

Right

to

Know

Law



NEW HAMPSHIRE
Local Government Center

New Hampshire Municipal Association
Workers' Compensation Trust
Property-Liability Trust
HealthTrust

RSA
Chapter 91-A

**ELECTRONIC
COMMUNICATION**

(RSA 91-A:1 through 91-A:6)

Effective July 1, 2008

PUBLIC MEETINGS

- **E-mail as a Meeting? No.** Legal meetings may never be conducted by e-mail or any other format which does not allow the public to hear, read or discern the discussion contemporaneously at the meeting location.
- **Telephone Participation:** Boards may allow one or more members to participate in a meeting by telephone or other electronic means, if:
 - (1) physical attendance is not reasonably practical (note in minutes);
 - (2) all members can simultaneously hear and speak with each other;
 - (3) except in an emergency, a quorum is still physically present in the location where the public was told the meeting would occur; and
 - (4) all parts of the meeting are audible or otherwise discernable to the public in that location.
- **What Is a Meeting?** When a majority of a public body convenes to discuss or act on any matter within its jurisdiction, it is a meeting whether the members "convene" in person, by telephone or electronic communication, or in any other way in which all members may communicate with each other contemporaneously (but as noted above, meetings may not be held by e-mail or online chat because the public cannot hear, read or discern the discussion contemporaneously at the meeting location).
- **Deliberation:** Public bodies may only deliberate in properly held meetings, and may not use communication outside a meeting (such as sequential e-mails or phone calls) to circumvent the spirit or the purpose of the law.
- **Posting Meeting Notice on the Internet:** Notice of meetings must be posted in at least two public places, one of which may be the public body's Web site.

GOVERNMENTAL RECORDS

- **Defined:** Any information created, accepted or obtained by a quorum of a public body, or by a public agency (for example, the clerk's office, police department or other municipal office), in any physical format, received in or out of a meeting, in furtherance of its official function.
- **Availability:** Just like paper records, electronic governmental records must be made available to the public upon request unless an exemption applies.
- **Retention:** Electronic governmental records must remain accessible to the public for the same length of time as their paper counterparts. Check RSA 33-A:3-a for a list of retention periods for certain categories of municipal records. If a record must be kept for more than 10 years, it must also be transferred to paper or microfilm.
- **When Is an Electronic Record No Longer Subject to Disclosure Under the Right to Know Law?** When it has been "initially and legally deleted" so that it is no longer readily accessible to the public body. Simply deleting it is not enough; the "Deleted Items" or "Recycle Bin" folder must also be emptied. A record is "legally" deleted if the retention period has ended and there are no outstanding or disputed requests for that item.

Important note: This is a very simplified overview of the Right to Know Law. It is not intended to be legal advice and is provided for convenience only. Please refer to RSA Chapter 91-A or legal counsel for further information.

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