



OHIO SUNSHINE LAWS CERTIFICATION TRAINING

USING OHIO'S PUBLIC RECORDS ACT TO PROMOTE
OPEN AND ACCOUNTABLE GOVERNMENT

*A seminar for public officials, citizens, and the media
presented by Ohio Attorney General Dave Yost*

CREDIT AND PROOF OF ATTENDANCE



- ✓ [The Sunshine Laws Manual](#), a comprehensive guidebook published annually.
- ✓ [Three-hour trainings](#) that cover the Sunshine Laws in depth. Trainings are offered as bimonthly virtual webinars and on-demand videos. Trainings are free, are available to the public, and fulfill the training requirement for elected officials or their designees. [Sunshine Laws Training Attendance Reports](#) are accessible 72 hours after completing the training to obtain proof of attendance.
- ✓ A [model public records policy](#) that local governments can use as a guide when creating their own policies, and a [model policy for law enforcement agencies](#) to use as a guide on charging for production of video records.

Legal > Sunshine Laws

Ohio's Public Access to Information Act (PAIA) requires that elected officials and their designees receive training on the Sunshine Laws. The Ohio Attorney General provides training on the Sunshine Laws to help ensure that government is open and transparent.



Public Records Act



Open Meetings Act



Sunshine Laws Manual



Exemptions in Ohio Statutes

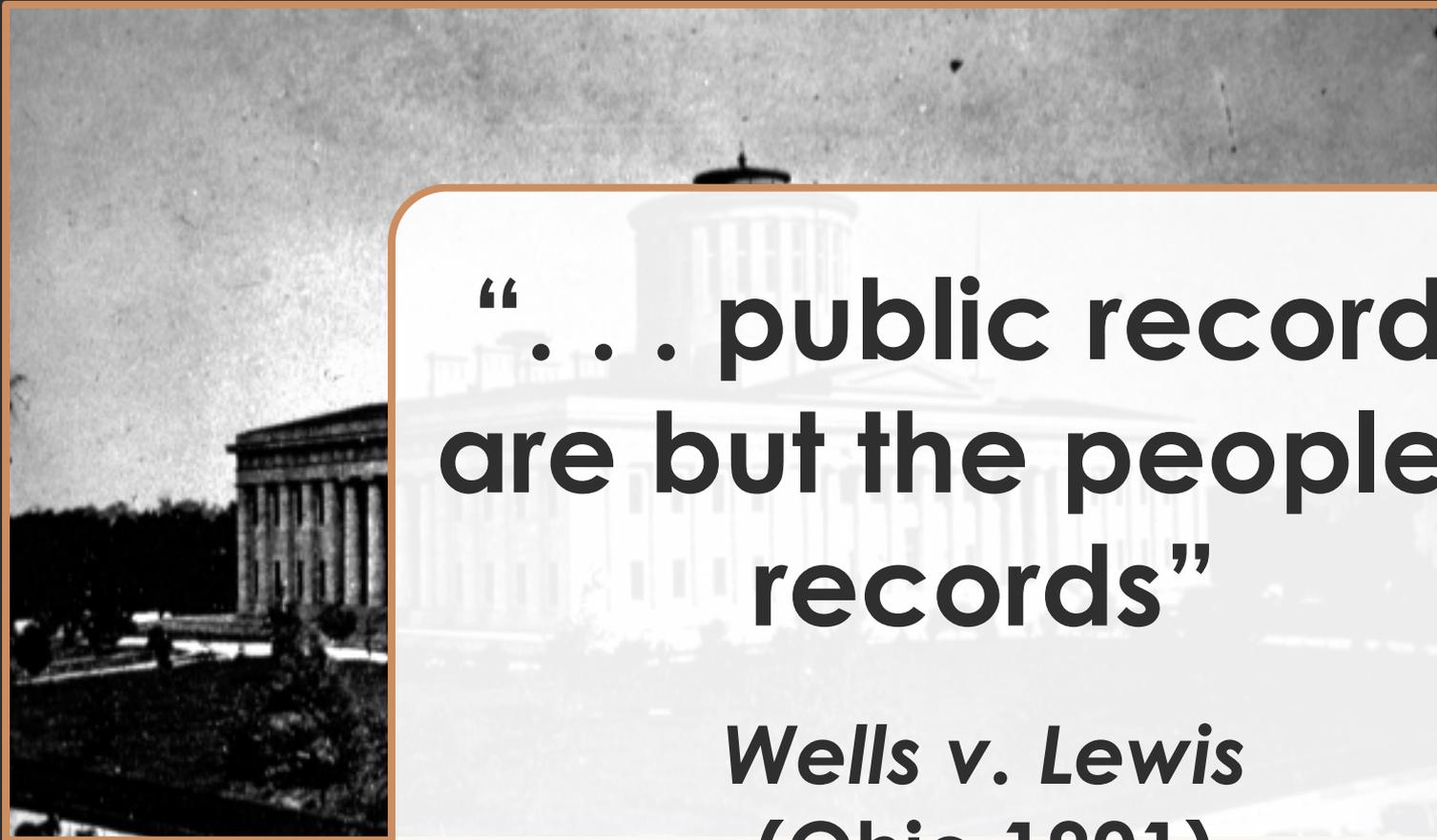


Trainings



www.OhioAttorneyGeneral.gov/Sunshine

WHY ARE WE HERE?



**“ . . . public records
are but the people’s
records ”**

***Wells v. Lewis*
(Ohio 1901)**

PRACTICAL REASONS FOR PUBLIC RECORDS TRAINING



PUBLIC RECORDS TRAINING OVERVIEW

- ✓ **What is a “public office”**
- ✓ **What is a “public record”**
- ✓ **What is a proper, enforceable request**
- ✓ **How must a public office respond**
- ✓ **Exemptions and redactions**
- ✓ **Litigation and remedies**
- ✓ **Records management and retention**

WHAT IS A “PUBLIC RECORD”?

- (1) every “record”
- (2) “kept by” a
- (3) “public office” or
“person responsible” for
public records

WHAT IS A “PUBLIC OFFICE” SUBJECT TO THE PUBLIC RECORDS ACT?



PUBLIC RECORDS ACT APPLIES TO “PERSONS RESPONSIBLE FOR PUBLIC RECORDS”



A PRIVATE ENTITY CAN BE A “QUASI AGENT” OF A PUBLIC OFFICE

(1) Did the private entity prepare the records to carry out a public office’s duties or responsibilities?

and

(2) Do those records relate to that delegated duty?

A PRIVATE ENTITY CAN BE A “QUASI-AGENT” OF A PUBLIC OFFICE



A PRIVATE ENTITY CAN BE THE “FUNCTIONAL EQUIVALENT” OF A PUBLIC OFFICE

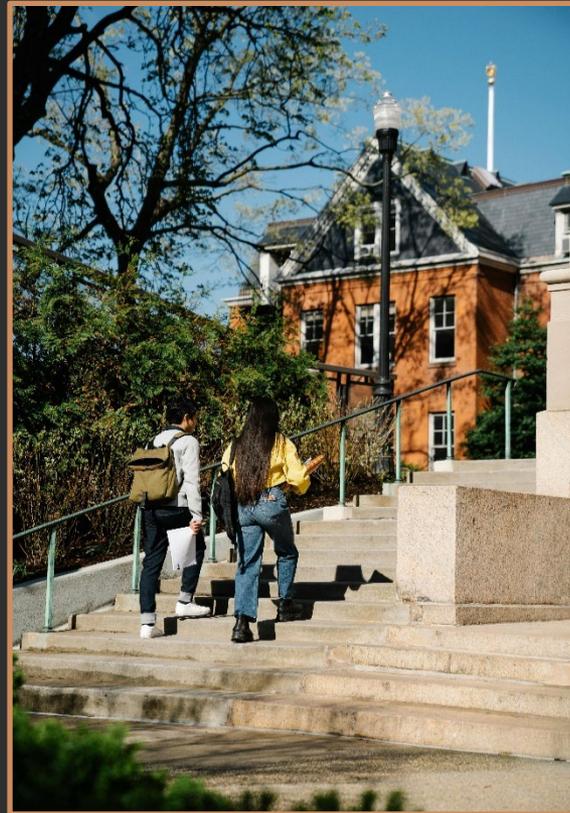
(1) Does the entity perform a government function?

(2) How much government funding does it get?

(3) How much does public office control the day-to-day operations?

(4) Was it created to avoid the Public Records Act?

A PRIVATE ENTITY CAN BE THE “FUNCTIONAL EQUIVALENT” OF A PUBLIC OFFICE



“FUNCTIONAL EQUIVALENT” OF A LAW ENFORCEMENT AGENCY



WHAT IS A “RECORD”?

- (1) Exists on a fixed medium**
- (2) Created, received by, or under jurisdiction of a public office**
- (3) Documents activities of the office**

PUBLIC RECORDS MUST BE ON A FIXED MEDIUM



PUBLIC RECORDS MUST BE CREATED BY, RECEIVED BY, OR FALL UNDER PUBLIC OFFICE'S JURISDICTION



PUBLIC RECORDS MUST DOCUMENT THE ACTIVITIES OF THE OFFICE



Lunch! - Message (HTML)

File Message Insert Options Format Text Review Help Acrobat Tell me what you want

Cut Copy Paste Format Painter

Clipboard

iManage E-Mail Management

File To: Search for Workspaces (sho

To... Jon Smith

Cc...

Subject Lunch!

Send

Still on for lunch???



Assistant Att
Office of Ohio
Office number



Annual Financial Report - due Friday - Message (

File Message Insert Options Format Text Review Help Acrobat Tell me what you want

Cut Copy Paste Format Painter

Clipboard Basic Text

Address Book Check Names Attach File Attach Item Signature Include

iManage E-Mail Management

File To: Search for Workspaces (shortcut) - (Ctrl+9)

To... Jon Smith

Cc...

Subject Annual Financial Report - due Friday

Send

Jon,
Touching base about the financial report due Friday.
All reports are now submitted online in the new form
I sent you yesterday. Please send your draft to me by COB
today so I can double-check your numbers against mine.

Thanks!



