

*Trustee Tip: November 2015*

## *Don't Hit Send:*

### Email, Texting, Social Media and Open Records and Open Meetings

The convenience of email, texting and social media sites has made communicating easier and quicker, but as a library trustee, you must take care when using them. **A simple email, text or social media conversation between library trustees in which library business is a topic may be, under the law, a library meeting.**

[Kentucky's Open Meetings Act and Open Records Act](#) address how library trustees must conduct business and keep records of library meetings. Transparency is at the heart of the statutes that comprise both acts: as such, anything that could be construed as a meeting, when conducted in such a way that the public cannot observe, is likely a violation of statutes.

Open meetings statutes do not address email, and as such, do not permit meetings to be conducted by e-mail. When public officials conduct private "meetings" about public matters via e-mail, their actions may violate KRS 61.810(2), which prohibits using "a series of less than quorum meetings" to avoid the requirements of the Open Meetings Act (*see also 09-OMD 093*). Likewise, Kentucky statutes do not address other electronic media, including text messages, instant messages, and social media.

Just as minutes of library meetings are public record, personal email and social media accounts and personal instant messenger and phone accounts could become subject to public inspection under the Open Records Act if used for library business. All pertinent [records retention schedules](#) apply to electronic messages pertaining to public business. This makes text messaging especially problematic, as text messages are not easily retained for viewing by the public. **Public library trustees should keep in mind that any discussion of library business between trustees using electronic media could result in an open records request that encompasses trustees' personal electronic accounts.**

How can trustees avoid violating Open Meetings Act and Open Records Act while also taking advantage of the convenience of electronic media? Here are a few guidelines to follow:

- limit messages conveyed via email/text/social media to one-way communication. Examples of such communications include reminders and board meeting information sent to trustees from the director or board president;
- **do not have back and forth conversations between board members via email, text or social media. Any conversation could be construed as a "private meeting" and should be avoided;**
- request library email accounts for board members from the library director, or set up a separate email account just for receiving library messages and board meeting information.

This is not legal advice. If you feel you need legal advice about this topic, please consult an attorney.