

## SCHOOL DISTRICT OF SHOREWOOD

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### SCHOOL BOARD MEMBER ELECTRONIC COMMUNICATIONS

Each School Board 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 (including but not limited to email, texting, teleconferencing, use of social networking sites) 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 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.

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. No Board member should use an employer or email system of another public entity for any communications related to their public office or to District-related matters.

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.

LEGAL REF.: Sections 120.13(28) Wisconsin Statutes  
943.70  
947.0125  
Chapter 19, Subchapter II  
Chapter 19, Subchapter V

CROSS REF.: Board Policy  
160, Regular, Special, and Closed Board  
Meetings  
810, Access to Public Records

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