

# Washington West Supervisory Union Model Policy

## Policy E12

### **E12: ELECTRONIC COMMUNICATIONS USE & RETENTION**

#### **Policy Purpose**

The member district schools of the Washington West Supervisory Union: Fayston Elementary School, Harwood Union High School, Moretown Elementary School, Waitsfield Elementary School, Warren Elementary School, and the Waterbury/Duxbury Union School District (Crossett Brook Middle School and Thatcher Brook Primary School) intend to comply with state and federal requirements regarding the retention, storage and destruction of electronic information and records. The Superintendent or his/her designee shall be responsible for developing and implementing administrative procedures concerning the retention, storage, and destruction of electronic information.

#### **Use of E-Mail and Electronic Communications**

The school board and administration will not use email as a substitute for discussion at board meetings, or for any business properly conducted at board meetings subject to the Vermont Open Meeting Law.<sup>1</sup>

E-mail messages produced or acquired by school officials, board members and employees in the course of school district business are subject to disclosure under the Vermont Access to Public Records law whether or not the messages originate from, or are stored on, personal or school district computer systems.<sup>2</sup> The school district may monitor the use of its computer systems regardless of whether individuals have been assigned passwords for system security. Password systems utilized by the school district are for the purpose of providing system security from unauthorized users, not to provide privacy to individual system users. The system's security aspects, message delete function and personal passwords may be bypassed for monitoring purposes. This provision applies to any and all uses of the school district's computer systems, including any incidental personal use permitted in accordance with board policy or administrative regulations regarding computer use by employees or school board members.

Any retained messages may be retrieved as part of routine monitoring, an employee investigation or a formal discovery process as part of litigation. E-mail messages may be retained at different locations within the computer network and are subject to retrieval at any retention location.

#### **Retention of Electronically Stored Information**

Record retention protocols that apply to paper records also apply to electronically stored information, including e-mail communications. The content and function of an electronic record, including an

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<sup>1</sup> 1 V.S.A. §310 et seq. The Open Meeting Law, defines a "meeting" as "a gathering of a quorum of the members of a public body for the purpose of discussing the business of the public body or for the purpose of taking action."

<sup>2</sup> 1 V.S.A. §315 et seq. "As used in this subchapter, 'public record' or 'public document' means any written or recorded information, regardless of physical form or characteristics, which is produced or acquired in the course of public agency business." 1 V.S.A. §317(b).

e-mail communication, shall determine the retention period for that record. The school district will comply with any record retention requirements established by the Vermont State Archives and Records Administration that apply to school districts.<sup>3</sup>

In addition to the retention protocols established by the Superintendent and used by school district officials and employees, all school officials and employees have a duty to preserve all records and electronic information, including records and electronic information that might otherwise be deleted or destroyed, that relate to any matter that is currently in litigation or may be anticipated to involve future litigation.<sup>4</sup>

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Legal Reference(s): Vermont Open Meeting Law, 1 V.S.A. § 310 et seq.  
Vermont Access to Public Records Act, 1 V.S.A. 315 et seq.  
Electronic Messages Best Practice for All Public Agencies (Effective April 1, 2009) Vermont State Archives and Records Administration. <http://vermont-archives.org/records/standards/vermont.htm>.  
Rules 34 and 45 of the Federal Rules of Civil Procedure  
Cross Reference:

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<sup>3</sup> 1 V.S.A. § 317a states that a "custodian of public records shall not destroy, give away, sell, discard, or damage any record or records in his or her charge, unless specifically authorized by law or under a record schedule approved by the state archivist pursuant to subdivision 117(a)(5) of Title 3."

<sup>4</sup> Rules 34 and 45 of the Federal Rules of Civil Procedure (2006 Amendments) require that electronic information be retained so that it can be provided to a party in a federal lawsuit if the (school district) was either: 1) engaged in federal litigation as a party to a lawsuit, 2) anticipating being engaged in federal litigation, or 3) issued a subpoena by a party to a federal lawsuit in a matter in which the (school district) is not a party.