

# REGULATION

## Medford Township School District

Section: Program

2361.2. ACCEPTABLE USE OF PROFESSIONAL ELECTRONIC MAIL (E-MAIL)

Date Created: March, 2006

Date Edited: March, 2006

### 2361.2. ACCEPTABLE USE OF PROFESSIONAL ELECTRONIC MAIL (E-MAIL)

Electronic mail (e-mail) is provided to Medford Township Public School staff in support of the district instructional program. The Board of Education recognizes that principles of academic freedom and shared governance, freedom of speech, and privacy of information hold important implications for electronic mail and electronic mail services. The district affords electronic mail privacy protections comparable to that which it traditionally affords paper mail and telephone communications. This policy reflects these principles within the context of the district's legal and other obligations.

The district encourages the use of electronic mail to support the overall school assignment and respects the privacy of users. It does not routinely inspect, monitor, or disclose electronic mail without the holder's (as defined in Appendix A Definitions) consent. Nonetheless, subject to the requirements for authorization, notification, and other conditions specified in this Regulation, the district may deny access to its electronic mail services and may inspect, monitor, or disclose electronic mail (i) when required by and consistent with law; (ii) when there is substantiated reason (as defined in Appendix A Definitions) to believe that violations of law or the district policies listed in Appendix B have taken place; (iii) when there are compelling circumstances as defined in Appendix A; or (iv) under time-dependent, critical operational circumstances as defined in Appendix A, Definitions.

#### I. CRITICAL CONSIDERATIONS:

Users must be aware of the following:

1. Both the nature of electronic mail and the public character of the district's business (see Consideration #2 below) make electronic mail less private than users may anticipate. For example, electronic mail intended for one person sometimes may be widely distributed because of the ease with which recipients can forward it to others. A reply to an electronic mail message posted on an electronic bulletin board or "listserver" intended only for the originator of the message may be distributed to all subscribers to the listserver. Furthermore, even after a user deletes an electronic mail record from a computer or electronic mail account it may persist on backup facilities, and thus be subject to disclosure under the provisions of Section V of this policy. The district cannot routinely protect users against such eventualities.

2. Electronic mail, whether or not created or stored on district equipment, may constitute a district record (see Appendix A, Definitions) subject to disclosure under the law or as a result of litigation. However, the district does not automatically comply with all requests for disclosure, but evaluates all such requests against the precise provisions of the Regulation, other laws concerning disclosure, privacy, and/or other applicable law.

3. The district, in general, cannot and does not wish to be the arbiter of the contents of electronic mail. Neither can the district, in general, protect users from receiving electronic mail they may find offensive. District employees, however, are strongly encouraged to use the same personal and professional courtesies and considerations in electronic mail as they would in other forms of communication.

4. There is no guarantee, unless "authenticated" mail systems are in use, that electronic mail received was in fact sent by the purported sender, since it is relatively straightforward, although a violation of this Regulation for senders to disguise their identity. Furthermore, electronic mail that is forwarded may also be modified. As with print documents, in case of doubt, receivers of electronic mail messages should check with the purported sender to validate authorship or authenticity.

5. Encryption of electronic mail is another emerging technology that is not in widespread use as of the date of this Regulation. This technology enables the encoding of electronic mail so that for all practical purposes it cannot be read by anyone who does not possess the right key. The answers to questions raised by the growing use of these technologies are not sufficiently understood to warrant the formulation of district Policy at this time. Users and operators of electronic mail facilities should be aware, however, that these technologies will become generally available and probably will be increasingly used by members of the community.

## II. PURPOSE:

The purpose of this Regulation is to assure that:

"The district community is informed about the applicability of policies and laws to electronic mail.

"Electronic mail services are used in compliance with those policies and laws.

"Users of electronic mail services are informed about how concepts of privacy and security apply to electronic mail.

"Disruptions to district electronic mail and other services and activities are minimized.

## III. DEFINITIONS:

The terms "electronic mail" and "e-mail" are used interchangeably throughout this Regulation.

The following terms used in this Regulation are defined in Appendix A. Knowledge of these

definitions is important to an understanding of the Regulation.

