

Conducting District Business Using Personal E-mail Accounts¹

Is it permissible for public officials to use personal e-mail accounts for official government business? Yes. Is it recommended? No.

General Principle:

While Washington law does not prohibit the use of personal e-mail accounts and personal computers for official business, there are a number of issues to consider before you decide to conduct District business using personal e-mail accounts.

Public Records Act & Record Retention Compliance:

As a supervisor, using your personal e-mail account for District business may be easy and convenient. However, using your personal e-mail account for District business opens you up to liability under the Public Records Act² and may result in violations of electronic record retention policies.³

E-mail is a Public Record:

E-mail containing information relating to the conduct of government is considered a public record under the Public Records Act, regardless of whether the email address ends with “.com,” “.org,” or “.gov” and regardless of whether it is prepared in the government office or on a home computer.⁴ Also, District-related e-mails and text messages on your

person cell phone, BlackBerry or other “PDA” are public records and could also be subject to search. Further, electronic records such as e-mail must be retained a minimum of two years.⁵

What Should You Do?

Your District should adopt a policy on electronic communications, including personal e-mail accounts, personal computers, text messages, and e-mails on PDAs. The policy should comply with the Public Records Act and record retention policies. Keep official e-mails clearly segregated from your personal e-mails.

Further, there are a number of options available to you:

Options:

District-Provided E-mail Account

First, your District may have the ability to provide you with an e-mail account that the District controls. Districts who offer e-mail addresses to their supervisors and that have their own policies and procedures to comply with public records requests and record retention requirements should provide the simplest solution to this problem. Supervisors must be aware of and comply with District policies in these areas.

Commission-Provided E-mail Account

Second, if your District does not have the capability to provide e-mail accounts, the Commission can provide an account for you to use for official business. To obtain an e-mail account through the Commission, please contact your regional manager. Supervisors who choose this option will be subject to Commission policies on public records requests, but the Commission will ensure compliance with record retention requirements.

¹ The information contained in this Operations Brief is compiled from the MRSC (Municipal Research Service Center) Council/Commission Advisor Article entitled “[Five Issues You Should Consider Before You Decide to Use Your Personal Email Account or Personal Computer for Official Public Business \(and five ideas to help ensure that use is transparent\)](#),” November 2008, by Steve DiJulio, Attorney and Ramsey Ramerman, Attorney.

² [RCW Chapter 42.56](#)

³ [RCW Chapter 40.14](#) and [WAC Chapter 434-662](#); see also [Mechling v. City of Monroe](#), 152 Wn. App. 830 (2009), review denied, 169 Wn.2d 1007 (2010) and [WAC 434-662-150](#).

⁴ [RCW 42.56.010\(2\)](#), [\(3\)](#), and [WAC 44-14-03001\(1\)](#).

⁵ [Local Government Common Records Retention Schedule \(CORE\) Version 3.0, Washington State Archives, Office of the Secretary of State, November 2012, page 6.](#)

Separate Business E-mail Account

The Commission recommends supervisors choose one of the two options describe above. A third option, however, is for a supervisor to create their own e-mail account for District business. If you choose to create an e-mail account for official business, open an account only for that purpose, making it your “official” District e-mail account. Don’t use it for any personal emails. If this option is chosen, it is entirely the responsibility of the supervisor to ensure compliance with public records requests and record retention requirements. The Commission does not recommend this practice and would urge supervisors to choose one of the first two options listed above.

Personal E-mail Account

A fourth option is for a supervisor to use their own personal e-mail account for District business. In other words, to mix personal and business e-mails together. Personal computers are subject to search by a legal authority when a supervisor uses personal e-mail accounts from their own personal computers for District business.⁶ If this option is chosen, it is entirely the responsibility of the supervisor to ensure compliance with public records requests and record retention requirements. The Commission does not recommend this practice and would urge supervisors to choose one of the first two options listed above.

A Note about Personal Computer Use for District Business

Some Districts are able to provide District computers, laptops, tablets and/or PDAs for official use. If that option is not available to you, your personal device can be used. However, remember that it could be subject to searches under the public records act. Therefore, when using a personal device for official business, create a folder or separate section for all official records and be diligent and consistent about putting any government-related records in that folder or section. This may limit the extent of the search of your personal device under a public records request.

⁶ [O’Neill v. City of Shoreline, 187 P.3d 822 \(2008\)](#) and [Memorandum Opinion, Paulson v. City of Bainbridge Island \(2013\)](#).

Further Information

For further information, please see the [Municipal Research and Services Center’s Public Records Act page](#) here:
<http://www.mrsc.org/subjects/legal/prd/prd.aspx>.

Questions:

Contact your WSCC Regional Manager