Assistant Attorney General
Office of Ohio Attorney General Dave Yost
Office number: 614-466-2872



INFORMATION OR CONTENT
DETERMINES WHETHER
RECORDS ARE
“PUBLIC RECORDS”

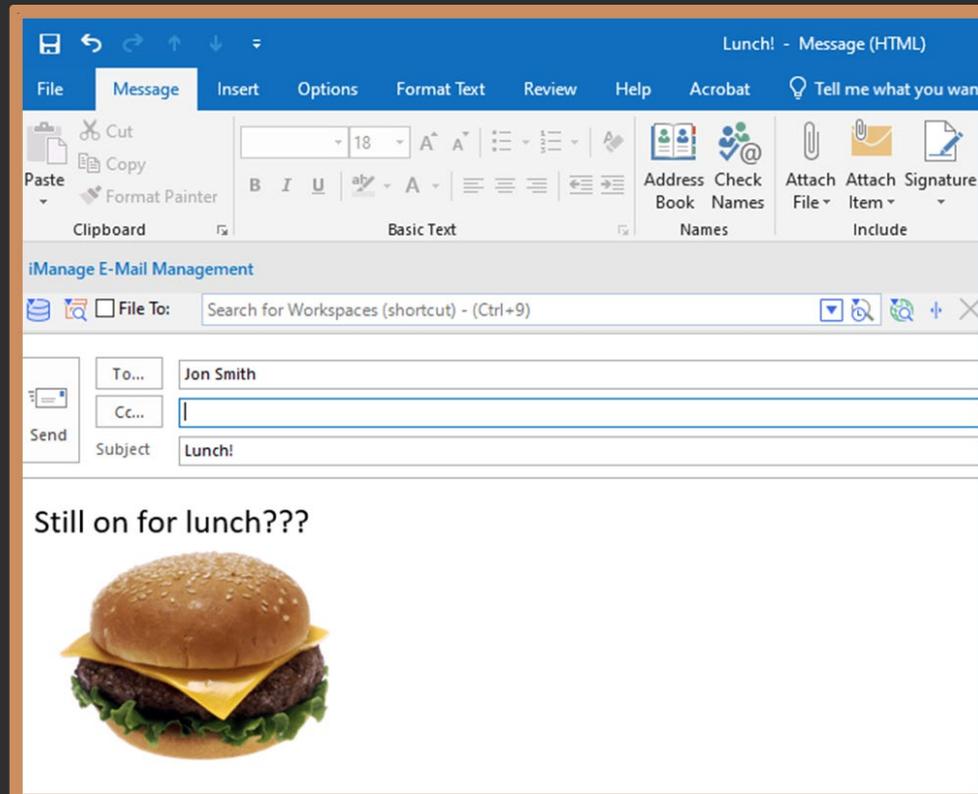


*What does the
information tell the
public about what
the office does?*

MESSAGES ON PERSONAL ACCOUNTS OR DEVICES CAN BE PUBLIC RECORDS



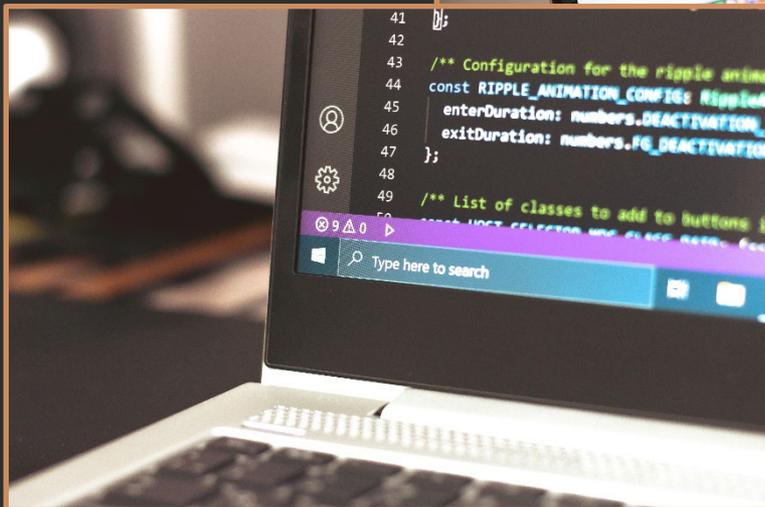
RECORDS DON'T DOCUMENT ACTIVITIES OF THE OFFICE IF INFORMATION IS PURELY PERSONAL



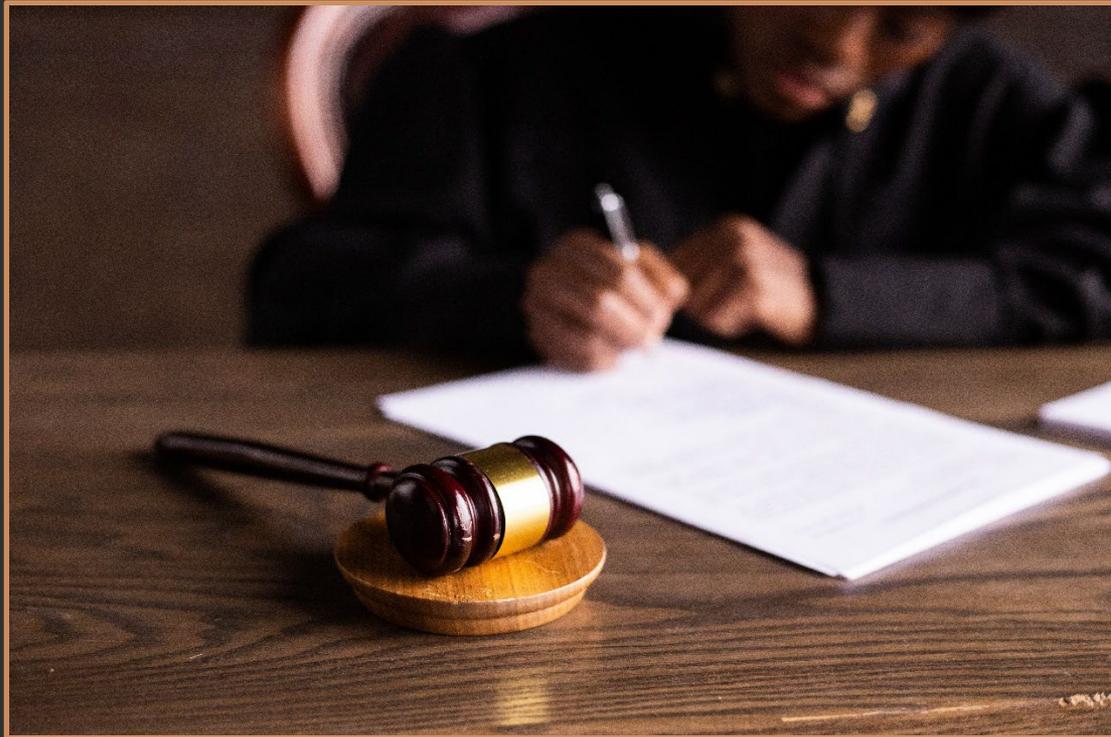
RECORDS KEPT FOR ADMINISTRATIVE USE OR CONVENIENCE



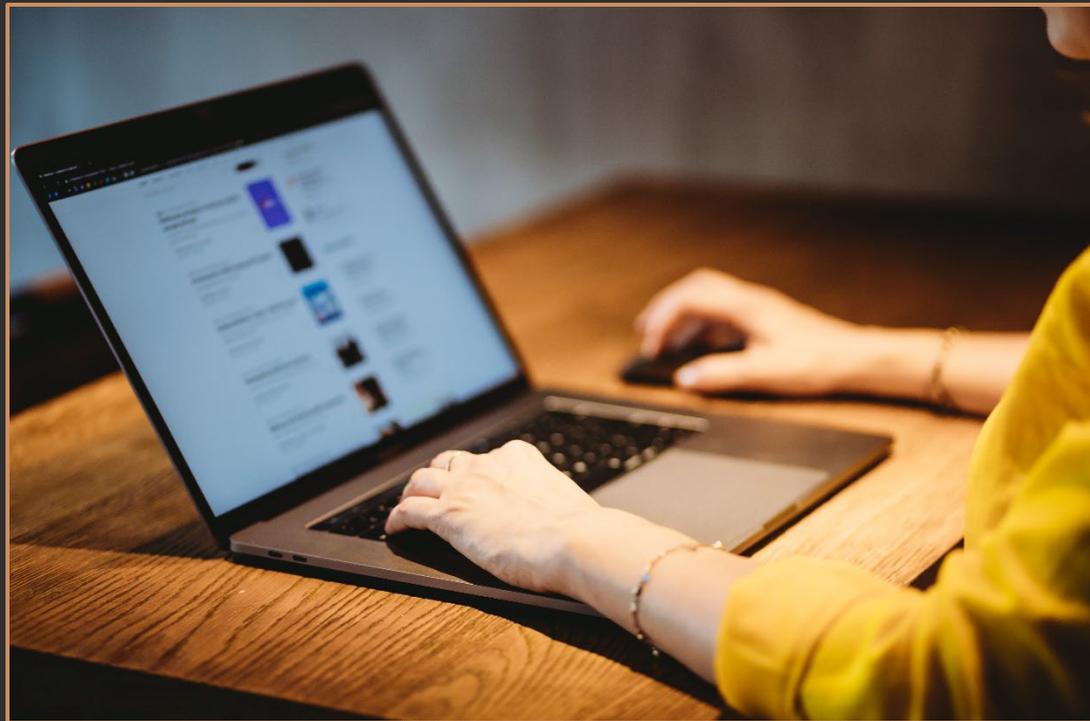
RECORDS KEPT FOR ADMINISTRATIVE USE OR CONVENIENCE



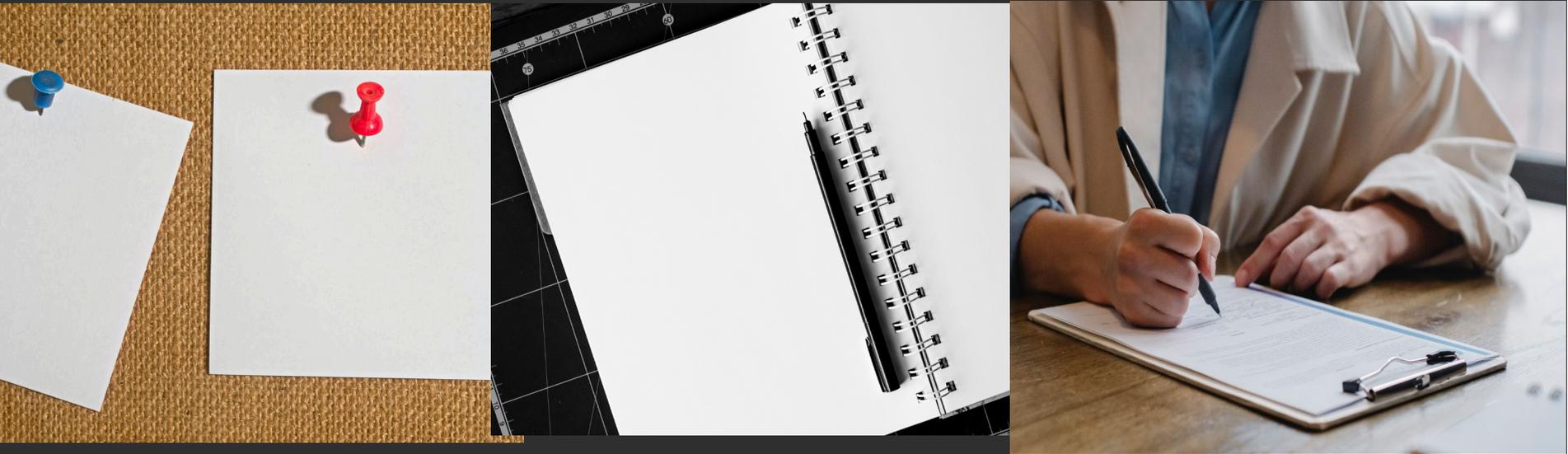
A RECORD DOESN'T
DOCUMENT THE ACTIVITIES
OF THE OFFICE
IF IT'S NOT USED



A RECORD DOESN'T DOCUMENT THE ACTIVITIES OF THE OFFICE IF IT'S NOT USED



NOTES AND DRAFTS CAN BE PUBLIC RECORDS



NOTES CAN BE PUBLIC RECORDS DEPENDING ON USE

- ✓ **Strictly personal**
- ✓ **Used for employee's own convenience**
- ✓ **Accessed by others**