"Computing Facility(ies)

"Electronic Mail Systems or Services

"District E-mail Systems or E-mail

"E-mail Record or E-mail

"District Record

"District E-mail Record

"Use of District or Other E-mail Services

"Possession of E-mail

"Holder of an E-mail Record or Email Holder

"Faculty

"Substantiated Reason

"Compelling Circumstances

"Emergency Circumstances

"Time-dependent and/or Critical District Operational Circumstances

#### IV. SCOPE:

This Regulation applies to:

"All electronic mail systems and services provided or owned by the District

"All users, holders, and uses of District e-mail services

"All District e-mail records in the possession of District employees or other e-mail users of electronic mail services provided by the District

This Regulation applies equally to transactional information (such as e-mail headers, summaries, addresses, and addressees) associated with e-mail records as it does to the contents of those records.

#### V. GENERAL PROVISIONS:

As noted in the Introduction, the District recognizes that principles of academic freedom, freedom of speech, and privacy of information hold important implications for electronic mail and electronic mail services. This Regulation reflects these firmly-held principles within the context of the District's legal and other obligations.

A. Purpose - In support of its mission, the District encourages the use of District electronic mail services to share information, to improve communication, and to exchange ideas.

B. District Property - District electronic mail systems and services are District facilities as that term is used in other policies and guidelines. Any electronic mail address or account associated with the District, assigned by the District to individuals,

sub-units, or functions of the District, is the property of the Medford Township Public School District.

C. Service Restrictions - Those who use District electronic mail services are expected to do so responsibly, that is, to comply with state and federal laws, with this and other policies and procedures of the District, and with normal standards of professional and personal courtesy and conduct. Access to District electronic mail services, when provided, is a privilege that may be wholly or partially restricted by the District without prior notice and without the consent of the e-mail user when required by and consistent with law, when there is substantiated reason (as defined in Appendix A Definitions) to believe that violations of policy or law have taken place, or, in exceptional cases, when required to meet time-dependent, critical operational needs. Such restriction is subject to established District procedures or, in the absence of such procedures, to the approval of the Superintendent.

D. Consent and Compliance - An e-mail holder's consent shall be sought by the District prior to any inspection, monitoring, or disclosure of District email records in the holder's possession, except as provided for in Section V. E. District employees are, however, expected to comply with District requests for copies of e-mail records in their possession that pertain to the administrative business of the district, or whose disclosure is required to comply with applicable laws, regardless of whether such records reside on a computer housed or owned by the District. Failure to comply with such requests can lead to the conditions of Section V. E.

E. Restrictions on Access Without Consent - The district shall only permit the inspection, monitoring, or disclosure of electronic mail without the consent of the holder of such email (i) when required by and consistent with law; (ii) when there is substantiated reason (as defined in Appendix A Definitions) to believe that violations of law or of District policies listed in Appendix B have taken place; (iii) when there are compelling circumstances as defined in Appendix A; or (iv) under time-dependent, critical operational circumstances as defined in Appendix A Definitions. When the contents of email must be inspected, monitored, or disclosed without the holder's consent, the following shall apply:

1. Authorization - Except in emergency circumstances as defined in Appendix A. Definitions, and pursuant to Paragraph V.E.2, such actions must be authorized in advance and in writing by the Superintendent. This authority may not be further re-delegated. Authorization shall be limited to the least perusal of contents and the least action necessary to resolve the situation.

2. Emergency Circumstances - In emergency circumstances as defined in Appendix A. Definitions, the least perusal of contents and the least action necessary to resolve the emergency may be taken immediately without authorization, but appropriate authorization must then be sought without delay

following the procedures described in Section V.E.1 above. If the action taken is not subsequently authorized, the responsible authority shall seek to have the situation restored as closely as possible to that which existed before action was taken.

3. Notification - In either case, the responsible authority or designee shall, at the earliest possible opportunity that is lawful and consistent with other District policy, notify the affected individual of the action(s) taken and the reasons for the action(s) taken.

4. Compliance with Law - Actions taken under Paragraphs 1. and 2. shall be in full compliance with the law and other applicable District policy. Advice of counsel always must be sought prior to any action taken under such circumstances. It also has particular significance for e-mail whose content is protected under the Federal Family Educational Rights and Privacy Act of 1974, which applies equally to e-mail as it does to print records.

F. Recourse - Procedures for the review and appeal of actions taken under Sections V.C, D, and E and under Section VII shall be implemented (or existing procedures adapted) by the District to provide a mechanism for recourse to individuals who believe that actions taken by employees or agents of the District were in violation of this Regulation.

