

EMPLOYMENT, LABOR & BENEFITS LEGAL UPDATE



In this Legal Update

August 3, 2010

Schill v. Wisconsin Rapids School District: Update

You have likely heard of the Wisconsin Supreme Court’s decision issued on July 16, 2010, in *Schill v. Wisconsin Rapids School District*, 2010 WI 86 (7/16/10). In this decision, the Supreme Court ruled that Wisconsin’s Public Records Law does not require the disclosure of employee personal e-mails that are sent and received by a public employer’s computer system. The Supreme Court’s decision was not unanimous. It was issued by a five to two vote, with two Justices concurring and one Justice dissenting. An alert prepared by our firm discussing the case in detail can be found by following this link: [Wisconsin Supreme Court Rules That Personal E-mails are Not Subject to the Public Records Law](#).

Recently, Wisconsin Attorney General J.B. Van Hollen issued a memorandum setting forth guidance as to the practical impact of the Supreme Court’s decision. (Attorney General’s guidance). The guidance is helpful in that it states the opinion of the Attorney General’s office with regard to the meaning and practical effect of the Supreme Court’s decision, and what actions a record custodian may be required to take to ensure compliance with the decision.

A conclusion of a majority of the Justices in the *Schill* decision was that e-mails are, in general, public records. Even so, not all e-mails are subject to release and, in accord with the Supreme Court’s ruling, purely personal e-mails are not “records” subject to release. In light of those conclusions and the Supreme Court’s clarification of the Public Records Law, public employers should update record retention policies (such as the type of e-mail correspondence which will be retained, the time period they will be retained, and the means of doing so.)

Please feel free to contact Jeff Jones or Chris Toner, the authors of this article, or any of the attorneys in the Employment, Labor & Benefits Practice Group of Ruder Ware: Ron Rutlin, Dean Dietrich, Mary Ellen Schill, or Sara Ackermann in the Wausau office (715.845.4336), or Shawn Rauckman in the Eau Claire office (715.834.3425) if you have any questions in regard to the opinion or the attached guidance.

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Employment, Labor &
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... P. 2

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ABOUT RUDER WARE'S EMPLOYMENT, LABOR & BENEFITS GROUP

Ruder Ware's Employment, Labor & Benefits practice group works in tandem with private and public employers providing counsel on all aspects of human resource management. The breadth of services offered, unique for a law firm headquartered in Wausau, Wisconsin, includes counsel on highly sensitive issues such as workplace harassment, employee privacy, drug and alcohol testing, and disciplinary issues. In addition, attorneys design and assist with the development, implementation, and enforcement of policies and procedures relating to benefits, hiring practices, employee handbooks, state and federal discrimination laws, FMLA, FLSA, ADA, OSHA, and workers' compensation.

Attorneys in the group regularly represent public and private sector employers in collective bargaining, negotiations, union elections, unfair labor practices, and grievance arbitration matters in addition to guiding nonunion clients on maintaining their union-free status.

Actively involved in organizations with human resource professionals as the primary member base, our attorneys are in tune with the various sensitivities and complexities of the profession. Our attorneys often present seminars and in-house training on employment law topics both across the state and nationwide.

Areas of practice by the Employment, Labor & Benefits practice group:

- Employee Benefits & Executive Compensation
- Employment Law
- Labor Law

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As part of a full-service law firm, our attorneys provide clients with a one-stop approach to their legal needs. Ruder Ware, the largest Wisconsin law firm headquartered north of Madison, also provides legal counsel in Business Transactions; Litigation & Dispute Resolution; and Trusts & Estates.