

## **FW: Right to Know Request**

Wendy DiFruscio [wdifruscio@orcsd.org]

**Sent:**Friday, March 13, 2009 2:10 PM

**To:** alikenzi@comcast.net; David Taylor (Lowell); Drew.Christie@unh.edu; jennifer.rief@comcast.net; JoAnn Portalupi [jportalupi@comcast.net]; Quimby, Joseph [JQuimby@powerspan.com]; brooks.stacey@comcast.net

FYI – This request has gone to the attorney for legal advice.

*Wendy L. DiFruscio, Admin. Asst. to the Superintendent*

*SAU # 5*

*Oyster River Cooperative School District*

*36 Coe Drive*

*Durham, NH 03861*

*868-5100 x20*

*EMAIL: [wdifruscio@orcsd.org](mailto:wdifruscio@orcsd.org)*

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**From:** Seth Fiermonti [mailto:sfiermonti@foundrynet.com]

**Sent:** Thursday, March 12, 2009 5:21 PM

**To:** Wendy DiFruscio; ORCS D School Board

**Subject:** Right to Know Request

Hello,

Recently, I was copied on an email from the Durham Town Administrator regarding what constitutes a public meeting and what is considered public information under Right to Know laws. In light of my recent public comment, I would like the following information.

1. ALL email communication from a board member to 3 or more board member from November 1, 2008 to March 12, 2009.
2. ALL email communication from the superintendent to 3 or more board members from November 1, 2008 to March 12, 2009.
3. ALL email communication to the superintendent from a board member where 3 or more other board members were copied from November 1, 2008 to March 12, 2009.

Thanks and below is the excerpt of Mr. Selig's communication to the community.

Regards,

Seth Fiermonti

603-397-5007

In this day and age of lightning-speed email communication -- great concern has existed as to whether ongoing and deliberate two-way communication between a quorum of members of a public board via email does in fact constitute a public meeting -- and an illegal one that has not been posted at that. In Durham , we have historically taken the position that such

email communication does constitute a public meeting. Changes to the Right to Know law in 2008 are consistent with Durham's historical interpretation. (See Discussion Below on Communications Outside a meeting.)

### **Communications Outside a Meeting**

RSA 91-A:2-a, limits the use of communications outside a public meeting held in compliance with the law.

- ***No deliberations outside a public meeting.*** Public bodies may deliberate on matters of official business “only in meetings held pursuant to and in compliance with the provisions of RSA 91-A:2, II or III” – i.e., only in properly noticed public meetings. This does not mean that any mention of a matter of official business outside a public meeting is illegal; however, it is illegal for the body to deliberate on such a matter outside a meeting - i.e., to discuss the matter with a view toward making a decision. This includes discussions by email! The intent of the law is that such matters should be deliberated in public.

- ***No circumvention of the spirit or purpose of the law.*** Communications outside a meeting, “including, but not limited to, sequential communications among members of a public body,” shall not be used “to circumvent the spirit and purpose of this chapter.” This is intended primarily to prevent public bodies from skirting the “meeting” definition by deliberating or deciding matters via a series of communications, none of which alone involves a quorum of the public body, but which in aggregate include a quorum.