G. Misuse - In general, both law and District policy prohibit the theft or other abuse of computing resources. Such prohibitions apply to electronic mail services and include (but are not limited to) unauthorized entry, use, transfer, and tampering with the accounts and files of others, and interference with the work of others and with other computing facilities. Under certain circumstances, the law contains provisions for felony offenses.

H. Security Breach/Inappropriate Materials - Users will immediately notify their administrator if they detect a security problem/breach or if they inadvertently access material that is profane/obscene; that advocates illegal or dangerous acts; that advocates violence or discrimination.

Users of electronic mail are encouraged to familiarize themselves with these laws and policies.

## VI. SPECIFIC PROVISIONS:

A. Allowable Use - In general, use of District electronic mail services is governed by policies that apply to the use of all District facilities. In particular, use of District electronic mail services is encouraged and is allowable subject to the following conditions:

1. Purpose - Electronic mail services are to be provided by the District in

support of the teaching and mission of the District and the administrative functions that support this mission.

2. Users - Users of District electronic mail services are to be limited primarily to faculty, and staff for purposes that conform to the requirements of this Section.

3. Restrictions - District electronic mail services may not be used for: unlawful activities; commercial purposes not under the auspices of the District; personal financial gain; personal use; or uses that violate other District policies or guidelines. The latter include, but are not limited to policies and guidelines regarding personal attacks, including discriminatory attacks, prejudicial attacks, religious attacks etc., and sexual or other forms of harassment.

4. Representation - Electronic mail users shall not give the impression that they are representing, giving opinions, or otherwise making statements on behalf of the District unless appropriately authorized (explicitly or implicitly) to do so. Where appropriate, an explicit disclaimer shall be included unless it is clear from the context that the author is not representing the District. An appropriate disclaimer is: "These statements are my own, and not those of the Medford Township Public School District."

5. False Identity - District e-mail users shall not employ a false identity.

6. Interference - District e-mail services shall not be used for purposes that could reasonably be expected to cause, directly or indirectly, excessive strain on any computing facilities, or unwarranted or unsolicited interference with others' use of e-mail or e-mail systems. Such uses include, but are not limited to, the use of e-mail services to: (i) send or forward e-mail chain letters; (ii) "spam," that is, to exploit listservers or similar broadcast systems for purposes beyond their intended scope to amplify the widespread distribution of unsolicited e-mail; and (iii) "Letter-bomb," that is, to resend the same e-mail repeatedly to one or more recipients to interfere with the recipient's use of e-mail.

7. Limited Resources - Users will subscribe only to high quality group mail lists that are relevant to education or professional/career development.

8. Account Status - Users will check their e-mail frequently and promptly delete unwanted messages. The size of individual mailboxes will be limited to 250 megabytes of data. The e-mail system will prompt a URL when his/her mailbox approaches this limit and request e-mail messages to be deleted. The system may prevent any new mail from reaching a user's mailbox until the size of the mailbox is reduced.

9. Information Posting - Users will not post personal contact information

about students or other people. Personal contact information includes address, telephone, school address, work address etc.

## B. SECURITY AND CONFIDENTIALITY

1. The confidentiality of electronic mail cannot be assured. Such confidentiality may be compromised by applicability of law or policy, including this Regulation, by unintended redistribution, or because of inadequacy of current technologies to protect against unauthorized access. Users, therefore, should exercise extreme caution in using e-mail to communicate confidential or sensitive matters.
2. Notwithstanding the previous paragraphs, users should be aware that, during the performance of their duties, network and computer operations personnel and system administrators need from time to time to observe certain transactional addressing information to ensure proper functioning of District e-mail services, and on these and other occasions may inadvertently see the contents of e-mail messages. Except as provided elsewhere in this Regulation, they are not permitted to see or read the contents intentionally; to read transactional information where not germane to the foregoing purpose; or disclose or otherwise use what they have seen.
3. The district attempts to provide secure and reliable e-mail services. Operators of District electronic mail services are expected to follow sound professional practices in providing for the security of electronic mail records, data, application programs, and system programs under their jurisdiction. Since such professional practices and protections are not foolproof, however, the security and confidentiality of electronic mail cannot be guaranteed. Furthermore, operators of e-mail services have no control over the security of e-mail that has been downloaded to a user's computer. As a deterrent to potential intruders and to misuse of e-mail, e-mail users should employ whatever protections (such as passwords) are available to them.
4. Users of electronic mail services should be aware that even though the sender and recipient have discarded their copies of an electronic mail record, there may be back-up copies that can be retrieved. Systems may be "backed-up" on a routine or occasional basis to protect system reliability and integrity, and to prevent potential loss of data. The back-up process results in the copying of data onto storage media that may be retained for periods of time and in locations unknown to the originator or recipient of electronic mail. The practice and frequency of back-ups and the retention of back-up copies of e-mail may vary. Electronic mail users are encouraged to request information on the back-up practices followed by the operators of District electronic mail services, and such operators are required to provide such information upon request.

