

# RELEASE OF PUBLIC RECORDS

◆POLICY 5.02◆

- A. The Board strives to maintain a philosophy of openness regarding public records. Additionally, the Board strictly complies with the Ohio Public Records Act. Many records that the Board creates and maintains fall under the requirements of the act. Conversely, some records are strictly confidential and exempt from public record.
- B. All exemptions to openness will be construed in their narrowest sense and any denial of public records in response to a valid request will be accompanied by an explanation, which cites legal authority.
- C. The Ohio Revised Code defines a “record” as any document, including, but not limited to, paper, electronic, email and other formats, that are created, received or come under the jurisdiction of a public office and documents the organization, function, policies, decisions, procedures, operations or other activities of the office. All records of the Board are public records unless the records are specifically exempt from disclosure under the Ohio Revised Code. This policy provides general guidelines for compliance with the Public Records Act.
- D. The Board will maintain records in an organized manner, and in a way that facilitates good business practice, so that the records are readily available for inspection and copying. Additionally, a copy of the current record retention schedule shall be updated regularly and posted prominently for public inspection.

## **Public Records Request**

- A. If a member of the general public, news media or other person requests to view or receive a Board record, the employee receiving the request shall promptly refer the matter to the Executive Director. If the Executive Director is unavailable, the employee shall so notify a designee of the Executive Director. The Executive Director, or designee, shall determine whether or not the requested record is a public record, or is exempted from the public records law and shall make requested public records available.
- B. Although no specific language is required to make a request for public records, the requester must at least identify the records requested with sufficient clarity to allow the Executive Director, or designee, to identify and retrieve the records. If it is unclear what records are being sought, the Executive Director, or designee, must request clarification, and will attempt to assist the requester in revising the request by informing him of the manner in which the Board keeps its records.
- C. A requester must be informed that he is not required to submit a request for public records in writing. Additionally, the requester must be informed that he is not required to provide his identity or intended use of the public record. However, the Executive Director, or designee, may ask for, but shall not require, a written request, the requester’s identity or the requester’s intended use if a written request, disclosure of the requester’s identity or disclosure of the requester’s intended use would benefit the requester by enhancing the ability of the Executive Director, or designee, to identify, locate or deliver the public records sought.
- D. The Executive Director, designee or other delegated employee shall be responsible for providing public records to the requesting party. The Board will respond to requests for public records received via e-mail, US postal mail, telephone, personally, verbally, in writing and any other means of communication, and will provide the records in accordance with the guidelines specified in this policy, and in the medium requested

by the person seeking the record, in accordance with the conditions and limitations specified in this policy.

- E.** The Executive Director, or designee, receiving a public records request is expected to record and document the following information, in so far as such information is available, and needed to process the request:
- the date and time that the request was received;
  - the name of the Executive Director, or designee, receiving the request;
  - the specific records sought to be inspected or copied;
  - the medium of the request including physical inspection, paper, e-mail, or computer disk;
  - whether the record is to be picked up by the requesting party, mailed to a mailing address provided by the requesting party, or e-mailed to an e-mail address provided by the requesting party.
- F.** Public records are to be available for inspection during regular business hours, with the exception of holidays which are designated in this manual. Public records must be made available for inspection promptly. Copies of public records must be provided within a reasonable period of time. “Prompt” and “reasonable” take into account the volume of records requested; the proximity where the records are stored; and the necessity for any legal review of the records requested.
- G.** If the requesting party requests to physically inspect original copies of the Board’s public records, the Executive Director, or designee, shall remain available to the requesting party during the inspection to maintain security of the files, and to answer questions. The Board is not required to permit the requester to personally make copies of original public records.
- H.** A person may elect to obtain a copy of the public record duplicated on paper, or if the record is maintained electronically, through e-mail, computer disk, or other electronic medium. If the record is not maintained electronically as part of the Board’s normal business operations, the Board is not obligated to provide it via this medium, but shall offer to duplicate and provide the record on paper.
- I.** The Board will require the requesting party to pay, in advance of receipt of copies of a public record, the actual cost of the copies. A fee of ten cents (\$.10) per sheet will be charged when the record is provided in paper format or a fee of one dollar (\$1) per each compact disc will be charged when the record is provided on compact disc. There will be no charge when documents are e-mailed.
- J.** The Board may require the requester to pay, in advance, the cost of postage or delivery costs and the cost of supplies used for the delivery or transmission of public records.
- K.** The Board may limit the number of records to ten records per month when requests are made that require the Board to transmit the records by US mail, unless that person certifies, in writing, that he does not intend to use or forward the requested records, or information contained within them, for commercial purposes. The term commercial purposes shall be narrowly construed, and shall not include reporting or gathering news, reporting or gathering information to assist in citizen oversight, or understanding of the operation or activities of government, or nonprofit educational research.