DRAFTS CAN BE PUBLIC RECORDS DEPENDING ON USE



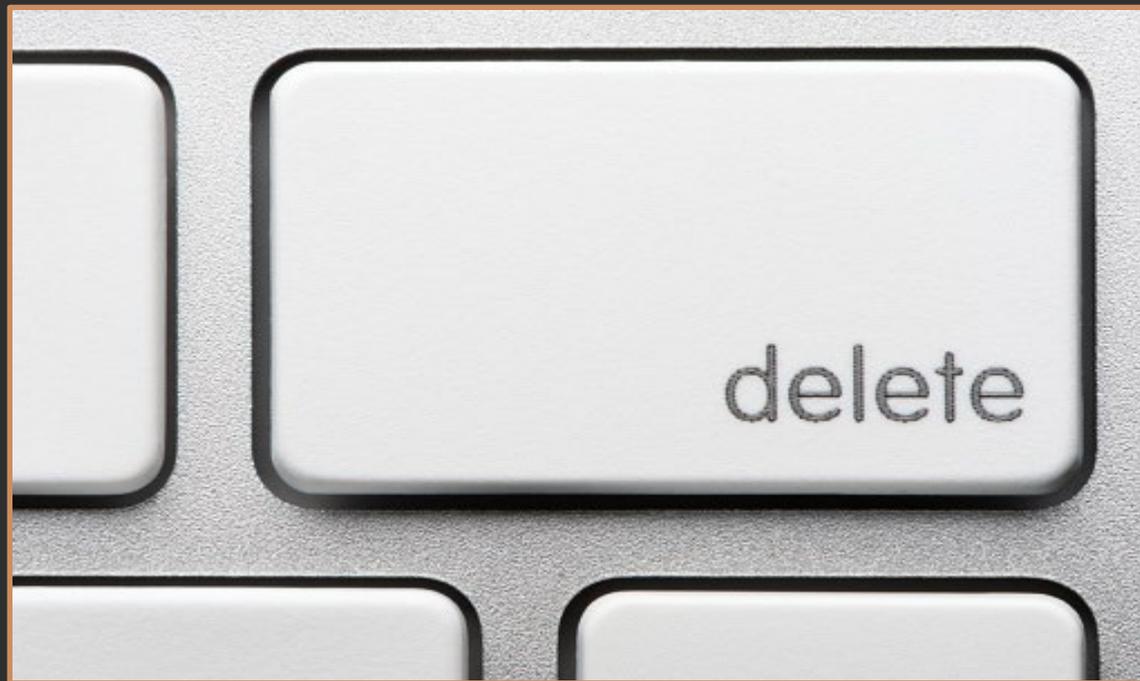
PUBLIC RECORDS MUST BE “KEPT BY” A PUBLIC OFFICE



RECORDS ON PERSONAL DEVICES OR ACCOUNTS CAN BE RECORDS “KEPT BY” A PUBLIC OFFICE



RECORDS AREN'T "KEPT BY"
PUBLIC OFFICE IF
DESTROYED PER RECORDS
RETENTION SCHEDULE



MONDAY

TUESDAY

WEDNESDAY

2

3

4

Payday

Financial report due

7 AM

8

9

Public Records Training

10

Section meeting; Microsoft Teams Meeting; ↻

11

12 PM

1

Meet to discuss all-staff symposium; Teams

2

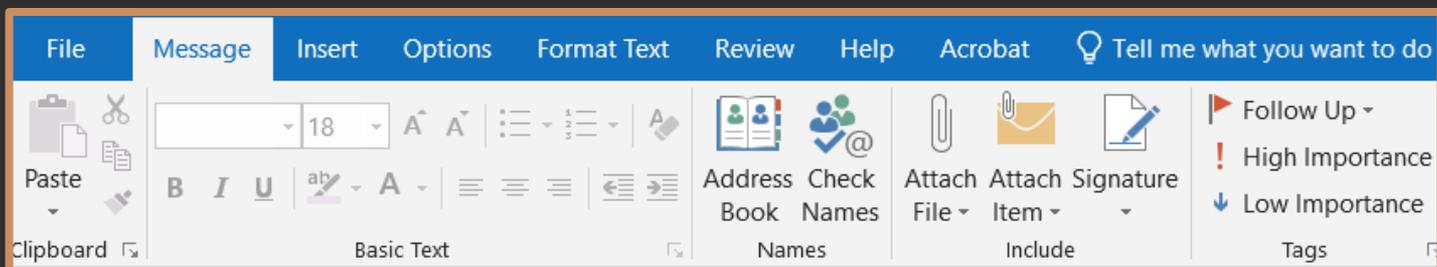
3

Dentist Appointment

4

Gym

Happy Hour; Pint House Pub



iManage E-Mail Management

File To: Search for Workspaces (shortcut) - (Ctrl+9) Delete Print

To...	Jon Smith
Cc...	
Send	
Subject	Public Records Request

Jon,

We received a public records request for a copy of the press release the office issued this morning. Can you pull that record and draft a response letter?

By the way, over the weekend I finally finished that true crime podcast you've been talking about – didn't see that ending coming! Thanks for the recommendation!



Assistant Attorney General
Office of Ohio Attorney General Dave Yost
Office number: 614-466-2872



New message

To Jon Smith

Cc Bcc

Subject Public Records Request

JON,

We received a public records request for a copy of the press release the office issued this morning. Can you pull that record and draft a response letter?

By the way, over the weekend I finally finished that true crime podcast you've been talking about – didn't see that ending coming! Thanks for the recommendation!

“ANY PERSON” CAN MAKE A PUBLIC RECORDS REQUEST



NO FORM OR LANGUAGE IS REQUIRED TO MAKE A PUBLIC RECORDS REQUEST

Submit a Public Records Request

Remember: You are not required to identify yourself to request records, but we do need at least one way to wish to be notified when your records are available for pick up.

Name (optional):

Email address:

Contact phone number (optional):

Case number/name:

Brief summary of request:

SAMPLE PUBLIC RECORDS REQUEST

****Note to Requester:** Retain a copy of this request for your files. If you eventually need to file a Request for Review with the Court of Claims, you will need to submit a copy of your public records request**

Name and Address of Public Agency or Official Receiving Request: _____

Date Requested: _____

Request Submitted By: E-Mail U.S. Mail Fax In Person

Name of Requester: _____

Street Address: _____

City/State/County/Zip (required): _____

Telephone (Optional): _____ E-mail (Optional): _____

Fax (Optional): _____

Records Requested: **Provide as much specific detail as possible so the public body can identify the information that you are seeking. You may attach additional pages, if necessary.*

Do you want copies of the documents? YES -or- NO

--Do you want Electronic Copies or Paper Copies? _____

--If you want Electronic Copies, in what format? _____

IDENTITY AND MOTIVE OF REQUESTERS IRRELEVANT



OFFICES CAN ASK A REQUESTER'S IDENTITY OR INTENDED USE IF:

The information would help the office respond to the request

AND

The office tells the requester the information is not required

IDENTITY RELEVANT IF THE REQUESTER IS A JOURNALIST



IDENTITY RELEVANT IF THE REQUESTER IS A JOURNALIST



IDENTITY RELEVANT IF THE REQUESTER IS AN INSURER OR NEXT OF KIN



IDENTITY RELEVANT IF THE REQUESTER IS AN INMATE SEEKING CRIMINAL RECORDS



IDENTITY RELEVANT IF A COURT DECLARED THE REQUESTER A VEXATIOUS LITIGATOR

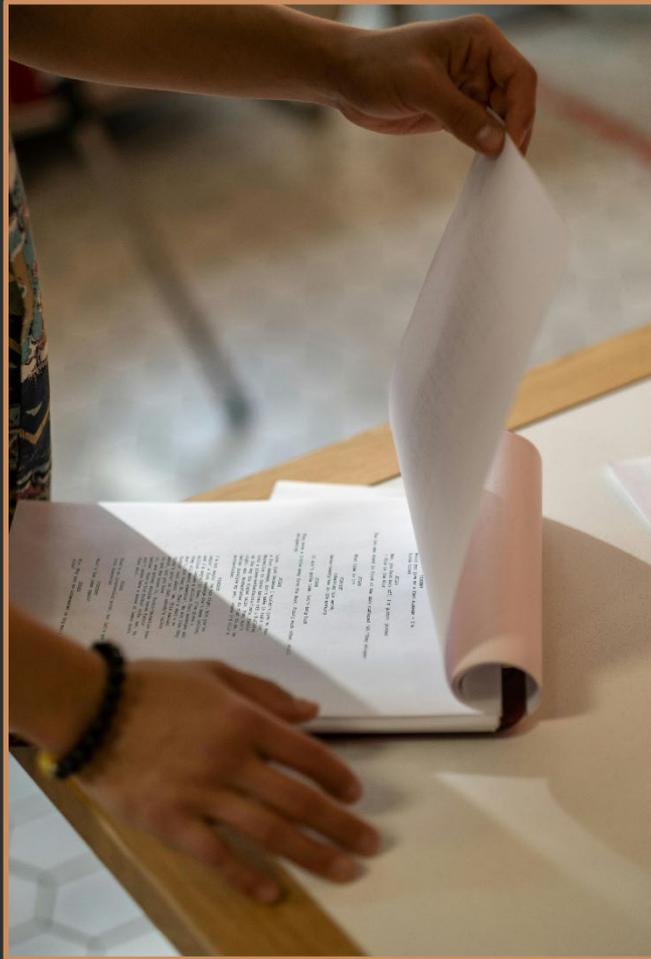


Request to inspect

Records must be prepared promptly for inspection

Request for copies

Copies must be produced in a reasonable period of time



INSPECTION OF RECORDS

INSPECTION OF RECORDS



CAN AN OFFICE CHARGE FOR RESPONDING TO REQUESTS?