## C. Archiving and Retention

The District does not maintain central or distributed electronic mail archives of all electronic mail sent or received. Electronic mail is normally backed up (see Section VI. B.4), if at all, only to assure system integrity and reliability, not to provide for future retrieval, although back-ups may at times serve the latter purpose incidentally. Operators of District electronic mail services are not required by this Regulation to retrieve e-mail from such back-up facilities upon the holder's request, although on occasion they may do so as a courtesy.

E-mail users should be aware that generally it is not possible to assure the longevity of electronic mail records for record-keeping purposes, in part because of the difficulty of guaranteeing that electronic mail can continue to be read in the face of changing formats and technologies and in part because of the changing nature of electronic mail systems. This becomes increasingly difficult as electronic mail encompasses more digital forms, such as embracing compound documents composed by digital voice, music, image, and video in addition to text. Furthermore, in the absence of the use of authentication systems (see Section I, Consideration #4), it is difficult to guarantee that e-mail documents have not been altered, intentionally or inadvertently.

## VII. DISTRICT POLICY VIOLATIONS

Violations of District policies governing the use of District electronic mail services may result in restriction of access to District information technology resources. In addition, disciplinary action, up to and including dismissal, may be applicable under other District policies, guidelines, implementing procedures, or collective bargaining agreements.

## VIII. CONSENT REQUIREMENT

No staff shall be permitted to use the district's electronic mail unless they have filed a completed consent form annually with their principal or administrator.

## APPENDIX A - DEFINITIONS

**Computing Facility (ies):** Computing resources, services, and network systems such as computers and computer time, data processing or storage functions, computer systems and services, servers, networks, input/output and connecting devices, related computer records, programs, software, and documentation.

**Electronic Mail Systems or Services:** Any messaging system that depends on computing facilities to create, send, forward, reply to, transmit, store, hold, copy, download, display, view, read, or print computer records for purposes as asynchronous communication across computer network systems between or among individuals or groups, that is either explicitly denoted as a system for electronic

mail or is implicitly used for such purposes, including services such as electronic bulletin boards, listservers, and newsgroups.

**District E-mail Systems or Services:** Electronic mail systems or services owned or operated by the District.

**E-mail Record or E-mail:** Any or several electronic computer records or messages created, sent, forwarded, replied to, transmitted, stored, held, copied (including blind carbon copying), downloaded, displayed, viewed, read, or printed by one or several e-mail systems or services. This definition of e-mail records applies equally to the contents of such records and to transactional information associated with such records, such as headers, summaries, addresses, and addressees. This Regulation applies only to electronic mail in its electronic form. The Regulation does not apply to printed copies of electronic mail.

**District Record:** "Public records" include any writing containing information relating to the conduct of the public's business prepared, owned, used or retained (by the District) regardless of physical form or characteristics. With certain defined exceptions, such District records are subject to disclosure under the law.

**District E-mail Record:** A District Record in the form of an e-mail record regardless of whether any of the District's computing facilities were utilized to create, send, forward, reply to, transmit, store, hold, copy (including blind carbon copying), download, display, view, read, or print the e-mail record are owned by the District. This implies that the location of the record, or the location of its creation or use, does not change its nature as: (i) District e-mail record for purposes of this or other district policy (see, however, Sections V.D and E), and (ii) having potential for disclosure under the law. The content of an e-mail record will include the addressees, carbon copied and blind carbon copied addressees, the subject, body of text, closing, signature lines and any confidentiality and disclosure statements.

