



## **PUBLIC RECORDS REQUEST POLICY**

### **Introduction:**

It is the policy of the Ohio Department of Commerce (the “Department”) that openness and transparency leads to a better informed citizenry, which leads to better and more responsive government. It is the policy of the Department to strictly adhere to Ohio’s Public Records Act. All exemptions to openness are to be construed in their narrowest sense, and any denial of public records in response to an otherwise proper and valid request must be accompanied by an explanation, including legal authority, as outlined in the Ohio Revised Code. If the request is in writing, the explanation also must be in writing.

### **Section 1. Public Records**

This office, in accordance with the Ohio Revised Code, defines “records” as including the following: any document – paper, electronic (including, but not limited to, e-mail) or other format – that is created or received by, or comes under the jurisdiction of, a public office that documents the organization, functions, policies, decisions, procedures, operations or other activities of the office. All records of the Department are public unless they are specifically exempt from disclosure under the Ohio Revised Code.

**Section 1.1** – It is the policy of the Department that, as required by Ohio law, records will be organized and maintained so that they are readily available for inspection and copying (see Section 4 for the e-mail record policy). Record retention schedules are to be updated regularly and posted prominently.

### **Section 2. Evaluating the Request**

Each request for public records should be evaluated for a response using the following guidelines:

**Section 2.1** – Although no specific language is required to make a request, the requester must at least identify the records requested with sufficient clarity to allow the Department to identify, retrieve and review the records. If it is not clear what records are being sought, the records custodian must contact the requester for clarification and should assist the requester in revising the request by informing the requester of the manner in which the Department keeps its records. Although the requester may designate the format that such documents are to be placed for inspection, the Department is not required to put the requested documents into a format that is not within the ordinary scope of its normal record-keeping function or normal capability. Additionally, the Department is not required to create records that otherwise did not exist, or to create, for example, a computer program simply in order to respond to a public records request.

**Section 2.2** – The requester does not have to put a records request in writing, and does not have to provide his or her identity or the intended use of the requested public record. It is this office’s general policy that this information is not to be required of the requester, and, indeed, the demand for this information is tantamount to a denial of the request.

**Section 2.3** – Public records are to be available for inspection during regular business hours, generally, Monday through Friday, 8:30 a.m. to 5:00 p.m., excepting holidays. Public records must be made available within a reasonable period of time, although there is no statutory definition of this time period. “Prompt” and “reasonable” take into account the volume of records requested, including the time and resources needed to make them available; the proximity of the location where the records are stored; and the necessity of any legal review of the records request.

**Section 2.4** – Each request should be evaluated for an estimated length of time required to gather the records. Routine requests for records should be satisfied immediately if feasible to do so. Routine requests include, but are not limited to, meeting minutes (both in draft and final form), budgets, salary information, forms and applications, personnel rosters, etc. If fewer than twenty (20) pages of copies are requested or if the records are readily available in an electronic format that can be e-mailed or downloaded easily, these should be made as quickly as the equipment allows.

All requests for public records must be acknowledged in writing by the Department within three (3) business days following the office’s receipt of the request.

**Section 2.5** – Any denial of public records requested must include an explanation, including legal authority. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the remainder released. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority for its exclusion as a public record.

**Section 3. Costs for Public Records**

Those seeking public records will be charged only the actual costs of making copies. Actual costs include:

**Section 3.1** – The charge for paper copies is 5 cents (\$.05) per page.

**Section 3.2** – The charge for downloaded computer files to a compact disc is \$1.00 per disc.

**Section 3.3** – There is no charge for documents e-mailed.

**Section 3.4** – Requesters may ask that documents be mailed to them. They will be charged the actual costs of the postage and mailing supplies.

**Section 3.5** – The Department will not charge, under any circumstances, for an employee’s time to complete the records compilation or for sending the documents.

#### **Section 4. Electronic Mail**

Electronic mail (“e-mail”) is simply one format for the creation and storage of a document. Documents in electronic-mail format are records as defined by the Ohio Revised Code when their content relates to the business of the office. It is, therefore, the content, rather than the format, that defines whether a document is a public record. E-mail documents are to be treated in the same fashion as records in other formats and should be given the same records retention schedules.

**Section 4.1** – Records in private e-mail accounts used to conduct public business are subject to disclosure, and all employees or representatives of this office are instructed to retain their e-mails that relate to public business (See Section 1, Public Records) and to copy them to their business e-mail accounts and/or to the office’s records custodian.

**Section 4.2** – The records custodian is to treat the e-mails from private accounts as records of the public office, filing them in the appropriate way, retaining them per established schedules, and making them available for inspection and copying in accordance with the Public Records Act.

#### **Section 5. Failure to Respond to a Public Records Request**

The Department recognizes the legal and non-legal consequences of failure to properly respond to a public records request. In addition to the distrust in government that failure to comply may cause, the Department’s failure to comply with a request may result in a court order for the Department to comply with the law, and for the Department to pay the requester attorney’s fees, court costs and damages.