELECTRONIC MAIL  
64 ACCOUNT WILL HAVE AT LEAST TEN (10) BUSINESS DAYS TO RESPOND WITH  
65 OBJECTION TO ANY SEARCH REQUESTS BEFORE THE SEARCH OF EMAIL BEGINS. IF  
66 ADVANCED DISCLOSURE CANNOT BE LAWFULLY MADE, AFFECTED FACULTY WILL BE  
67 NOTIFIED AS SOON AS POSSIBLE BUT NO LATER THAN THREE (3) BUSINESS DAYS.

68 Except where prohibited by law, users not notified prior to inspection, access or disclosure will  
69 receive notice after the fact within three working days.