Until determined otherwise or unless it is clear from the context, any e-mail record residing on District owned computing facilities may be deemed to be a District e-mail record for purposes of this Regulation. Consistent, however, with the principles asserted in Section V.E. of least perusal and least action necessary and of legal compliance, the District must make a good faith a priori effort to distinguish District e-mail records from personal and other E-mail where relevant to disclosures under the law or for other applicable purposes of this Regulation.

**Use of District or Other E-mail Services:** To create, send, forward, reply to, transmit, store, hold, copy, download, display, view, read, or print e-mail (with the aid of District e-mail services). A District e-mail User is an individual who makes use of District e-mail services.

Receipt of e-mail prior to actual viewing is excluded from this definition of "use" to the extent that the recipient does not have advance knowledge of the contents of the e-mail record.

**Possession of E-mail:** An individual is in "Possession" of an e-mail record, whether the original

record or a copy or modification of the original record, when that individual has effective control over the location of its storage. Thus, an e-mail record that resides on a computer server awaiting download to an addressee is deemed, for the purposes of this Regulation, to be in the possession of that addressee. Systems administrators and other operators of District e-mail services are excluded from this definition of possession with regard to e-mail not specifically created by or addressed.

E-mail users are not responsible for e-mail in their possession when they have no knowledge of its existence or contents.

**Holder of an E-mail Record or E-mail Holder:** An e-mail user who is in possession of a particular e-mail record, regardless of whether that e-mail user is the original creator or a recipient of the content of the record.

**Faculty:** Any employee under contract by the Medford Board of Education.

**Substantiated Reason:** Reliable evidence indicating that violation of law or of policies listed in Appendix B probably has occurred, as distinguished from rumor, gossip, or other unreliable evidence.

**Compelling Circumstances:** Circumstances where failure to act may result in significant bodily harm, significant property loss or damage, loss of significant evidence of one or more violations of law or of District policies listed in Appendix B, or significant liability to the District or to members of the District community.

**Emergency Circumstances:** Circumstances where time is of the essence and where there is a high probability that delaying action would almost certainly result in compelling circumstances.

**Time-dependent and Critical District Operational Circumstances:** Circumstances where failure to act could seriously hamper the ability of the District to function administratively or to meet its teaching obligations, but excluding circumstances pertaining to personal or professional activities, or to faculty research or matters of shared governance.

**User:** An individual working under contract with the Board of Education (staff), working as a contractor, or on the behalf of the school district, who has received prior authorization from the Superintendent to utilize the district's electronic messaging service.

## APPENDIX B - POLICIES RELATING TO NON-CONSENSUAL ACCESS

This District Electronic Mail Regulation references circumstances where access to electronic mail may occur without the prior consent of the holder (see I. Introduction and Section V.E). Following is the list of District policies that may trigger such non-consensual access following procedures defined in Section V.E.2.

1. Policies governing sexual or other forms of harassment.

2. Certain sections of policies governing access to District records.
3. Administrative and Professional Staff Personnel Policies and Staff Personnel Policies. (For exclusively represented employees in units where initial collective bargaining agreements are under negotiation, applicable personnel policies continue to govern until an agreement is concluded.)
4. All collective bargaining agreements and memoranda of understanding.
5. Sections V and VI of this Electronic Mail Regulation.

**MEDFORD TOWNSHIP PUBLIC SCHOOLS**

Medford, New Jersey

**PROFESSIONAL ELECTRONIC MAIL (E-Mail)  
CONSENT FORM**

Staff Member's Name: \_\_\_\_\_

Building: \_\_\_\_\_ School Year: \_\_\_\_\_

Grade Level: \_\_\_\_\_ E-mail Address: \_\_\_\_\_

I, \_\_\_\_\_, have read the attached Professional  
(please print name)

E-mail Acceptable Use Regulation and agree to comply with the said conditions as outlined in the policy. I fully understand the expectations of the regulation and have been given the opportunity to receive clarification on all of its expectations/conditions.

Signature: \_\_\_\_\_

Date Submitted: \_\_\_\_\_

Adopted: June 10, 2002

Copyright 2007 **Strauss Esmay Associates, LLP**  
36 Washington Street, Suite 1A, Toms River, NJ 08753  
ph: (732)349-0777 fax: (732)349-9330