YES if the request is for
copies of records



NO if the request is
to inspect records

WHAT IS “ACTUAL COST” OF PROVIDING RECORDS?

- ✓ Blank record medium (i.e., paper or disc)
- ✓ Ink or toner
- ✓ Packaging, delivery, or transmission
- ✓ Applies to final copy

SOME PUBLIC OFFICES CAN CHARGE MORE THAN “ACTUAL COST”

- ✓ **BMV for
accident reports**
- ✓ **Coroners for
copies of records**



LAW ENFORCEMENT MAY CHARGE FOR PRODUCING VIDEO RECORDINGS



- ✓ \$75/hour for “actual costs” up to \$750 total
- ✓ Includes time to review, redact, produce, etc.
- ✓ May charge for staff time and relevant overhead
- ✓ May not charge victims

VIDEO RECORDINGS PREPAYMENT POLICY

MODEL PUBLIC RECORDS POLICY ON PRODUCTION OR INSPECTION OF VIDEO RECORDS

PURPOSE

The purpose of this policy is to establish rules and guidelines for [PUBLIC OFFICE] when preparing video records for production or inspection.

PRODUCTION OR INSPECTION COSTS

[PUBLIC OFFICE] may charge for the “actual cost” of preparing a video record for production or inspection. Actual cost includes the cost to review, blur or otherwise obscure, redact, upload, or produce a video record. Actual cost may also include the cost of the storage medium the office uses to produce a video record, staff time, and any other relevant overhead necessary to comply with the request.

PREPAYMENT

[PUBLIC OFFICE] may require a requester to prepay the actual cost of preparing a video record for production or inspection. If prepayment is required, the office will provide an estimate of the actual cost within five business days of receiving the request.

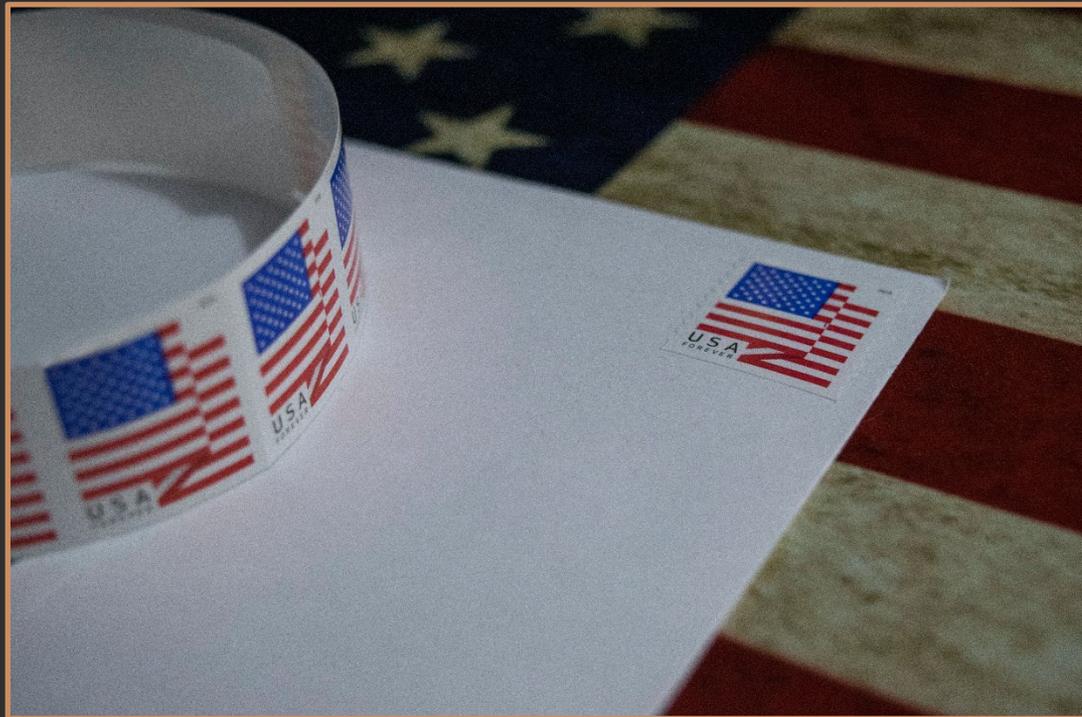
The office is not required to start preparing a video record for production or inspection until the requester pays the estimated actual cost in full. The office’s obligation to produce a video record or make it available for inspection starts when the requester pays the estimated actual cost in full.

The office will notify the requester if the final actual cost is more than the estimated actual cost. The requester may be required to pay the difference between the actual cost and the estimated cost if (1) the requester is notified in advance that the actual cost is more than the estimated actual cost; and (2) the actual cost is less than twenty per cent more than the estimated actual cost. The requester will not be required to pay the difference in the actual cost and the estimated actual cost if the difference is more than twenty per cent.

REQUESTER CAN CHOOSE FORMAT OF COPIES



REQUESTER CAN CHOOSE DELIVERY METHOD



PUBLIC RECORDS POLICY FOR MORE INFORMATION

THE PUBLIC RECORDS POLICY OF THE OHIO ATTORNEY GENERAL'S OFFICE

The public records policy of the Ohio Attorney General's Office guides employees in making available the materials to which the public is entitled by law. The policy, summarized below, appears in full in the Ohio Attorney General's Policies and Procedures Manual. Also, a copy of the most recent edition of the Ohio Sunshine Laws: An Open Government Resource Manual, which explains open

MAKING RECORDS ACCESSIBLE

Public records are available for inspection during regular business hours. Records must be provided promptly for inspection, and copies must be made available within a reasonable period of time.

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PROCESSING REQUESTS

It is the goal of the Attorney General's Office that requests for public records be acknowledged in writing, or, if feasible, satisfied within three business days of the request.

DETERMINING COPYING AND MAILING CHARGES

There is no charge to inspect public records. Copies of records are available at actual cost, excluding labor. The charge for paper copies is 5 cents per page. The charge for electronic files downloaded to a compact disc is \$1 per disc. The actual cost of postage, mailing supplies, or other delivery costs may be charged. There is no charge for emailed documents. It is permissible to require payment of all costs in advance of delivery.

The requester may choose whether to have the record copied on paper, on the same medium in which the public record is kept, or on any other medium upon which the Attorney General's Office determines that the record can reasonably be duplicated as an integral part of the office's normal operations.

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MANAGING RECORDS

AN OFFICE MUST PROVIDE COPIES EVEN IF AVAILABLE ELSEWHERE

[Media](#) > News Releases

News Releases

Search News Releases:

Search

[Attorney General Yost Asks FDA to Protect State Regulation of O](#)

A bipartisan coalition of 42 states and territories co-led by Ohio Attorn

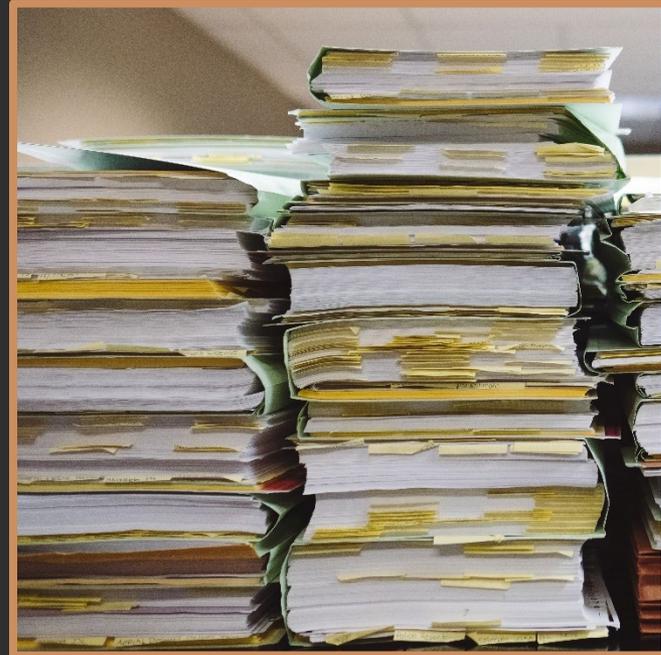
AN OFFICE MUST PROVIDE COPIES EVEN IF AVAILABLE ELSEWHERE



COPIES OF RECORDS MUST BE PRODUCED IN A “REASONABLE PERIOD OF TIME”



A “REASONABLE PERIOD OF TIME” WILL DEPEND ON THE FACTS AND CIRCUMSTANCES



REASONABLE PERIOD OF TIME: TYPE OF RECORD REQUESTED

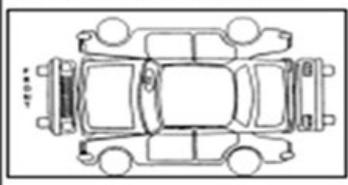


Incident Report Form - Motor Vehicle

1. Policy Details

Insured Name	Policy Number
AEN Details	

2. Accident Details

Date of Accident	Name of Street & Suburb where accident occurred
Time of Accident	if at an intersection, names of intersecting streets
Was the street wet? <input type="checkbox"/> Yes <input type="checkbox"/> No	
State clearly and fully how the accident occurred	Please indicate areas of damage to your vehicle:
	

3. Vehicle Details

Vehicle Year & Make	Did the police attend the scene? <input type="checkbox"/> Yes <input type="checkbox"/> No
Vehicle Registration	Police Report No.
Vehicle Vin Number	Was your vehicle towed? <input type="checkbox"/> Yes <input type="checkbox"/> No
Is your vehicle drivable? <input type="checkbox"/> Yes <input type="checkbox"/> No	Where is the vehicle now?

