

SCHOOL BOARD USE OF EMAIL AND OTHER ELECTRONIC COMMUNICATIONS

A. General.

Use of electronic communications by members of the Board shall conform to the same standards of judgment, propriety, and ethics as other forms of School Board-related communication.

For purposes of this section, “electronic communications” includes, without limitation, electronic mail (“email”), electronic chat, instant messaging, texting, and any form of social networking that allows two-way comment/input.

Electronic communications among a quorum of the School Board, shall not be used for the purpose of discussing School District or School Board business.

Board members shall avoid reference to confidential information about staff, students, or other individuals. Intentional disclosure of such information may subject a board member to individual liability and may constitute a violation of the oath of office.

B. Applicability of New Hampshire’s Right to Know Law.

1. Meetings. With very limited exceptions, New Hampshire’s “Right to Know” law, RSA 91-A, requires that public bodies (e.g., the school board, and any of its sub- or advisory committees) conduct deliberations and decision-making during duly noticed meetings that the public may attend. Under RSA 91-A:2, I, a “meeting” occurs when a quorum of a public body discusses (in any manner that allows for contemporaneous communication) a matter over which that public body has supervision, control, jurisdiction, or advisory power. Thus, any electronic communication discussing district or school business that circulates among a majority of a quorum of the board could constitute a meeting and a violation of the Right to Know law.

As to social media especially, board members must exercise great care to assure less than a quorum ever comments on a post or thread regarding school business.

2. Ministerial Communications. Administrative or ministerial communications which do not include substantive discussion are not prohibited by the Right to Know law or this policy. Examples of permitted ministerial communications, electronic or otherwise, include:

- Agenda item suggestions (with no discussion of substance);
- Reminders for upcoming meetings;
- Communications needed to schedule meetings;
- Board meeting agendas with supporting materials.

3. Electronic Communications as Records. Any written communication (including electronic communications) created, accepted, or obtained by or on behalf of the School Board or a majority/quorum thereof constitute a “record” of the district. Such records are subject to disclosure unless exempted under RSA 91-A:5 or other law. Likewise, electronic communications are subject to the District’s record retention policies and schedule (EHB and EHB-R).

Legal References:

RSA 91-A:1-a, Definitions

RSA 91-A:2, Meetings Open to Public

RSA 91-A:2-a, Communications Outside Meetings

RSA 91-A:5, Exemptions

RSA 189:29-a, Records Retention and Disposition

Miller v. Fremont School Board, Rockingham County Superior Court, No. 03-E-152 (2003)

Legal References Disclaimer: *These references are not intended to be considered part of this policy, nor should they be taken as a comprehensive statement of the legal basis for the Board to enact this policy, nor as a complete recitation of related legal authority. Instead, they are provided as additional resources for those interested in the subject matter of the policy.*

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