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9 **POLICY RECOMMENDATION**  
10 **Rescinding and Replacing F97-7 Policy on Privacy of**  
11 **Electronic Information**

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14 Resolved: That F97-7 be rescinded.

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16 Resolved: That the following be adopted as policy effective immediately.

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18 *Rationale: This document summarizes important principles on privacy of electronic*  
19 *information found in the AAUP document "Academic Freedom and Electronic*  
20 *Communications" and elements copied from the University of California system policy on*  
21 *"Electronic Communications." Our archaic F97-7 was very vague and increasingly*  
22 *obsolete. The CSU system policy has some useful protections, but does not directly*  
23 *address information privacy in a forthright manner. This document explains the rationale*  
24 *for protecting privacy of electronic information within the context of academic freedom and*  
25 *the culture of a university of higher learning.*

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27 *While Professional Standards originally created a bulkier and considerably more specific*  
28 *policy draft, negotiations with the President's Chief of Staff and the Information Security*  
29 *Officer persuaded us to slim the policy down to key principles and leave the minutiae to a*  
30 *Presidential Directive that is currently under draft.*

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32 *Approved: April 3, 2017*

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34 *Vote: 9-0-0*

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36 *Present: Peter, Green, White, Lee, Reade, Kauppila, Hamedi-Hagh, Hwang,*  
37 *Marachi*

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39 *Absent: Caesar*

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41 *Financial Impact: No direct impacts*

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43 *Workload Impact: No direct impacts*  
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# POLICY RECOMMENDATION

## Principles Regarding Privacy of Electronic Information

### 1. Purpose

- 1.1. San José State University (SJSU) recognizes that principles of academic freedom and shared governance, freedom of speech, and privacy hold important implications for the use of electronic communications.
- 1.2. SJSU respects the privacy of electronic communications in the same way that it respects the privacy of paper correspondence and telephone conversations, while seeking to ensure that University administrative records are accessible for the conduct of the University's business.
- 1.3. SJSU recognizes the value of privacy as a condition for academic freedom and the benefits that privacy and autonomy bring to the individual, to groups, and to the culture of SJSU.
- 1.4. SJSU recognizes that faculty members and students have a reasonable expectation of privacy in their electronic communications.
- 1.5. San Jose State University supports privacy in the use of electronic communications and information storage to the maximum extent possible under state and federal laws.

### 2. Principles governing involuntary disclosure

- 2.1. ***Rarely used and clearly defined.*** SJSU does not examine or disclose the contents of electronic records without the consent of the individual participating in the communication except in rare cases that are clearly defined.
- 2.2. ***Clear authorization.*** When involuntary disclosure takes place, it must first be authorized by the President, and records of the authorization must be kept.
- 2.3. ***Least Perusal.*** Authorization shall be limited to the least perusal of contents and the least action necessary to resolve a matter.
- 2.4. ***Disclosure.*** SJSU shall at the earliest opportunity that is lawful and consistent with other University policy notify the affected individual of the action(s) taken and the reasons for the action(s) taken.
- 2.5. ***Institutional Accountability.*** In a manner consistent with law and concerns of confidentiality, SJSU shall prepare an annual report tracking the frequency and general purpose of all authorizations of involuntary disclosure. This report will be circulated to an appropriate body of stakeholders that will include tenured faculty chosen by the Academic Senate.

### 3. Implementation

The President will issue and maintain a directive that implements the purpose and principles of this policy

### 4. Privacy Advisory

Various laws and available security technologies affect the degree of privacy that users can expect. No electronic system is entirely secure from unauthorized

96 intrusions. Users should be warned that legal requirements may require  
97 disclosure, such as disclosure under the Public Records Act, discovery in civil  
98 litigation, and legal searches performed in cooperation with state and federal law  
99 enforcement authorities.