REASONABLE PERIOD OF TIME: CIRCUMSTANCES OF THE REQUEST



COMMUNICATION WITH THE REQUESTER

42 public
records
requests



No response
from public
office



Requester
sues

Not a reasonable period of time

COMMUNICATION WITH THE REQUESTER

Voluminous
public
records
request



Public office
acknowledges
receipt promptly
and provides
updates



Requester
sues

Reasonable period of time

TIPS FOR RESPONDING TIMELY

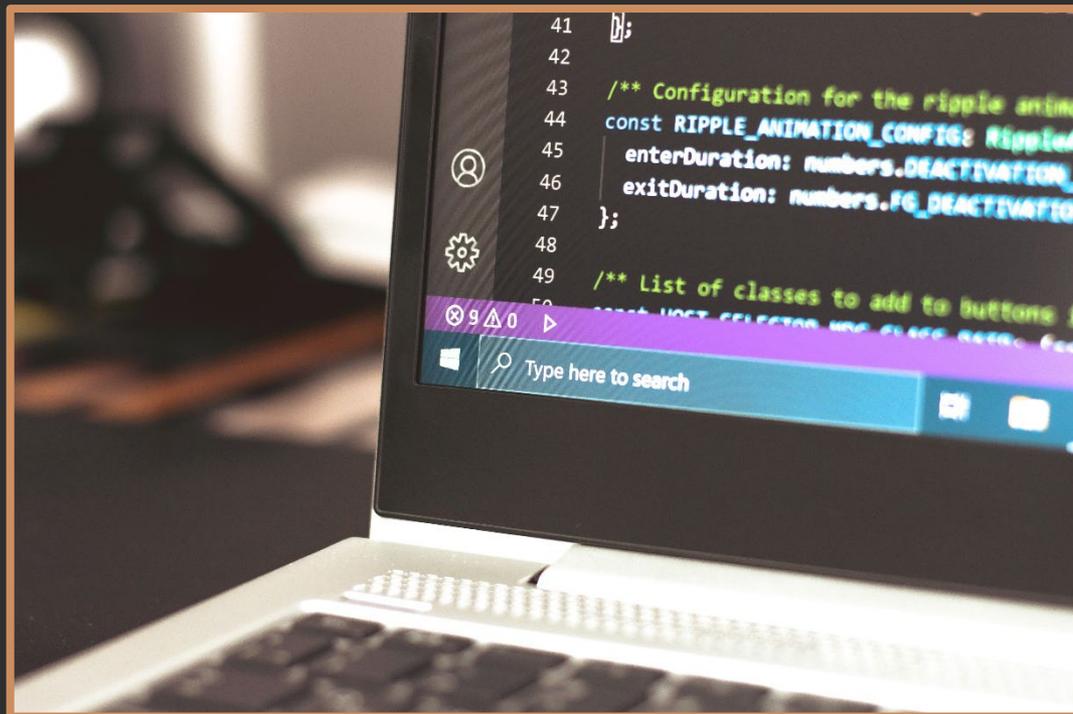
- ✓ **Acknowledge request promptly**
- ✓ **Keep a records request log**
- ✓ **Produce records on rolling basis**
- ✓ **Communicate with requester**

A REQUESTER MUST ASK FOR EXISTING RECORDS

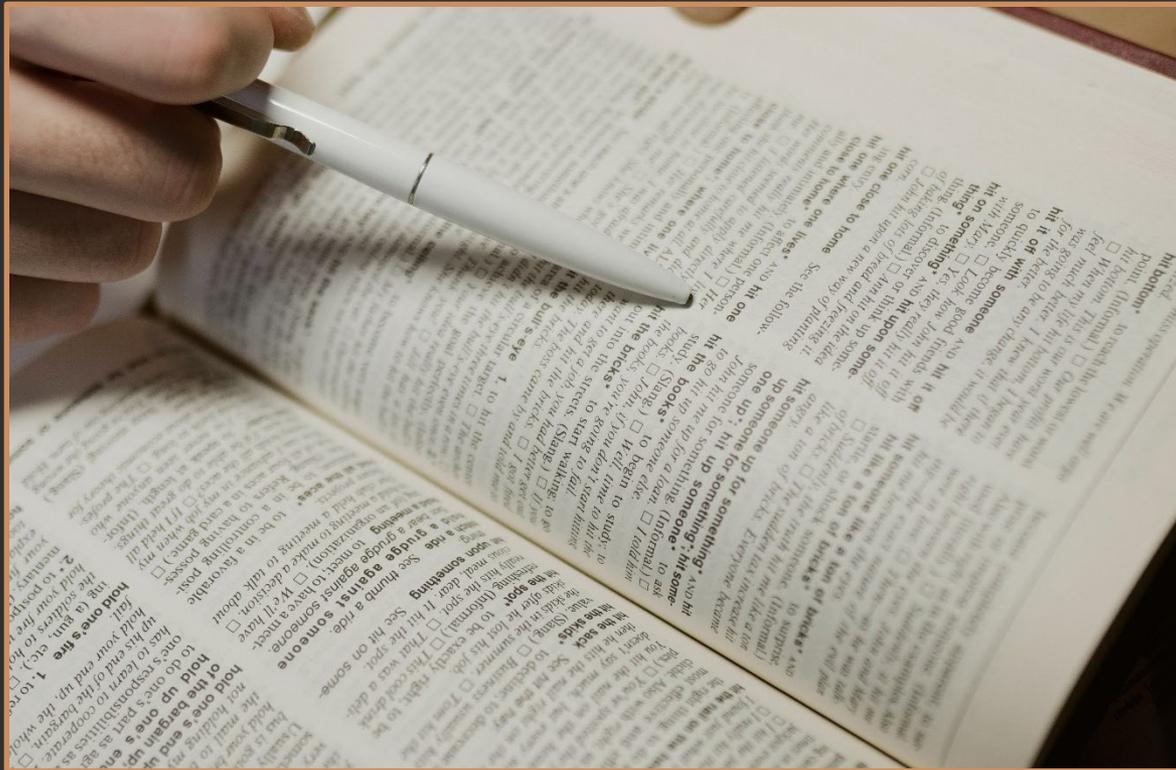
Records do not exist when:

- ✓ **They have been disposed of per a records retention schedule**
- ✓ **They were never created**

A RECORD MAY “EXIST” IF IT CAN BE PRODUCED FROM A DATABASE



A REQUESTER CAN'T ASK FOR INFORMATION OR RESEARCH



A REQUESTER MUST DESCRIBE RECORDS SOUGHT WITH “REASONABLE CLARITY”

Burden is on requester to properly frame request

AND

Requester must identify records based on how office organizes and maintains

WHETHER A REQUEST IS OVERLY BROAD DEPENDS ON THE FACTS AND CIRCUMSTANCES



WHETHER A REQUEST IS OVERLY BROAD DEPENDS ON THE FACTS AND CIRCUMSTANCES



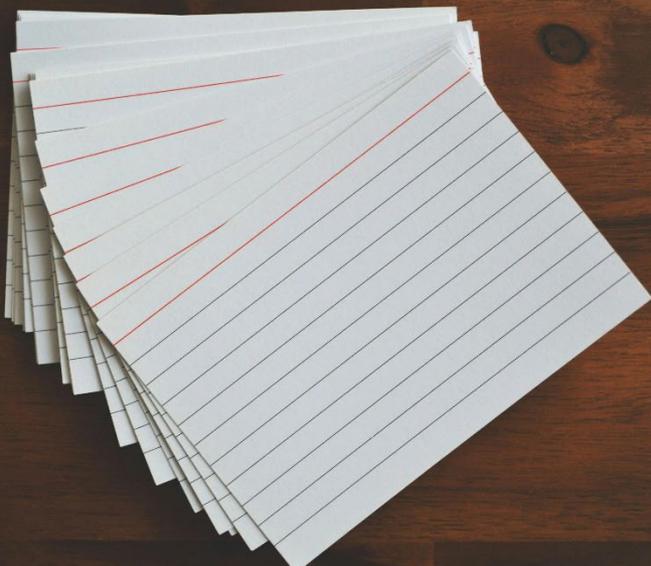
REQUESTERS MUST IDENTIFY
RECORDS BASED ON HOW THE
OFFICE ORGANIZES
AND MAINTAINS RECORDS



OFFICE DOES NOT NEED TO ORGANIZE RECORDS IN A SPECIFIC WAY



AN OFFICE MUST ORGANIZE
AND MAINTAIN RECORDS BUT
NOT IN A SPECIFIC WAY



AMBIGUOUS REQUEST: OFFICE DOESN'T KNOW WHAT THE REQUESTER WANTS OR WHERE TO LOOK



DENYING AN OVERBROAD OR AMBIGUOUS REQUEST

- ✓ **An office must give requester opportunity to revise request**

AND

- ✓ **Inform requester of how its records are maintained and accessed**

OFFICE MUST INFORM REQUESTER OF HOW ITS RECORDS ARE KEPT

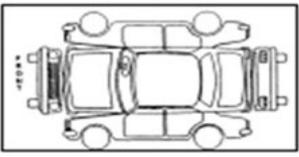
Incident Report Form - Motor Vehicle

1. Policy Details

Insured Name _____ Policy Number _____
 ABN Details _____

2. Accident Details

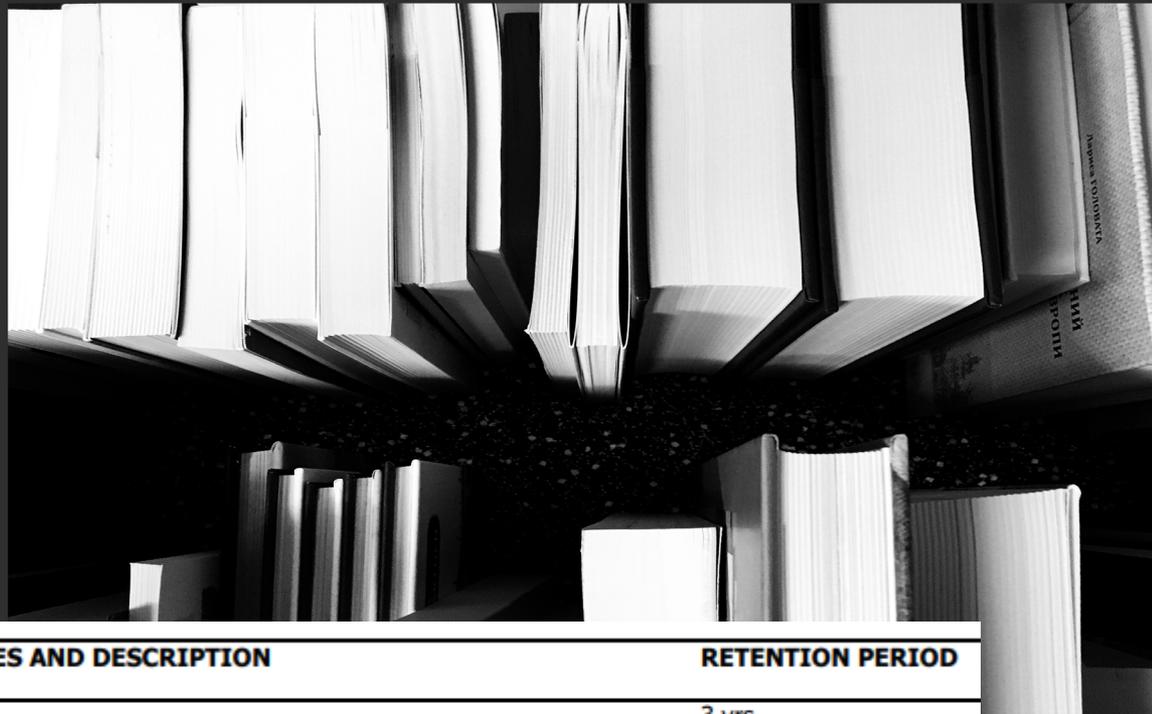
Date of Accident _____ Name of Street & Suburb where accident occurred _____
 Time of Accident _____ If at an intersection, names of intersecting streets _____
 Was the street wet? Yes No

State clearly and fully how the accident occurred _____
 Please indicate areas of damage to your vehicle:


3. Vehicle Details

Vehicle Year & Make _____ Did the police attend the scene? Yes No

Vehicle Registration _____
 Vehicle Vin Number _____
 Is your vehicle drivable?



