

EMAIL AND OTHER ELECTRONIC COMMUNICATIONS

Electronic documents developed or maintained on the District's web site in the course of an employee's or Board member's official business shall be considered as "public records" when the documents meet the definition as promulgated by the Open Public Records Act. Such records shall be stored, maintained and deleted in accordance with the New Jersey Open Public Records Act and the requirements of the New Jersey Division of Archives and Records Management.

Public Records

The content of the email message or the electronically transmitted material determines whether or not it is a public record. Email messages, and information stored electronically by the District excluding personal correspondence, work product, and draft and deliberative materials, are generally considered to be government records since they are data processed or image processed documents made or maintained or kept on file in the course of the employee's/Board member's official business. All rules and exceptions on disclosure contained in the Open Public Records Act (see Board policy and regulation 3570 District Records and Reports) shall apply to electronic communications.

Record Retention

Electronic documents are "public records" for retention and destruction purposes if they have been:

- A. Made in the course of the employee's or Board member's official business;
- B. Received for filing, indexing or reproduction in the course of transacting official business;
- C. Retained by the recipient as evidence of his/her activities or because of the information contained therein.

Litigation

Electronic documents are "discoverable" in legal actions under the rules promulgated by New Jersey and the federal government. Both entities require that the local Board of Education have a document retention plan. New Jersey rules stipulate that:

- A. A party who asks for electronically stored data can specify the form of its production, but cannot insist that it be produced in more than one form;
- B. The District may be excused from disclosing electronic information that might be recoverable but is not reasonably accessible because of the undue burden or cost;
- C. The District may raise a shield against financial sanctions for failing to disclose data if it has been lost as a result of the routine good faith operation of an electronic information system.
- D. The District may raise a shield against sanctions if the requested materials have been eliminated in accordance with the rules and regulations of the New Jersey Division of Archives and Records Management.

EMAIL AND OTHER ELECTRONIC COMMUNICATIONS (continued)Regulations

The Superintendent shall ensure the development of regulations that provide for the:

- A. Categorizing each type of electronic communication;
- B. Identification of communications which constitute public records;
- C. Storing of each public record in accordance with the requirements of the New Jersey Division of Archives and Records Management;
- D. Identifying which records as subject to disclosure under the Open Public Records Act;
- E. Archiving all other electronic communication for a set period of time and in a manner that allows for them to be easily located and identified.

<u>Legal References:</u>	<p><u>N.J.S.A.</u> 10:4-6 <u>et seq.</u> <u>N.J.S.A.</u> 18A:7A-11</p> <p><u>N.J.S.A.</u> 18A:11-2 <i>See particularly:</i> <u>N.J.S.A.</u> 18A:11-2b <u>N.J.S.A.</u> 18A:17-7 through -12 <u>N.J.S.A.</u> 18A:36-19</p> <p><u>N.J.S.A.</u> 18A:17-46</p> <p><u>N.J.S.A.</u> 18A:36-19</p> <p><u>N.J.S.A.</u> 47:1A-1 <u>et seq.</u> <i>See particularly:</i> <u>N.J.S.A.</u> 47:1A-1.1, -5 <u>N.J.S.A.</u> 47:3-15 <u>et seq.</u> <u>N.J.A.C.</u> 6:3-1.6 <u>N.J.A.C.</u> 6:3-6.1 <u>et seq.</u> <i>See particularly:</i> <u>N.J.A.C.</u> 6:3-6.2(g), -6.8 <u>N.J.A.C.</u> 6:8-2.1 <u>N.J.A.C.</u> 6:8-2.2 <u>N.J.A.C.</u> 6A:16-5.3</p> <p><u>N.J.A.C.</u> 6A:27-7.9 <u>N.J.A.C.</u> 6A:30-1.1 <u>et seq.</u> <u>N.J.A.C.</u> 15:3-2</p> <p>Annual Data Collection Plan, New Jersey State Department of Education</p> <p>Records Retention Schedule, New Jersey State Department of Education</p> <p><u>Matawan Regional Teachers Association v. Matawan-Aberdeen Bd. of Ed.</u>, 212 N.J. Super. 328 (Law Div. 1986)</p> <p><u>Laufgas v. Barnegat Twp. Bd. of Ed.</u>, 1987 S.L.D. 2442, aff'd St. Bd. 1988 S.L.D. 2496</p>	<p>Open Public Meetings Act Annual report of local school District; contents; annual report of commissioner; report on improvement of basic skills Power to sue and be sued; reports; census of school children</p> <p>Secretary to give notices and keep minutes, etc. Student records; creation, maintenance and retention, security and access; regulations; non-liability Act of violence; report by school employee; notice of action taken; annual report Student records; creation, maintenance and retention, security and access; regulations; non-liability Examination and copies of public records (Right to Know Law)</p> <p>Destruction of Public Records Law Reporting and staffing of school Districts Student Records</p> <p>Quality assurance annual report School level planning Incident reporting of violence, vandalism and substance abuse Vehicle records Evaluation of the Performance of School Districts State records manual</p>
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EMAIL AND OTHER ELECTRONIC COMMUNICATIONS (continued)

Legal References: (continued)

Horner v. Kingsway Regional, 1990 S.L.D. 752

Beatty v. Chester Bd of Ed, 1999 S.L.D. (Sept.)

<u>Cross References:</u>	3570	District records and reports
	3571	Financial reports
	*4112.6	Personnel records
	*4212.6	Personnel records
	*5125	Student records
	*6142.2	English as a second language; bilingual/bicultural
	*6171.3	At-risk and Title 1
	*6171.4	Special education
	*9322	Public and executive sessions
	*9326	Minutes

*Indicates policy is included in the Critical Policy Reference Manual.

Key Words

Email, Electronic Communications, Public Records, District Records and Reports, Public Access, Records, Reports

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Revised: