

## **PUBLIC RECORD POLICY**

### **I. Purpose**

This office acknowledges that it maintains many records that are used in the administration and operation of this office. In accordance with state law and the Athens County Records Commission, this office has adopted Schedules of Records Retention and Disposition (RC-2), that identify these records. These schedules identify records that are stored on a fixed medium (paper, computer, film, etc), that are created, received, or sent under the jurisdiction of this office and document the organization, functions, policies, decisions, procedures, operations, or other activities of this office. The records maintained by this office and the ability to access them are a means to provide trust between the public and this office.

### **II. Scope**

A. Each office, department, or function that maintains records has a designated employee who serves as the custodian of all records maintained by the office, department or function. Each record custodian has a copy of this office's public records policy.

B. This office's public record policy, as well as, this office's Schedules of Records Retention and Disposition (RC-2) are located in every location in which the public may access this office's records.

C. This office's public records policy is located in this office's policies and procedures manual.

D. This office displays a poster which generally describes this office's public records policy at every location in which the public may access this office's records.

### **III. Fees**

A. This office, in accordance with Section 149.43 of the Revised Code, has established the following fees for providing copies or reproductions of public records maintained by this office.

1. For photocopies of either letter or legal size documents, the fees, shall be 5 cents per page for paper copies and \$1.00 per copy for files downloaded to a compact disc. Other forms of media will be copied at actual cost. Advance payment is required before any copies are prepared.

2. For video tapes, cassette tapes or for any other type of media, the fees

shall be the replacement cost or reproduction costs. Reproduction costs may only be charged if a commercial or professional service is contracted to provide the copy.

#### IV. **Availability**

A. 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 this office's current records retention schedule(s). Promptness is to be determined by the facts and circumstances of each public records request. Regular business hours of this office are 8:00 a.m. to 5:00 p.m.

Monday through Friday.

B. For the purpose of enhancing the ability of this office to identify, provide for prompt inspection, as well as provide copies of requested items in a reasonable period of time, this office shall provide the requestor with a Public Records Request Form. However, written requests are not mandatory and the requestor's refusal to complete the Public Records Request Form will not impair the requestor's right to inspect and/or receive copies of the public record.

C. Prompt inspection and copies of records within a reasonable amount of time contemplates the opportunity for legal review.

D. Records, whose release is prohibited or exempted by either state or federal laws, or not considered public records as defined by R.C. 149.43(A)(1) shall **NOT** be subject inspection. A list of the most common exempted records is attached hereto and these records may not be inspected or copied.

#### **Public Record Requests**

##### A. Mailed Requests for Public Records:

1. Upon receiving a written request for copies of a public record made in accordance with section 149.43 of the Ohio Revised Code via the United States Postal Service, this office shall promptly respond to the request.

2. An authorized employee of this office shall by any means practical, contact the requestor and advise them that advance payment is required prior to providing copies of public records and in addition, the fee shall also include the cost of postage and mailing supplies.

3. Upon request of a public record, this office shall permit the requestor to choose to have the public record duplicated on paper or upon the medium upon which this office maintains the public record or upon any other medium on which the record can reasonably be duplicated.

4. In order to protect the integrity of the original records, persons seeking copies of public records are not permitted to take the original records and make their own copies of the requested records by any means.

5. In accordance with 149.43 (B)(7) of the Ohio Revised Code, this office limits the number of requested public records, to be transmitted through the U.S. Mail, to a maximum of ten records per month, unless the requestor certifies that the records or information in them will not be used for commercial purposes.

6. Written or verbal requests for copies made by the public records requestor or their designee shall be processed in the same manner as mailed requests.

### **Response and Denials**

A. Requests for inspection and/or copies of the public records, which are not maintained by this office shall be processed in the following manner:

1. If this office receives a request for a record that it does not maintain or if the request is for a record which is no longer maintained, the requestor shall be notified in writing that one of the following applies:

A. The request involves records that have never been maintained by this office.

B. The request involves records that are no longer maintained or have been disposed of pursuant to this office's Schedule of Record Retention and Disposition.

C. The request involves a record that has been disposed of pursuant to an Application of the One-Time Records Disposal.

D. If the record requested is not a record used or maintained by this office, the requestor is notified that this office is under no obligation to create records to meet public record requests.

B. Ambiguous or Overly Broad Request for Public Records.

If the requestor makes an ambiguous or overly broad request or a request in which this public office cannot identify what public records are being sought, the request may be denied. Prior to denying a request this office shall provide the requestor with an opportunity to revise his/her request.

C. Denial of Record Maintained by This Office.

This office may deny a request for a record maintained by this office if the record requested is prohibited from release due to an applicable state or federal law or is statutorily exempt. This office reserves the right to consult with their legal counsel prior to the disclosure of the records if they are unsure of whether the requested record(s) are to be denied.

