

Tom Kamenick: No private email accounts for public business

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Imagine that a developer has been lobbying your local town board to approve a controversial development. You file a record request asking for all emails between that developer and the board's three members.

None of them have official government email accounts, so they search their personal emails.

Two members each turn over more than 15 emails. The third says she never sent nor received any emails from the developer. Do you believe her? What can you do about it if you don't?

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Shockingly, in Wisconsin it's perfectly legal for government officials to use their personal emails to do government work. Even though a government entity may have no ability to access personal accounts and even though it's ridiculously easy to use personal emails to hide conversations from the public, these practices are still allowed.

Yes, as anybody familiar with the Open Records Law knows, personal email accounts are still subject to the law. Government officials are required to search through personal email accounts and produce any emails related to government work that are responsive to a record request.

But the ability of officials to use their personal email accounts is an opportunity for mischief. In a society that values transparency and public oversight, it should be

unacceptable.

The problems with permitting government work to be done with personal email accounts are myriad. Without central administration, nobody else can track, search or review those emails. The emails may not be backed up in any way. Different email providers will have different retention rules. It's much easier to accidentally (or intentionally) lose emails.

Once officials leave service, they are supposed to turn over all their records to their successor, but that practically never happens with personal emails.

And how do you trust that these officials didn't delete any emails? That they thoroughly searched for responsive emails? There is almost no way to verify that an appropriate search was done and nothing was deleted.

All you can do is trust, but trust is often in short supply, particularly when a controversial issue is involved or a citizen is investigating potential misconduct.

The solution for these problems is simple, obvious, and has little downside. Like some other states and local governments, Wisconsin should prohibit the use of personal email accounts to do government business.

It should be illegal for government employees and officials to do anything more than send a "please use my official email" response to any contact to a personal email. Also, anything sent to a personal email account about government business should be forwarded to the official one for easy retrieval.

Such a law would eliminate all those problems. Government entities would have to provide email accounts to officials (and some employees), but most do so already, and email accounts are cheap. For instance, GoDaddy sells email service attached to website domains for \$2/month, and accounts can be purchased in bulk at even cheaper rates.

In exchange, the government entity gets central administration of email records, email accounts that are easily transferred to successors, and a significant boost in the public's confidence in their record searches.

It's not often that a thorny problem has such an easy, clear, and inexpensive solution. To remove barriers to public accountability and improve the efficiency of government operations, the legislature should prohibit the use of personal email

accounts for government business at the state and local level.

Your Right to Know is a monthly column distributed by the Wisconsin Freedom of Information Council (wisfoic.org), a group dedicated to open government. Tom Kamenick is the president and founder of the Wisconsin Transparency Project.