

# PUBLIC RECORDS REQUESTS



## PURPOSE

The Board of County Commissioners, hereafter referred to as the "Board," acknowledges that the various public offices under the Board's supervision and control, maintain many records that are used in the administration and operation of the County; all of such records are records of the Board. In accordance with state law, the Board, with the approval of the Butler County Records Commission, has adopted Schedules of Retention and Disposition that identify said records. Each office, department or function, under the supervision and control of the Board, that maintains public records shall abide by this Policy when responding to requests for inspection or copies of public records, and each such office, department or function shall designate one of its employees to serve as the custodian of records maintained by the office, department or function.

In accordance with the Ohio's Public Records Act as outlined in the Ohio Revised Code, the Butler County Board of Commissioners establishes and adopts a policy for offices under the authority of the Butler County Board of Commissioners to make public records not otherwise exempt from disclosure available to the public and to ensure all county offices adhere to retention schedules. To meet this duty, the following policies shall apply:

## POLICY

1. All public records of the Board shall be available upon request for inspection and copying in accordance with section 149.43 of the Revised Code and other applicable laws and regulations. However, not all information kept by the Board is a public record.<sup>1</sup> Some information which is not public record may be contained within a record that is, itself a public record; in such case, the public record shall be made available for inspection or copies after the non-public information is redacted from the public record. The requester shall be notified of the redaction or the redaction shall be plainly visible on the redacted copy of the public record. Every redaction shall be considered to be a denial of the request.
2. Requests for records can be presented during regular business hours, Monday through Friday, 8:00 a.m.-5:00 p.m. with the exception of published holidays.
3. The record custodian shall within a reasonable period of time, provide the record being requested. More detailed, complex, or voluminous requests may require additional time to fulfill; in such an event, the requester shall be notified of the estimated time needed for fulfillment of the request. The estimated time for fulfillment may also include time for legal review and/or careful handling of fragile documents.
4. If a request for public records seeks information in a form which is not kept by the office, or if the request is otherwise ambiguous or overly broad, the request may be denied, however the requestor shall be provided with an opportunity to revise the request after being informed of the manner in which records are maintained by the office and accessed in the normal course of the office's duties.
5. The record custodian may require the requesting party to pay a portion or all of the estimated fees related thereto in advance of fulfilling the public record request. However, unless a record request falls within a provision of Ohio law which permits the cost of labor in fulfilling a record request to be recovered, fees shall be restricted to the actual cost of materials as established on the fee schedule set forth in this policy and shall not include staff time to fulfill a request.
6. A record custodian receiving an oral request may ask the requester to make a written request, but must also inform the requester that a written request is not required. If the requester declines to make a written request, the records custodian shall create a written record of his/her understanding of the scope of the request and a copy of the same shall be provided to the requestor; such record should describe, at a minimum, the record(s) being requested and time period covered by the request. However, in no case shall the records custodian require information such as name, address, telephone number, or other information that may be construed to identify the requesting party as a precondition to receiving public records.
7. Any denial of public records request must be accompanied by an explanation which shall include the legal authority supporting the denial. If the request was received in writing, the explanation must also be in writing. An improper denial of a public records request may be found to be a violation of the public records law. Failure of any office, department or function under the Board's supervision and control, to comply with Ohio's public record law may result in an award of court costs and attorney fees against the Board. Contact the Civil Division of Butler County Prosecutor's Office at 513-887-3474 with any questions regarding the implementation of this Policy.

## PUBLIC RECORDS FEE per unit

CD \$1.00                      Paper \$0.05                      Email \$0.00

Due to computer system integrity and security issues, blank media supplied by the requesting party shall not be accepted; The charge for other media not listed herein shall be the actual acquisition cost of such materials; The requesting party shall be provided an itemization of any costs of labor and materials in cases where outside labor must be hired to comply with a public

records request; The actual costs of postage will be charged when the requesting party requires the public records be transmitted via mail service; The Board reserves the right to require payment in advance of providing a public record when the estimated cost exceeds five dollars (\$5.00). The records custodian shall refuse to reproduce and/or provide any records when the requesting party fails, upon request, to make said payment in advance.

<sup>1</sup> R.C. §149.43 creates a presumption that all records kept by a public officer are public records subject to disclosure unless specifically excepted from the statutory definition. R.C. §149.43 provides an itemization of numerous type of records which are outside of the definition of a "public record." One such type of information is any record the disclosure of which is prohibited by state or federal law. For example, employee social security numbers are not public records because their release is prohibited by federal law. *State ex rel. Beacon Journal Publishing Co. v. City of Akron*, 10 Ohio Street, 3d 619, 640 N.E.2d 174 (1994). Also, a number of court decisions have held that certain types of information are not "records" of the public office, and hence are not public records subject to disclosure. E.g., employee home addresses and familial information (emergency contacts and dependents for insurance purposes) are not records. *State ex rel. Dispatch Printing Co. v. Johnson*, 106 Ohio Street, 3d, 833 N.E. 2d 274 (2005). Although most requested records will be public records subject to disclosure, each records custodian is urged to contact the Civil Division of the Prosecutor's Office with questions concerning whether a requested type of record is a public record.