If a request for public records is ultimately denied, in part, or in whole, this office shall provide the requestor with an explanation, including legal authority, setting forth why the request was denied. If the initial request was provided in writing then the explanation shall also be provided in writing.

D. Redacting Exempted Records/Procedure.

1. “Redact” means to obscure or delete any information that is exempt from the duty to permit public inspection or copying an item that otherwise meets the definition of a record.
2. If the public record contains certain information that is exempt from the duty to permit public inspection or to copy the public record, this office shall only make available the information within the public record that is not exempt.
3. When making a public record available for public inspection or copying that public record, this office shall notify the requestor of any redaction or make the redaction plainly visible.
4. This office shall then make a copy of the page(s) with the redactions; this copy will then be given to the requestor. This office shall also retain a copy of the redacted page(s) to indicate what was given to the requestor. This copy shall be maintained with the original page(s) and disposed of in the manner provided for the original page(s) in the records retention schedule.

**Remedy**

A. Grievances

If a person allegedly is aggrieved due to the inability to inspect a public record or due to the inability to receive a copy of the public record, the person shall be advised that they may first contact the person in charge of this public office. If the person is not satisfied after contacting the person in charge of this public office, the requestor shall be advised that Ohio Revised Code 149.43 provides a legal means for addressing their complaint in these disputes.

V. **Training and Education**

This office continues to update and address all education, training, disclosure and policy requirements mandated by R.C. 109.43 and R.C. 149.43(E)(1)(2).

APPENDIX

Records, whose release is prohibited or exempted by either state or federal laws, or not considered public records as defined by R.C. 149.43 shall **NOT** be subject inspection. The following is a list of the most common types of exempted records received or maintained by this office and these records may not be inspected or copied. This list is not intended to include

every instance where the requested record may not be released. Each specific request will need to be reviewed to see if any prohibition or exemption applies.

## 1. The Express Exemptions

In accordance with Ohio Revised Code §149.43, “Public record” does not mean any of the following:

- (a) Medical records; “Medical record” means any document or combination of documents, except births, deaths, and the fact of admission to or discharge from a hospital, that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment.
- (e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency.
- (o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code.
- (r) Information pertaining to the recreational activities of a person under the age of eighteen; “Information pertaining to the recreational activities of a person under the age of eighteen” means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:
  - (1) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person’s parent, guardian, custodian, or emergency contact person;
  - (2) The social security number, birth date, or photographic image of a person under the age of eighteen;
  - (3) Any medical record, history, or information pertaining to a person under the age of eighteen;
  - (4) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.
- (v) Records the release of which is prohibited by state or federal law.

## 2. The “Catch-All” Exemption

If any provision of Ohio or federal law prohibits public disclosure of a certain type of record, a public office must not release it in response to a public records request. A state statute or rule, or a federal statute or regulation may designate the records of certain government offices or particular types of records confidential. Such a designation means those records are not subject to the provisions of the Public Records Act.

Examples of which are:

1. Adult Protective Services – reports of suspected abuse of adults per RC 5101.61.

2. Public Assistance Recipients – applicants for and recipients of services per RC 5101.27 and OAC section 5101:1-1-03.
3. Social Services Recipients – applicants for and recipients of services per OAC 5101:2-49-24.
4. Child Support Enforcement Agency – applicants for and recipients of services per OAC 5101:29-071.
5. Child Support Enforcement Agency – financial institution account information per OAC 5101:1-30-14.
6. Child Support Enforcement Agency – parent locator service, OAC 5101:1-30-04, 5101:1-30-07, and 5101:1-30-63.
7. Criminal records checks, including BCII checks – pursuant to a variety of sections including: RC 5104.012 (child care providers) and 5104.013 (owners and administrators of child care centers).
8. Child Care Centers – children identifying information per RC 5101.29.
9. Child Care Centers – enrollment, health and attendance records per RC 5104.011 and OAC sections 5101:2-12-59, 5101:2-12-02, 5101:2-14-26, and 5101:2-17-43.
10. Federal Tax Information - 26 U.S.C. §6103.
11. Attorney-client privileged information. State ex rel. Nix v. Cleveland (1998), 83 Ohio St.3d 379, 1998 Ohio 290, 700 N.E.2d 1; Allright Parking of Cleveland, Inc. v. Cleveland(1992), 63 Ohio St.3d 772, 591 N.E.2d 708; etc.
12. Personal and medical records of the mentally retarded and developmentally disabled. RC 5123.62; 1992 Ohio Atty. Gen. Ops. No. 92-071.
13. Employees’ and their family members’ records and documents relating to medical certifications, recertifications or medical histories that have been created for purposes of the Family Medical Leave Act (FMLA) (are confidential medical records and shall be maintained in separate files/records from normal personnel files. Should the Americans with Disabilities Act (ADA) also be applicable, then those records shall be maintained consistent with ADA confidentiality requirements.) 29 CFR 825.500 and 29 CFR 1630.14.