

## BOARD OPERATIONS

Series 100

Policy Title . . . SCHOOL BOARD USE OF EMAIL

Code No. 166

By law, Board members are responsible for being custodian(s) of email that is related to School Board matters. Email communications with and between School Board members will be used in accordance with all applicable laws specifically including the State of Wisconsin Open Meetings Law and the State of Wisconsin Public Records Law.

Date of Adoption:  
January 12, 2007  
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November 12, 2007

## BOARD OPERATIONS

Series 100

### ADMINISTRATIVE REGULATIONS

Policy Title . . . SCHOOL BOARD USE OF EMAIL

Code No. 166

By law, Board members are responsible for being custodian(s) of email that is related to school board matters. Email communications with and between school board members will be used discriminately only for the purposes cited below. The State of Wisconsin Open Meetings Law requires that public bodies conduct its business in public. In addition, the Wisconsin Public Records Law requires these same bodies provide, upon request of the public, records maintained by the public body. Email messages are a form of communication that is subject to both the Open Meetings Law and the Public Records Law. Use of a private (home or business) or district email account for email communications on official school board matters still holds to the standards and responsibilities required by other public records and open meetings regulations.

#### I. Wisconsin Open Meetings Law

In order to comply with the Wisconsin Open Meetings Law, email is to be used only for the purposes of communicating:

1. Messages between school board members or between a board member and employee that do not involve deliberating or rendering an opinion or decision on matters pending before the Board;
  2. Possible agenda items between the Superintendent and Board President;
  3. Times, dates, and places of regular or special board meetings;
  4. The board meeting agenda or public record information concerning items on the agenda and agenda items from board members to committee chairpersons or Board President;
  5. Information between the Board President and committee chairpersons and administrators, including scripts and other information used at board meetings;
  6. Requests for public record information (from a member of administration, school staff or community pertaining to District operations);
  7. Responses to individual questions posed by members of the public, administrators or school staff. Under no circumstances shall school board members use email to discuss among themselves Board business that can only be discussed in an open meeting of the Board, as part of an executive session, or could be considered an invasion of privacy if the message were to be monitored by another party. When communicating by email, complying with the law is complicated by the concept of a "walking quorum" and exchange of almost real time information.
- A. A walking quorum is a series of gatherings, usually informal, among separate groups of a governmental body, with each gathering less than quorum size. The members agree through mutual representations, tacitly or explicitly, to act and vote uniformly in sufficient number to reach a quorum. This produces a predetermined outcome, thus rendering the publicly held meeting a mere formality, violating the law. Sending emails soliciting opinions is an example of this type of problem.

B. The transmittal of an email message can occur in “almost” real-time thus approximating the delivery of information in a face-to-face meeting of the Board. It is possible that a quorum of the Board may receive the specific message, and therefore, receive information about a subject within the Board’s jurisdiction. According to the State Attorney General, this is a violation of the Open Meetings Law. It is best to avoid any email exchanges among board members that include information touching on subject matter falling within the authority vested in the School Board.

## II. Public Records Law

All email communication on official school board matters is subject to public records law whether it is a private (home or business) or district email account.

In order to comply with the Public Records Law, senders and receivers of email that utilize the Burlington Area School District Communications System for email, shall do so with the understanding that there can be no expectation of privacy for any messages sent or received. In addition, messages that have been deleted from such an individual’s mailbox may still be accessible on the District’s system. Accordingly, unless an exemption applies, such email messages deleted or otherwise, may be subject to disclosure under the Public Records Law. Therefore, there should be no expectation of privacy for any messages sent by electronic mail.

## III. Records Retention

The storage and archiving of the Burlington Area School District records is important to the business and history of the District. In an effort to preserve such records for posterity, to make them more convenient to access, and to secure them from unplanned accidental destruction, the School Board authorizes such records as necessary be stored in an electronic format.

This data shall be stored in a manner consistent with applicable state rules and statutes. Board members utilizing email (including private and district accounts) shall follow the district’s retention rules in maintaining storage of email records and attached documents. Record retention rules shall be established by the Superintendent or designee. Furthermore, the format of such records shall be kept current so as not to render them inaccessible because of technological obsolescence.

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