

NEW HAMPSHIRE SCHOOL BOARDS ASSOCIATION presents Right To Know Guidelines At Your Fingertips

The Right to Know Law (RSA 91-A)

I. Public Proceedings: RSA 91-A:1-a

- A public proceeding means the transaction of any official functions of the school district by the school board.
- The provisions of the Right to Know Law apply to any committee established by the school board.

II. Meetings Open to the Public: RSA 91-A:2, I

- A “meeting” means the convening of a board quorum to discuss or act upon matters over which the board has supervision, control, or jurisdiction. A meeting does *NOT* include:
 - (1) A chance social encounter not intended for the purpose of discussing or acting upon official matters;
 - (2) Strategy or negotiations with respect to collective bargaining; or
 - (3) Consultation with legal counsel.

III. Minutes of Public Meetings: RSA 91-A:2, II

- Minutes shall be recorded and open to public inspection within 5 business days of the meeting.
- Minutes should include the names of board members, persons appearing before the board, a brief description of the subject matter discussed, and all final decisions made.

IV. Notice of Public Meetings: RSA 91-A:2, II

- Notice of the time and place of each public meeting shall be posted in two appropriate places, or shall be printed in a newspaper of general circulation, at least 24 hours prior to such meetings (excluding Sundays and legal holidays).
- Sufficient posting may include the school district’s website (NH Attorney General’s Memorandum, Feb. 2007).

V. Emergency Meetings: RSA 91-A:2, II

- The board may call an emergency meeting when immediate action is imperative.
- The board shall use any means available to inform the public that an emergency meeting is to be held.
- The minutes shall clearly state the reason(s) for the emergency meeting.

VI. Non-Public Sessions: RSA 91-A:3, I and II

- Boards may only enter non-public session pursuant to an affirmative majority vote.
- The vote to enter non-public session shall state the statutory reference for entering non-public session.
- All discussions and decisions shall be confined to the matters set out in the motion to enter non-public session.
- Only the following matters may be discussed in non-public session:
 - (1) The dismissal, promotion, compensation, disciplining, or investigation of changes of a public employee;
 - (2) The hiring of any person as a public employee;
 - (3) Matters that would adversely affect the reputation of any person, other than a member of the board;
 - (4) Consideration of the acquisition, sale, or lease of real estate or personal property;
 - (5) Consideration of pending claims or litigation against the school district; and
 - (6) Consideration of matters relating to the preparation for any carrying out of emergency functions.

VII. Minutes of Non-Public Sessions: RSA 91-A:3, III

- Minutes and decisions made in non-public session must be available within 72 hours of the meeting, unless the board, by two-thirds vote, determines to keep the minutes sealed.
- Boards may only vote to seal minutes of a non-public session if divulging the information would:
 - (1) Adversely affect the reputation of a person, other than a member of the board;
 - (2) Render a proposed action ineffective; or
 - (3) Relate to carrying out emergency functions.

For more information, call Attorney Barrett M. Christina at 603-228-2061
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VIII. Minutes and Records Available for Public Inspection: RSA 91-A:4

- Every citizen has the right to inspect all public records, including the minutes of meetings, notes, materials, tapes or sources used for compiling minutes of public meetings.
- Citizens have the right to make memoranda, abstracts and photographic copies of the records or minutes.
- School boards shall allow inspection and copying of all public records available for immediate release.
- If records are not available for immediate release, the school district must:
 - (1) Make the records available within 5 business days;
 - (2) Deny the request in writing with the reason the records are not or will not be made available; or
 - (3) Provide a written acknowledgement of the request and a statement of the time necessary to determine whether the request shall be granted or denied.

IX. Records Exempt from Public Disclosure: RSA 91-A:5

- (1) Personal school records of students (RSA 91-A:5, III)
- (2) Records pertaining to internal personnel practices (RSA 91-A:5, IV)
- (3) Files whose disclosure would constitute an invasion of privacy (RSA 91-A:5, IV)
- (4) Teacher certification records from the Department of Education (RSA 91-A:5, V)
- (5) Records pertaining to the preparation for and carrying out of emergency functions (RSA 91-A:VI)
- (6) Unique pupil identification information collected in accordance with applicable law (RSA 91-A:5, VII)
- (7) Personal notes without official purpose, made before, during, or after public proceedings (RSA 91-A:5, VIII)
- (8) Preliminary drafts, notes, memoranda and other documents not in their final form and not disclosed, circulated, or available to a quorum (RSA 91-A:5, IX)

X. Remedies, Violations, Breaches of Confidentiality

- RSA 91-A:8, I. The district will be liable for attorney fees and costs incurred in a lawsuit if the court finds the lawsuit was necessary to make public documents available.
- RSA 91-A:8, I. The court may award fees personally against school officials if the board officer or district employee acted in bad faith in refusing to allow access to a public meeting or to provide a public record.
- RSA 91-A:8, II. The court may invalidate board action taken at a meeting held in violation of the Right to Know Law.
- RSA 42:1-a, II. A board member or district officer may be removed from office if he/she divulges information that:
 - (1) The school board voted to withhold from the public pursuant to RSA 91-A:3, III; or
 - (2) The board member knew or should have known that the information was exempt from disclosure pursuant to RSA 91-A:5, and that its divulgence constitutes an invasion of privacy, would adversely affect the reputation of a person (other than a school board member), or would render board action ineffective.

XI. Applicable NHSBA Sample Policies

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| • BDA Board Organizational Meeting | • BEDG Minutes |
| • BEA Regular Board Meetings | • BEDG-R Access to Minutes and Public Records |
| • BEB Special Board Meetings | • BEDH Public Participation at Board Meetings |
| • BEC Non-Public Sessions | • BHE School Board Use of Email |
| • BEDA Public Notification of School Board Meetings | • KEB Public Complaints About School Personnel, Employees, Students or Administration |
| • BEDB Agenda Preparation and Dissemination | |

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