

Each Board of Education member, as a public official, is a records authority for purposes of the Wisconsin Public Records Law. In addition, a Board member's electronic communications related to their office or to District matters are generally records that are subject to retention requirements and possible public disclosure. Accordingly, Board members have legal obligations to ensure that electronic communications that they send or receive related to their individual office or to District business are appropriately retained such that the communications can be retrieved, evaluated, and, where appropriate, disclosed pursuant to a lawful request.

Unless otherwise provided by Board policy or rule, when a Board member is communicating electronically as an individual Board member (e.g., when he/she writes a blog post that addresses school district matters or when he/she addresses school district matters through a non-District social media platform), the Board member is individually responsible for the retention of his/her individual electronic communications and for responding to any lawful requests for access to such records. Further, regardless of any otherwise applicable policy or rule, in no case will a District employee serve as the custodian of an individual Board member's electronic communications (or copies of such records) where either of the following are true: (1) the Board member has not, in the manner prescribed by the custodian of records, provided the records to the District for purposes of records management; or (2) the Board member has attempted to provide the records to the District in a format that the District's systems cannot reliably store or retrieve.

Each Board member also has an obligation to ensure that he/she does not violate the Wisconsin Open Meetings Law through his/her participation in electronic communications (or other technology-facilitated activities) that involve multiple members of the Board, a Board committee, or any other District-created governmental body on which the Board member serves. As an example of actions regulated under the Open Meetings Law, Board members must avoid creating a "walking quorum" through any series of communications among members of the Board who agree, tacitly or explicitly, to act uniformly in sufficient number to determine the Board's course of action on any matter.

As to any form of electronic communication that pertains to his/her office or to District business, a Board member should ask himself/herself the following questions:

1. Should I be using this method of electronic communication at all? (e.g., Will the content of my communication remain under my control or under the control of an appropriate custodian of records; and is the communication being retained in a manner, and for a duration of time, such that it can be retrieved and produced if needed?); and
2. Should I be using this specific method of communication for this specific subject matter?

Electronic communications are generally an effective and efficient medium for activities such as addressing scheduling/availability for meetings, bringing potential agenda items to the attention of the District Administrator and Board President, and the one-way distribution of information (e.g., from the District Administrator to all Board members). However, the Board strongly discourages (and, in some circumstances, applicable laws will directly prohibit) individual Board members from using email or other forms of electronic communication for any of the following:

1. Interactive discussion of substantive Board business among multiple Board members, due to Open Meetings Law concerns (e.g., potential walking quorums or illegal meetings) and due to the

potential appearance of impropriety surrounding communications that are perceived to be inappropriately “secretive” even if not unlawful;

2. Communications regarding matters that involve individually identifiable students, due to potential violation of the laws surrounding student privacy and the confidentiality of student record information; or
3. Communications regarding District matters that are considered confidential or highly sensitive (e.g., closed session content, personnel matters, etc.), due to issues surrounding the security and possible improper disclosure of the information.

Unless the Board member is performing a legally-designated duty or responsibility, or unless he/she has been expressly authorized by the Board, an individual Board member shall not, in his/her electronic or other communications, either (1) purport to speak on behalf of the entire Board or for the District, or (2) speak in a manner that purports to obligate the Board or District to a particular course of action.

Upon being elected or appointed to the Board of Education, each Board member shall be provided with an email account on the District’s email system, and the Board member may use the account to send and receive electronic communications in a manner that is consistent with this rule and related policies and procedures. Each District-provided email account will be managed by the District, including the archiving of messages that are sent and received through the District’s system. The District Administrator will serve as the legal custodian of such electronic records on behalf of each individual Board member.

Board members are strongly encouraged to use their District email account for all communications related to their public office, excepting campaign and election matters. Official email communications from any District employee to any Board member(s) will be sent to the Board member’s District-issued email account.

To the extent a Board member wishes to have the District Administrator act as the legal custodian of records for any email messages that do not originate (as sent or received) at the Board member’s District-provided email account, the Board member must send an unmodified copy of the message (complete with all file attachments and showing all recipients) to the Board member’s District-provided email address such that the complete electronic copy is stored by and can be properly retrieved through the District’s email system.

A Board member accepts increased personal responsibility for compliance with the Wisconsin Public Records Law (in terms of both retention of the records and production of the records in response to a public records or other lawful request) if the Board member (a) uses a non-District email account to send or receive messages that address any matter related to his/her elected office; and (b) does not provide a complete electronic copy of any such message to the District such that the copy is maintained on the District’s email system. Further, all Board members are strongly discouraged from using their primary home/personal email address, the email system of an employer, or the email system of another public entity for any communications related to their public office or to District-related matters.

Each Board member who accesses and uses his/her District-provided email account does so under the following conditions:

1. The Board member shall not permit any other person to use his/her District-issued account.
2. No Board member may use his/her District-issued email account or the District's computer networks and systems in any manner that would violate the law and/or the District's acceptable use of technology policies, rules, and regulations that are applicable to District employees.
3. The Board member may not use the District email system for the purpose of campaigning for election, soliciting political contributions, or advocating for or against any political candidate or referendum question.
4. The email system and all communications and attachments sent to or received via the system remain at all times subject to the District's ownership, care, and control.
5. No individual Board member has any expectation of personal privacy as to any messages or other information sent or received via the District's email system.
6. An individual Board member's use of his/her District-provided email account is subject to oversight and monitoring for legitimate purposes at the direction of the Board.
7. The content of messages sent or received via the District's email system may also be reviewed without advance notice by the District's custodian of records, or by an authorized deputy custodian, in order to fulfill their duties under the Public Records Law.
8. No Board member shall falsify, hide, or intentionally delete or destroy in a manner inconsistent with any legal obligation any records of his/her office or any District public records.

Unless otherwise directed by the Board, district legal counsel, or law enforcement, the District Administrator or his/her designee will notify the affected Board member(s) any time (a) the content of the Board member's individual email account has been accessed by a District employee or by an authorized agent of the District; or (b) the District receives a request for the production or inspection of the email records associated with the email account of the individual Board member.

If a Board member uses his/her District-provided email account in violation of the law, Board policy, or this rule, the Board may take action to limit or eliminate the Board member's ability to use the District's email system.

**Legal References:**

**Wisconsin Statutes**

<a href="#">Chapter 19, Subchapter II</a>	[Wisconsin public records law]
<a href="#">Chapter 19, Subchapter V</a>	[Wisconsin open meetings law]
<a href="#">Section 120.13(28)</a>	[authorization to designate a records custodian on behalf of any school district authority]
<a href="#">Section 943.70</a>	[computer crimes]
<a href="#">Section 947.0125</a>	[unlawful use of computerized communication systems]

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