

BOARD MEMBER E-MAIL COMMUNICATIONS

Head Note

The Peru Central School District Board of Education views it important to adhere to the Open Meetings Law and to vigilantly protect the public's right to observe its meetings and deliberations.

Individual communications, whether by memo, telephone, or e-mail, often serve as a means of acquiring or exchanging information, knowledge, expertise or different points of view, all of which can enable Board members to carry out their duties more effectively on behalf of the school community. Yet, Board members need to be aware of their legal implications, particularly those relating to the Open Meetings Law and to the Freedom of Information Law.

The Peru Central School District Board of Education recognizes its responsibility to adhere to the Open Meetings Law and provide the public with the right to observe the performance of public officials in their deliberations. The Board shall adhere to the spirit and intent of this law and agrees that private, informal communication will not be used to replace the vibrant public discussion and debate that is at the heart of the Open Meetings Law. While individual board members may communicate to share information or expertise, the Board does not condone any communication via telephone conference, mail, or e-mail that direct or serially, has the intent or effect of circumventing the Open Meetings Law.

In addition, the Board recognizes communications maintained in some physical form, including e-mail stored in Board member school district e-mail accounts, that are received or prepared for use in board business or containing information relating to board business may be regarded as public records which may be inspected by any person upon request, unless otherwise made confidential by state or federal law.

While there is nothing in the Open Meetings Law which would preclude board members from conferring individually via mail, telephone, or e-mail, the Committee on Open Government has held that a series of communications which result in a collective decision, a meeting, or a vote would be inconsistent with law.

Voting, action and/or deliberation by a board may only occur at a meeting during which a quorum has physically convened or convened by means of video- conference.

The Open Meetings Law is intended to provide the public with the right to observe the performance of public officials in their deliberations whether or not action is taken. That intent can't be realized if board members conduct public business as a body, poll members or vote by e-mail.

COMMUNICATION AMONG INDIVIDUAL BOARD MEMBERS

The Board of Education recognizes its responsibility to adhere to the Open Meetings Law and protect the public's right to observe its meetings and deliberations. The Board shall adhere to the spirit and intent of this law and agrees that private, informal communication will not be used to replace board meetings.

Voting, action, and/or deliberation by a board may only occur at a meeting during which a quorum of board members has physically convened or convened by means of video-conference.

While individual board members may communicate to share information or expertise, the Board does not condone any communication (i.e., telephone, conference call, mail, or e-mail), directly or serially, which has the intent or effect of circumventing the Open Meetings Law.

Freedom of Information Law

In addition, the Board recognizes communications maintained in some physical form, including e-mail stored in a computer, that are received or prepared for use in board business or containing information relating to board business may be regarded as public records which may be inspected by any person upon request, unless otherwise made confidential by state or federal law.

Board members shall avoid reference to confidential information about employees, students or other matters in e-mail communications because of the risk of improper disclosure. Board members shall comply with the same standards as school employees with regard to confidential information.

Cross-ref: 1120, School District Records
2160, School District Officer and Employee Code of Ethics

Ref: Public Officers Law §§ 102, 103, 108
Family Educational Rights and Privacy Act, 20 U.S.C. 1232g
Robert J. Freeman, Executive Director, NYS Committee on Open
Government "E-Mail: Food for Thought"

Adoption date: June 4, 2008