



**PUBLIC RECORDS POLICY
*Clinton County, Ohio***

INTRODUCTION

This Public Records Policy is adopted by the Board of Commissioners for Clinton County, Ohio, in accordance with the applicable provisions of House Bill 9 (126th General Assembly) and the Ohio Revised Code, Chapter 149. This Policy is not intended to be legal advice. It is the intent of this office to strictly adhere to the State's Public Records Act as well as other state and federal laws.

The Public Records Act evolved from the principle that Ohio's citizens are entitled to access the records of their government. To advance that principle, the Public Records Act is to be interpreted liberally in favor of disclosure, and exemptions should be narrowly construed.

SECTION 1 PUBLIC RECORDS

Under Ohio law, a public office may only create records that are necessary for the adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency.

SECTION 1.1 Public Records Definition

A record is defined as any item kept by a public office that meets all of the following:

- A. Is stored on a fixed medium;
- B. Is created or received by, or sent under the jurisdiction of a public office;
- C. Documents the organization, functions, policies, decisions, procedures, or other activities of this office.

Furthermore, a public office is not required to create new records to respond to a public records request, even if it is only a matter of compiling information from existing records.

SECTION 1.2 Exemptions to Public Records Law

Federal and state law provides numerous exceptions to the general rule that disclosure of public records is mandatory. Most exceptions do not prohibit the release of the prescribed records, but rather merely exclude the records from mandatory disclosure.

In the event a request is made to inspect or obtain a copy of a record whose release may be prohibited or exempt by either state or federal law, the requester shall be advised that their request has been forwarded to, and reviewed by, the County Prosecutor to ensure that protected exempted information is not properly released.

Please see *Appendixes A, B, and C* for a list of records that may not be subject to release.

SECTION 2 PUBLIC RECORDS REQUESTS

All public records maintained by this office shall be promptly prepared and made available for inspection to any person during regular business hours as well as a copy of the current record retention schedule of this office. Each request for public records should be evaluated for a response using the following guidelines:

Section 2.1 Identification of Public Records

The requester must identify the records requested with sufficient clarity to allow this office to identify, retrieve and review the records. A request that is ambiguous or overly broad such that this office cannot reasonably identify the exact public records being requested may be denied. In such case, this office shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained and accessed by this office in the ordinary course of business.

Section 2.2 Format of Request

A public office or person responsible for public records may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory and that the requester may decline to reveal the requester's identity or the intended use and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the public office or person responsible for public records to identify, locate, or deliver the public records sought by the requester.

Section 2.3 Choice of Medium

The requester may choose to have the record (1) on paper, (2) in the same form as this office kept it (e.g. on a computer disk), or (3) on any medium upon which this office determines the record can reasonably be duplicated as an integral part of the normal operations of the public office.

Section 2.4 Response Time to Request

Public records must be available for inspection during regular business hours and copies of public records made available within a reasonable period of time. Under current Ohio law, appropriate response time will vary depending on different factors, including, but not limited to, the circumstances of the office at the time of the request, the breadth of the request and whether legal evaluation of the records is required before release.

Section 2.5 Prohibition Against Requesters Right to Make Copies Themselves

A requester seeking copies of public records is not permitted to make their own copies of the requested records by any means. This measure is to protect the integrity of the original document.

Section 2.6 Limit to Number of Requests by Mail

This office may limit the number of records requested by a person that the office will transmit the United States mail to ten per month, unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained therein, for commercial purposes.

Section 2.7 Requests by Incarcerated Persons

Under Ohio law, an incarcerated person may receive public records, but only if the records concern a criminal investigation. Further the records must be “public records” which are not subject to an exemption from disclosure, and the incarcerated person must have securing a finding from the judge who imposed the sentence of incarceration (or that judge’s successor) that the information sought is necessary to support a justifiable claim of the person.

SECTION 3 DENIALS OF PUBLIC RECORDS REQUESTS

If a request ultimately denied, in part or in whole, this office shall provide the requester with an explanation, including legal authority, setting forth why the request was denied. Further, if the initial request was provided in writing, the explanation shall be provided to the requester in writing.

Section 3.1 Denial of a Public Record Not Maintained by the Office

If this office received a request for a record that it does not maintain, or no longer maintains, the requester shall be so notified in writing that one of the following applies:

- A. The request involved records that have never been maintained by this office (*if possible, this office will direct you to the proper office*);

- B. The request involved records that are no longer maintained or have been disposed of transferred pursuant to applicable schedules of record retention and disposition;
- C. The request involves a record that has been disposed of pursuant to an application for one-time records disposal;
- D. If the record that is requested is not a record used or maintained by this office, the requester shall be notified that this office is under no obligation to create records to meet public records requests.

Section 3.3 Denial of a Public record maintained by this Office

This office may deny a request for a record maintained, if that record is prohibited from release due to applicable state or federal law.

If only part of the record is not subject to release, this office will redact such information and release the non-exempt information.

As custodians of public records, this office has a responsibility to maintain the integrity of the record. As such, any requests that include redaction should be made on a copy of the original records.

SECTION 4 COSTS FOR PUBLIC RECORDS

Generally, a requester is only required to pay this office for the actual cost of reproduction. Employee time will not be calculated into the “actual cost” charge. However, it is permissible for this office to have an outside contractor make copies and recover the cost of the service directly from the requester.

This office may require a requester to pay in advance the cost involved in providing the copy of the public record.

A requester may ask that documents be mailed or transmitted within a reasonable period of time after this office received the request. This office may require the person making the request to pay in advance the cost of postage and/or delivery as well as the costs incurred for other supplies (envelope, etc) used in mailing or delivery.

SECTION 5 EMAILS

Documents in electronic mail format are records as defined by the Ohio Revised Code when their content related to the business of the office.

Section 5.1 Public Email Accounts

Records in public email accounts used to conduct public business are subject to disclosure, and all officials and employees of this office are instructed to retain such email that relate to public business in accordance with this office's record retention policy.

Section 5.2 Private Email Accounts

Records in private email accounts used to conduct public business on public property (i.e. county computers) may be subject to disclosure, and all officials and employees of this office are instructed to retain such private emails should they relate to public business.

SECTION 6 FAILURES TO RESPOND TO A PUBLIC RECORDS REQUEST

This office recognizes that the failure to properly respond to a public records request may lead to legal consequences.

If a requester feels that they have been improperly denied public records due to the inability to inspect or to receive a copy of a record, the requester shall be advised that they may contact this office's senior representative or request a meeting to be called with the County Prosecutor.