SCHEDULE NUMBER	POLICE RECORD SERIES AND DESCRIPTION	RETENTION PERIOD
100-14-001	Accident Files Auto accident reports and computerized records	3 yrs
100-14-377	Accident Files; Fatal Fatal auto accident reports and computerized records	Permanent
100-92-005	Accreditation Proofs of Compliance Records indicating that the department has complied with accreditation standards	3 years

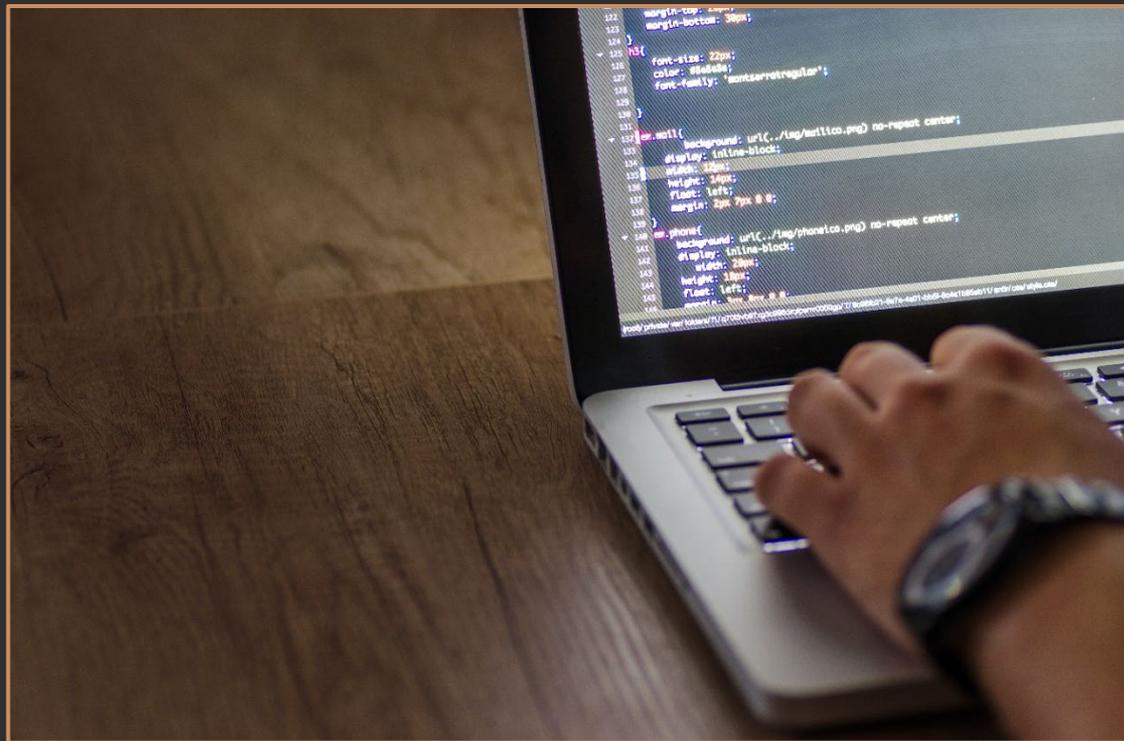
OFFICE MUST INFORM REQUESTER OF HOW ITS RECORDS ARE KEPT

Retention Schedules for Records Maintained by the Ohio Attorney General's Office

These retention schedules are organized by service division within the Office and apply only to the records kept by the respective service division. However, some schedules are organized by record type and may apply to records kept by any service division of the office (see the [General Schedules](#) webpage for more information).

- [Administration](#)
- [Antitrust](#)
- [Bureau of Criminal Investigation \(BCI\)](#)
- [Charitable Law](#)
- [Civil Rights](#)
- [Collections Enforcement](#)
- [Constituent Services](#)
- [Constitutional Offices](#)
- [Consumer Protection](#)
- [Court of Claims](#)
- [Crime Victims Services](#)
- [Criminal Justice](#)
- [Data Services](#)
- [Education](#)
- [Employment Law](#)
- [Environmental Enforcement](#)
- [Finance](#)
- [General Services](#)
- [Health and Human Services](#)
- [Health Care Fraud](#)
- [Human Resources](#)
- [Information Technology Services](#)
- [Internal Audit](#)

OFFICE MUST INFORM REQUESTER OF HOW ITS RECORDS ARE KEPT



We would be happy to work with you to revise your request so that we can identify the records you seek based on the way public records are organized and maintained by the Ohio Attorney General's Office. Please feel free to contact us.

Based on the way public records are organized and accessed in records.
Ohio Attorney General's Office

SOME INFORMATION IN A RECORD, OR AN ENTIRE RECORD, MAY BE EXEMPT



EXEMPTIONS CAN ONLY BE CREATED BY STATE OR FEDERAL LAW



COURTS WILL ALWAYS INTERPRET EXEMPTIONS NARROWLY



Mandatory exemptions:
office must withhold

AND

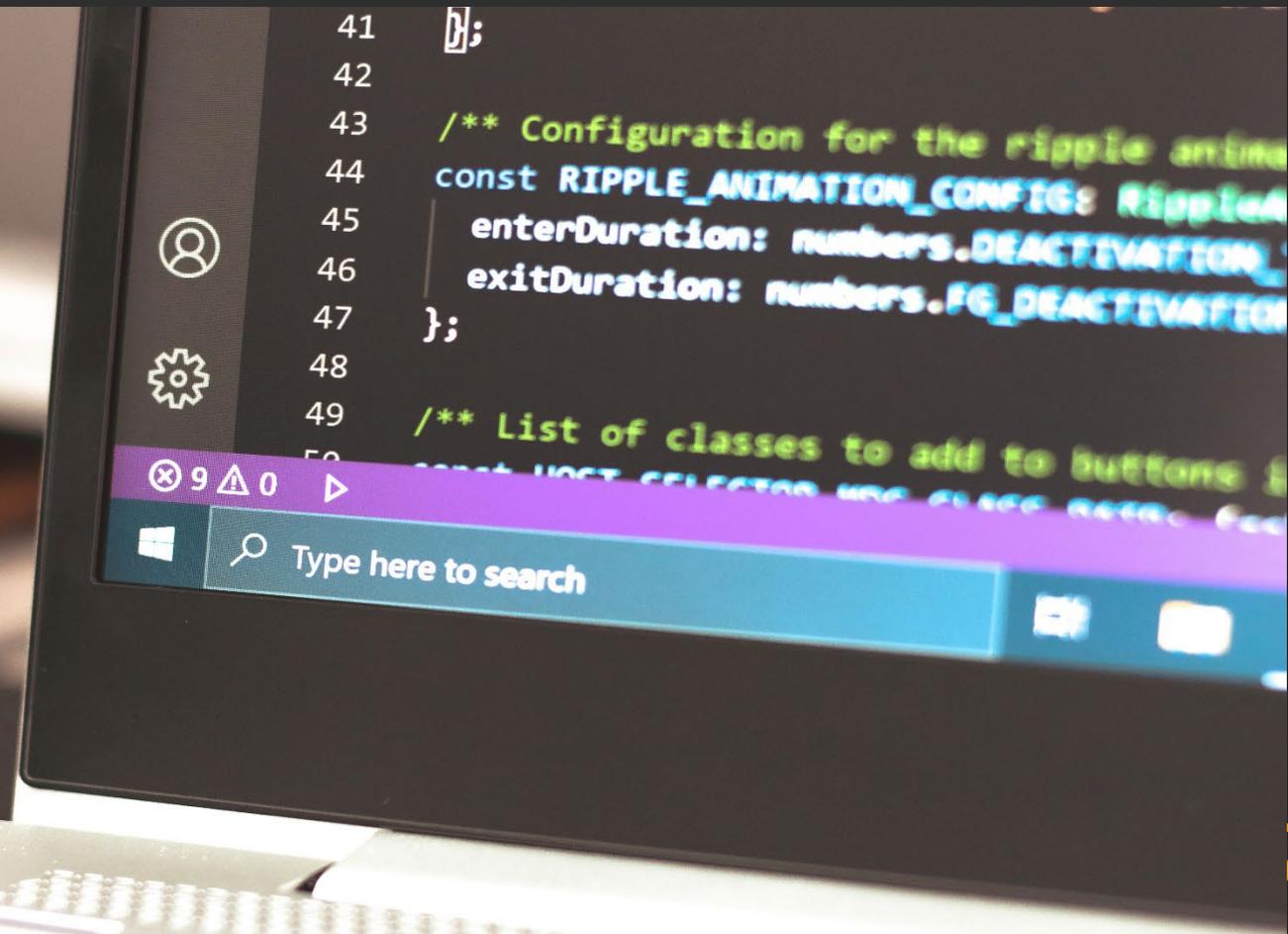


Discretionary exemptions:
office may withhold but
not required to

MANDATORY EXEMPTION: FERPA



MANDATORY EXEMPTION: LEADS



DISCRETIONARY EXEMPTION: CONFIDENTIAL LAW ENFORCEMENT INVESTIGATORY RECORDS ("CLEIRS")



TYPES OF CLEIRS INFORMATION:

