

A SCHOOL BOARD'S GUIDE TO THE PUBLIC RECORDS ACT IN VERMONT

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What is a Public Record?

All written or recorded information, regardless of physical form or characteristics, which is produced or acquired in the course of public agency business, including school district business.

What communications are covered by the PRA?

- Any record transmitted to and from business devices including hard copies, emails, and texts, regardless of subject matter.
- Any record transmitted to and from personal devices and emails if they contain business subject matter. In other words, using a personal email does not circumvent the PRA.

Note: The 'chat' function of online video meeting platforms creates public records.

What is the purpose of the Public Record Act (PRA)?

The purpose of the Act is to provide for free and open examination of public records consistent with the Vermont Constitution while preserving a right of privacy.[1]

[1] See 1 V.S.A. § 317(b).



Can anyone request public records without providing a statement of purpose?

Yes, anyone can make a request either in writing or verbally.

To whom does it apply?

All agencies, boards, departments, commissions, committees, branches, instrumentalities, under the authority of the State. This includes all school boards and superintendent offices, as used here, "school districts."

Can school districts contact a person about their records request?

Yes, school districts may ask clarifying questions and/or seek to narrow the scope of the request. For instance, districts can attempt to define specific subject matters and date ranges. A school district may not deny a request if the person chooses not to clarify or narrow the request.[1]

[1] See 1 V.S.A. § 318(d).

What are the time limits?

School districts must respond to requests within three business days.[1] There are statutorily-available extensions for reasons including necessary consultation and redaction.[2] Failure to meet timelines are considered denials.[3]

[1] See 1 V.S.A. § 318(a) and (b).

[2] See 1 V.S.A. § 318(b)(5).

[3] See 1 V.S.A. § 318(2).

Are there exemptions?

Yes, there are statutory exemptions that include protections for documents that are confidential or privileged by law, student records, documents the disclosure of which would violate adopted ethics of professional conduct, personnel and medical files, the identity of library patrons, and so on.[1]

[1] See 1 V.S.A. § 317(c).

What if a school board member receives a records request?

The chair of the board should work with the superintendent to have a process in place to address such requests.

What if it is unclear whether a record is public?

Vermont law and decisions by the Vermont Supreme Court make it clear that the PRA should be interpreted liberally in favor of public access.[1] School districts are subject to laws and regulations that protect student and employee privacy. When in doubt, consult legal counsel.

[1] See 1 V.S.A. § 315. In addition, the Court has repeatedly upheld that idea that there is strong public policy favoring access to public documents and records. Exceptions to disclosure are construed strictly against the custodian of the records, and we resolve any doubt in favor of disclosure. See *Sawyer v. Spaulding*, 2008 VT 63.

Can a person appeal a school district decision to deny access to certain records?

Yes. If any part of the request is denied, the school district must provide written notice of the right to appeal the decision, including timelines and the person who will conduct the appeal.[1]

[1] See 1 V.S.A. § 318(b)(2)(D).

Key Tips For School Districts

- **Be careful.** Everything written and recorded could be produced in a public records request. Don't send sensitive or personal messages over district email.
- **Be clear.** Always use your school district email address for school district business and nothing else.
- **Be prepared.** Develop a process for receiving and responding to records requests.
- **Be cautious.** If a chat is created by a video meeting platform, it must be preserved. Consider disabling this function.