## Denying Public Records Requests and Redacting Information

- A. The Executive Director or designee may deny a public records request when a record is exempt from the public records law. No request for public record shall be arbitrarily withheld or delayed due to failure or unwillingness of the requesting party to provide information not required to appropriately fulfill the request. However, if a requester makes an ambiguous or overly broad public records request or has difficulty making a public records request which causes the inability of the Executive Director, or designee, to identify what public records are being requested, then the request may be denied.
- B. Some information included in public records is exempt from public records law therefore, prior to granting access to the record, the Executive Director, designee, or other delegated employee, shall be responsible for redacting or obscuring the exempt portion of the public record. The remaining portions of the record shall be provided in accordance with this policy and the public records law.
- C. When a redaction is made to a public record the Executive Director, designee, or other delegated employee shall inform the requester that a portion of the file has been redacted or shall ensure that it is evident, within the document or electronic file, that a portion of the record has been redacted.
- D. When a public records request is denied, in whole or part (i.e. a redaction), the Executive Director, or designee, shall provide the requester with an explanation, including legal citation, which identifies why the request was denied. If the public records request was provided to the Board in writing, the explanation shall be provided to the requester in writing.

## Confidential Records

- A. The Board shall not disclose any information from the records which is lawfully confidential including:
  - **medical records:** 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, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment;
  - **records pertaining to probation and parole proceedings,** or to proceedings related to the imposition of community control sanctions and post-release control sanctions; -“Community control sanction” has the same meaning as in section 2929.01 of the Revised Code. - “Post-release control sanction” has the same meaning as in section 2967.01 of the Revised Code.
  - **records pertaining to adoption proceedings,** including the contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;
  - **records pertaining to actions under section 2151.85 and division [C] of section 2919.121 [2919.12.1] of the Revised Code and to appeals of actions arising under these sections;**
  - **information in a record contained in the putative father registry** established by section 3107.062 [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, other office of child support in the department or a child support enforcement agency.

- **Records listed in division A of section 3107.42 of the Revised Code or specified in division A of section 3107.52 of the Revised Code;**
- **Trial preparation records** meaning any record that contains information that is specifically compiled in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, including the independent thought processes and personal trial preparation of an attorney;
- **Confidential law enforcement investigatory records;** - “Confidential law enforcement investigatory record” means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:
  - a. **The identity** of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;
  - b. Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source’s or witness’s identity;
  - c. Specific confidential investigatory techniques or procedures or specific investigatory work product;
  - d. Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.
  - e. Records containing information that is confidential under section 2317.023 [2317.02.3] or 4112.05 of the Revised Code;
  - f. DNA records stored in the DNA database pursuant to section 109.573 [109.57.3] of the Revised Code;
  - g. Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;
  - h. Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;
- **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:
  - a. 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;
  - b. The social security number, birth date, or photographic image of a person under the age of eighteen;
  - c. Any medical record, history, or information pertaining to a person under the age of eighteen;
  - d. 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.

- **Records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board acting under sections 307.621 [307.62.1] to 307.629 [307.62.9] of the Revised Code, other than the report prepared pursuant to section 307.626 [307.62.6] of the Revised Code;**
  - **Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 [5153.17.1] of the Revised Code other than the information released under that section;**
  - **Records the release of which is prohibited by state or federal law;**
  - **Employee's social security number;**
  - **Other records specifically listed as confidential specified in ORC section 149.43 including intellectual property records and donor profile records; or records, the release of which, is prohibited by State or Federal law.**
- B. Employee's home addresses are not public records and do not fall under the requirements of the Ohio Public Records Act; therefore, the Board may secure employee's home addresses from disclosure due to a public records request. If an individual requests a record, which includes information that is public record and an employee's home address, the address should be obscured and the public record must be provided to the individual in accordance with the requirements of the Ohio Public Records Act.

### **E-mail**

- A. Documents in electronic mail format are records, as defined by the Ohio Revised Code, when their content relates to the business of the Board. Therefore, e-mail is to be treated in the same fashion as records in other formats and should be retained in accordance with the records retention schedule.
- B. Records in employees' private e-mail accounts used to conduct business of the Board are subject to disclosure, and all employees or representatives of the Board must retain their e-mails that relate to public records as outlined in this policy. Employees shall copy these e-mails to their e-mail account with the Board. The e-mails shall be filed appropriately, retained in accordance with the record retention schedule, and made available for inspection and copying in accordance with this policy and the public records law.

### **Other provisions**

- A. The Board 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 Board's failure to comply with a request may result in a court ordering the Board to comply with the law and to pay the requester's attorney fees, court costs and damages.
- B. The Board shall post this policy in a conspicuous place within the Board's office.
- C. This policy shall be distributed to the records custodian and the records custodian shall acknowledge receipt of the policy by signing the Release of Public Records Understanding and Agreement form. Additionally, this policy shall be distributed to each

employee and each employee shall acknowledge receipt of the policy by signing the Release of Public Records Understanding and Agreement form.

- D.** The Executive Director, or designee, shall attend a three hour training program, that is approved by the Ohio Attorney General, which shall provide guidance in developing and updating the Board's public records policies as required under section 149.43 of the ORC.
- E.** The Executive Director, at his option, may waive any or all provisions under this policy when a request to inspect or obtain copies of records is made by another governmental agency or a court order.