- ✓ **Identity of an uncharged suspect or confidential source**
- ✓ **Specific confidential investigatory techniques or procedures**
- ✓ **Investigatory work product**
- ✓ **Information that would endanger life or physical safety of law enforcement personnel, victim, witness, or confidential informant**

CLEIRS INFORMATION: SPECIFIC CONFIDENTIAL INVESTIGATORY TECHNIQUES OR PROCEDURES



CLEIRS INFORMATION: INVESTIGATORY WORK PRODUCT



INVESTIGATORY WORK PRODUCT IS TIME LIMITED

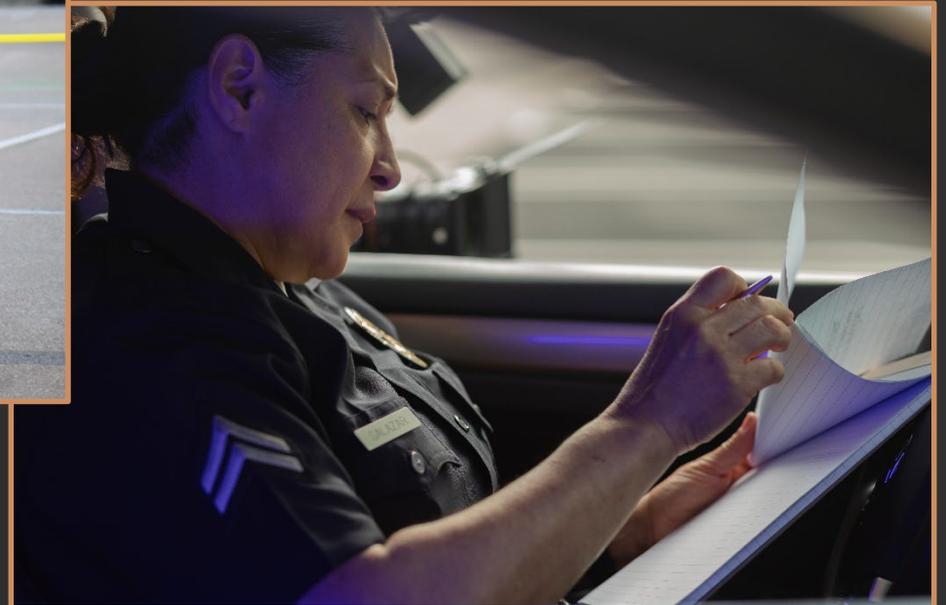
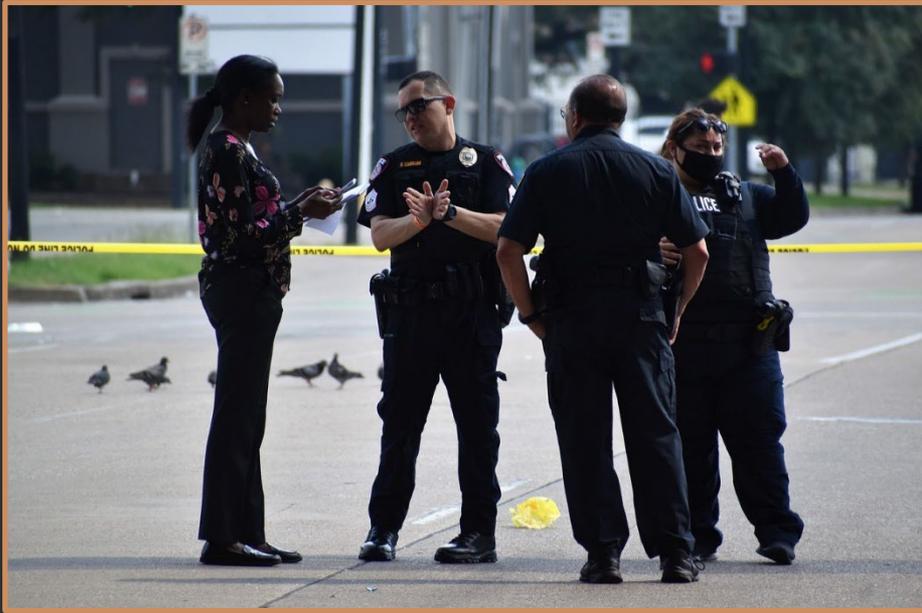
**Law
enforcement
matter
pending**

**Investigatory work
product can be
withheld**

**Law
enforcement
matter
concluded**

**Investigatory work
product must be
produced**

ROUTINE OFFENSE AND INCIDENT REPORTS MAY NOT BE COVERED BY CLEIRS



CLEIRS DOES NOT APPLY TO 9-1-1 CALLS



DISCRETIONARY EXEMPTION: SECURITY AND INFRASTRUCTURE RECORDS

Infrastructure records:

Records disclosing configuration of critical systems

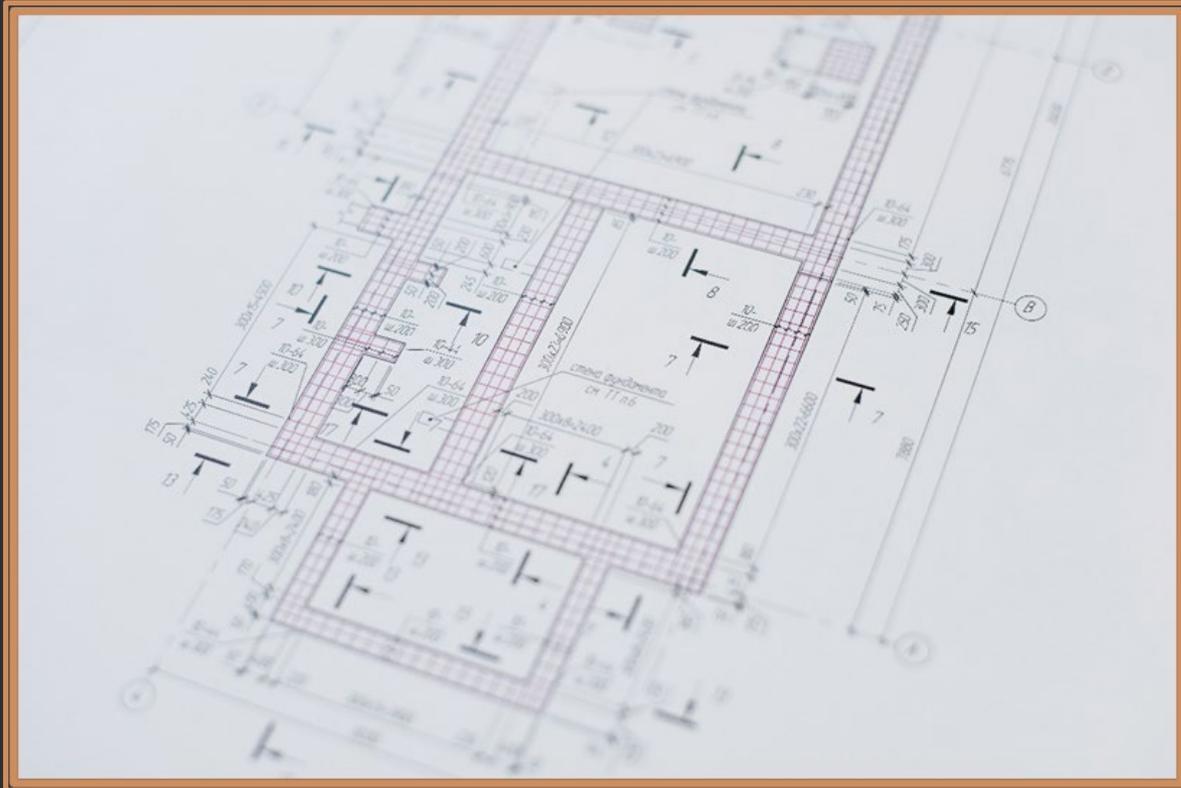
Security records :

