



# State of West Virginia Office of Technology Policy: **Acceptable Use of Instant Messaging**

*Issued by the CTO*

**Policy No: WVOT-PO1010**

**Issued: 11/24/2009**

**Revised: 10/21/2021**

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## **1.0 PURPOSE**

This policy details the use of State-approved instant messaging (IM) systems and is intended to:

- Describe the limitations of the use of this technology;
- Discuss protection of State information;
- Describe privacy considerations when using the IM system; and
- Outline the applicable rules applied when using the State-provided system.

This document is not all-inclusive and the WVOT has the authority and discretion to appropriately address any unacceptable behavior and/or practice not specifically mentioned herein.

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## **2.0 SCOPE**

This policy applies to all employees within the Executive Branch using the State-approved IM systems, unless classified as "exempt" in West Virginia Code Section 5A-6-8, "Exemptions." The State's users are expected to be familiar with and to comply with this policy, and are also required to use their common sense and exercise their good judgment while using Instant Messaging services.

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## **3.0 POLICY**

- 3.1 State-provided IM is appropriate for informal business use only. Examples of this include, but may not be limited to the following:
  - 3.1.1 When "real time" questions, interactions, and clarification are needed;
  - 3.1.2 For immediate response;
  - 3.1.3 For brainstorming sessions among groups;
  - 3.1.4 To reduce chances of misunderstanding;
  - 3.1.5 To reduce the need for telephone and "email tag."
- 3.2 Employees must only use State-approved instant messaging. Employees are prohibited from downloading and using personal, consumer-grade IM software (e.g. AOL Instant Messenger, Yahoo) to transmit messages, unless specifically approved by WVOT.

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- 3.3 The State reserves the right to monitor and/or keep a record of all IM communications without prior notice. **Employees should have no expectation of privacy in the use of State-provided IM systems.**
- 3.4 Employees may not use IM to transmit confidential, proprietary, personal, or potentially embarrassing information about the State, its employees, citizens, business associates, the media, or other third parties.
- 3.5 No sensitive information, including Federal Tax Information (FTI) and Personally Identifiable Information (PII) may be shared through Instant Messaging.
- 3.6 Employees may not use IM to transmit personal information related to an individual's health status, including any information protected under the Health Insurance Portability and Accountability Act (HIPAA) or other applicable privacy statutes.
- 3.7 The State is under no obligation to retain IM. However, all IM communication should be treated as business records that may be retained and used as evidence in litigation, audits, and investigations and disclosed without the permission of the authorized user who created the message.
- 3.8 IM content may be subject to various types of access requests, including under the Freedom of Information Act (FOIA).
- 3.9 Only minimal personal use (non-State-business activity) of State-provided IT resources is permitted, and should not interfere with the legitimate business of the State. (See WVOT – *State of West Virginia Information Security Policy, Appendix A*)
- 3.10 All employees must adhere to rules regarding unacceptable uses of IT resources. Examples of unacceptable uses include, but are not limited to the following: (For more examples, see appendix "A" of WVOT-PO1001):
  - 3.10.1 Any use which violates local, state, or federal laws;
  - 3.10.2 Any use for viewing, transmitting, receiving, saving, or printing sexually explicit material;
  - 3.10.3 Any use for promoting harassment or illegal discrimination on the basis of race, gender, national origin, age, marital status, religion, or disability;
  - 3.10.4 Any use for dispersing data to customers or clients without authorization;

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- 3.10.5 Any use that could be reasonably considered as disruptive to another's work;
- 3.10.6 Sending or sharing of confidential information for unauthorized purposes;
- 3.10.7 Sending communications, such as large files, which place an undue strain on the State network or other systems;
- 3.10.8 Any attachment or use of devices on the State network that are not owned by the State or authorized by the WVOT;
- 3.11 While using the State's Instant Messaging product, employees must follow all applicable policies provided by the Division of Personnel, as well as any agency-specific policies related to employee communication.
- 3.12 Employees may not send jokes, rumors, gossip, or other unsubstantiated claims via IM. These communications, which often contain objectionable material, are easily misconstrued when communicated electronically.

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## 4.0 RELEVANT MATERIALS/DOCUMENTS

This policy is consistent with the following federal and state authorities:

- 45 Code of Federal Regulations (CFR) §§ 164.308-316
- Freedom of Information Act
- Gramm-Leach Bliley Act (GLBA)
- Health Insurance Portability and Accountability Privacy Rule
- NIST SP 800-14 and NIST SP 800-53
- State Health Privacy Laws
- WV Code § 5A-6-4a
- WV Executive Order No. 7-03
- WVOT Policies Issued by the Chief Technology Officer (CTO), [www.technology.wv.gov/security/Pages/policies-issued-by-the-cto.aspx](http://www.technology.wv.gov/security/Pages/policies-issued-by-the-cto.aspx)

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## 5.0 ENFORCEMENT & AUTHORITY

Any employee found to have violated this policy may be subject to disciplinary action up to and including dismissal. Disciplinary action will be administered by the employing agency and may be based upon recommendations of the WVOT and the **West Virginia Division of Personnel**. Please review the **WVOT Policy and Procedure Policy #1000** to review additional provisions concerning enforcement and policy authority.

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### 6.0 POLICY-SPECIFIC DEFINITIONS

- 6.1 Business Records - A document that is used to store information from business operations. Types of operations having business records include meetings and contracts, as well as transactions such as purchases, bills of lading and invoices. Business records can be stored as reference material and reviewed later
- 6.2 Freedom of Information Act (FOIA) - A federal law that mandates that all the records created and kept by federal agencies in the Executive Branch of government must be open for public inspection and copying. The only exceptions are those records that fall into one of nine exempted categories listed in the statute.
- 6.3 Health Insurance Portability and Accountability Act (HIPAA) – A US law designed to provide privacy standards to protect patients' medical records and other health information provided to health plans, doctors, hospitals and other health care providers. Developed by the Department of Health and Human Services, these standards provide patients with access to their medical records and more control over how their personal health information is used and disclosed.
- 6.4 Instant Messaging (IM) – The technology that allows a user to send electronic messages to one or more persons with minimal delay between the sending and receipt of a message. Like conversation, IM is a simultaneous give-and-take, but it occurs in written form. In contrast to e-mail, which remains unread in a recipient's in-box until opened; instant messaging notifies users when other users are online and able to accept messages.

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### 7.0 HISTORY CHANGE LOG

- January 30, 2015 – Added Section 7.0, Change Log History; Reorganized sections; Cleaned up Related Documents/Materials; Made Policy-Specific Definitions; Inserted Section 4.11, “While using the State’s Instant Messaging product, employees must follow all applicable policies provided by the Division of Personnel, as well as any agency-specific policies related to employee communication.”
- 9/1/2016 – Policy Reviewed. No Edits Made.
- 10/20/2016 – Policy Reviewed. No Edits Made.