Records used to protect against attack

DISCRETIONARY EXEMPTION: SECURITY RECORDS



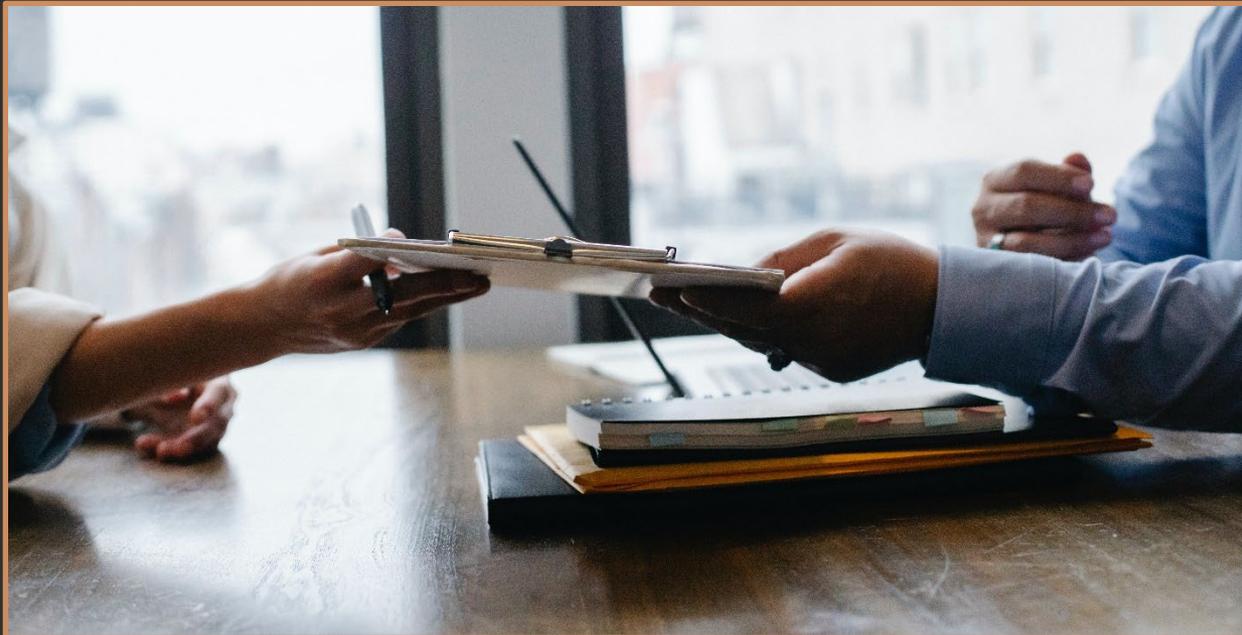
DISCRETIONARY EXEMPTION: INFRASTRUCTURE RECORDS



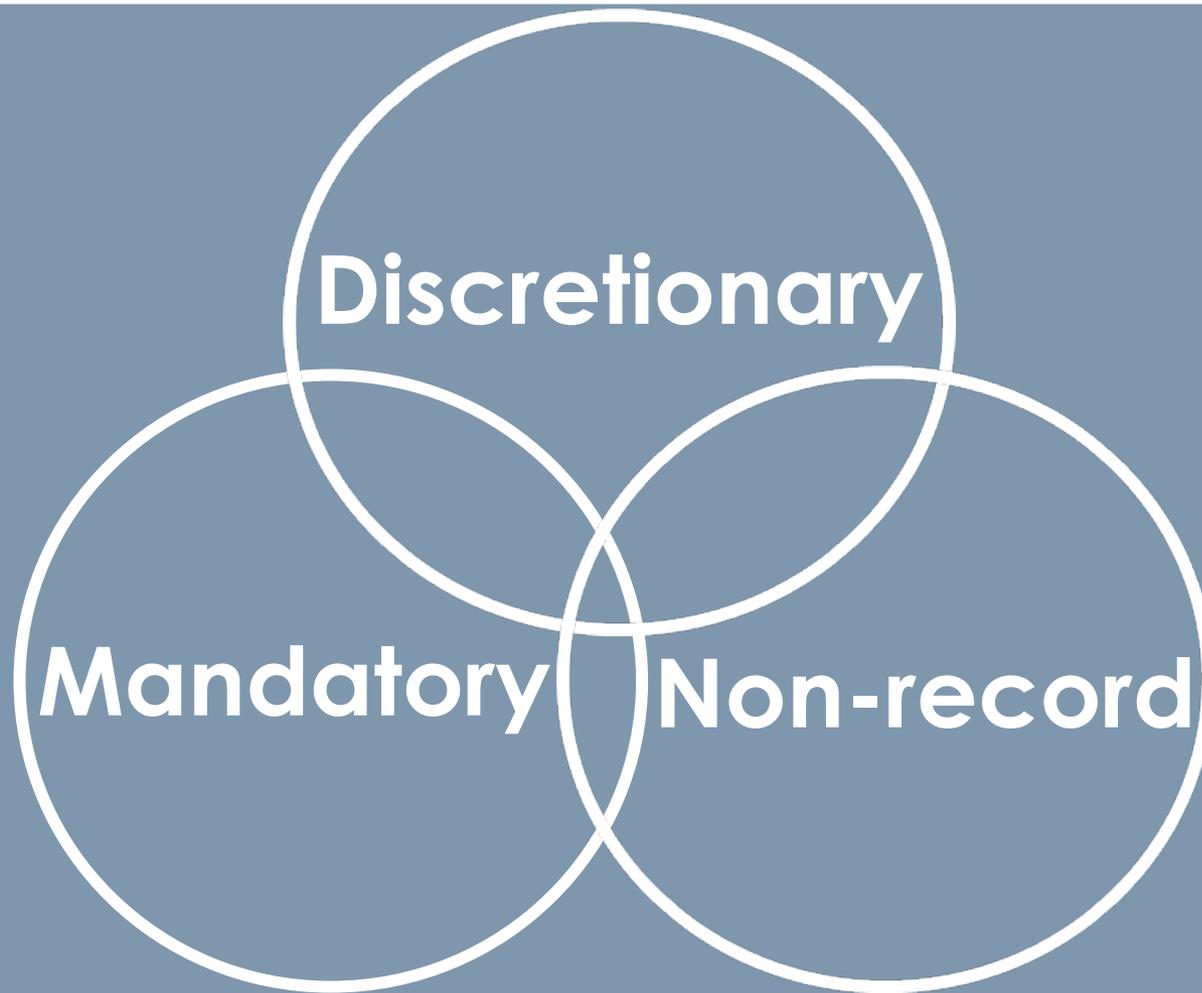
NO EXEMPTION FOR SOME CATEGORIES OF RECORDS

- ✓ **Job application materials**
- ✓ **Juvenile records**
- ✓ **Right to privacy**

DISCRETIONARY EXEMPTIONS CAN BE WAIVED



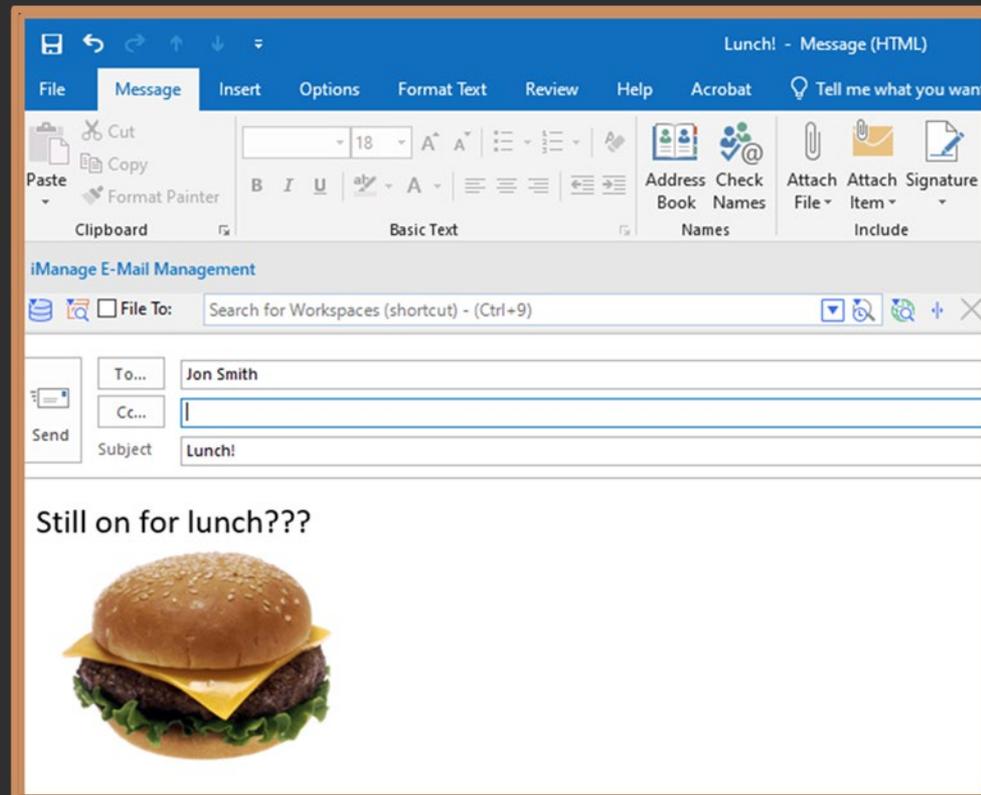
MORE THAN ONE EXEMPTION MAY APPLY



EXEMPTED RECORDS OR INFORMATION MAY BE WITHHELD OR REDACTED



NON-RECORD INFORMATION MAY BE WITHHELD OR REDACTED



REDACTIONS MUST BE PLAINLY VISIBLE

	MONDAY	TUESDAY	WEDNESDAY
	2	3	4
	Payday	Financial report due	
7 ^{AM}			
8			
9			Public Records Training
10	Section meeting: Microsoft Teams Meeting; ↻		
11			
12 ^{PM}			
1	Meet to discuss all-staff symposium; Teams		
2			
3			
4			

REDACTIONS MUST BE SUPPORTED BY LEGAL AUTHORITY



PERSONNEL FILES

The following lists are intended as a starting point for public offices when compiling lists appropriate to their employee records. The lists are not exhaustive, and public offices should consult with their legal counsel or conduct independent legal research to decide if these exemptions, or other exemptions, apply.

Information in Personnel Files Subject to Release with Appropriate Redaction

- Payroll records
- Timesheets
- Employment application forms
- Resumes
- Training course certificates
- Position descriptions
- Performance evaluations
- Leave conversion forms
- Letters of support or complaint
- Forms documenting receipt of office policies, directives, etc.
- Forms documenting hiring, promotions, job classification changes, separation, etc.
- Background checks, *other than* information or throughput from Law Enforcement Automated Data System (LEADS), the National Crime Information Center system (NCIC), and Computerized Criminal History (CCH)
- Disciplinary investigation/action records, unless exempt from disclosure by law
- Limited access files

Information in Personnel Files that May or Must Be Withheld

- Social security numbers (R.C. 149.43(A)(1)(dd), 149.45(A)(1)(a))
- Public employee home addresses, phone numbers, and personal email addresses, generally (as non-record)
- Residential and familial information of a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, county or multicounty corrections officer, community-based correctional facility employee, designated Ohio national guard member, protective services worker, youth services employee, firefighter, EMT, medical director or member of a cooperating physician advisory board of an emergency medical service organization, state board of pharmacy employee, investigator of the Bureau of Criminal Identification and Investigation, emergency service telecommunicator, forensic mental health provider, mental health evaluation provider, regional psychiatric hospital employee, judge, magistrate, or federal law enforcement officer, other than actual personal residence address of a prosecuting attorney or judge (R.C. 149.43(A)(1)(p) and (A)(7)-(8))
- State employee ID numbers pursuant to R.C. 1306.23 [ID numbers of other public employees may be exempt as "security records" under R.C. 149.433(B)(1) if that definition applies]

USE "CHEAT
SHEETS" OF
COMMON
EXEMPTIONS

Ohio Civil Service Application for State and County Agencies

GEN-4268 (REVISED 3/16)

The State of Ohio Is an Equal Opportunity Employer and provider of ADA services.

POSITION: ADMINISTRATIVE ASSISTANT	AGENCY: OHIO AGENCY	POSITION NUMBER: 123456
---------------------------------------	------------------------	----------------------------

Please submit one application per position or examination to the address indicated on the job posting or examination announcement. Copies are acceptable. Applications lacking sufficient information will not be processed. Please ensure your application is received or postmarked the closing date, as required by the hiring agency. Please be sure to complete the entire application. Also note that once submitted to a governmental agency, this completed form will be subject to all applicable public records laws.

PLEASE TYPE OR PRINT IN INK

NAME: (Last, First, Middle) CANDIDATE, PUBLIC EMPLOYEE	DATE OF BIRTH - Year Not Required Month 01 Day 01
---	--

ADDRESS: (Street, City, State, ZIP Code) [REDACTED]
--

HOME PHONE: [REDACTED]	ALTERNATE PHONE: [REDACTED]	E-MAIL ADDRESS: [REDACTED]
---------------------------	--------------------------------	-------------------------------

DRIVER'S LICENSE: (Optional) <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No [REDACTED]	LEGAL RIGHT TO WORK IN THE U.S.: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
--	---

Dear Requester,

I am writing in response to the public records request you submitted to this Public Office on DATE. Specifically, you requested:

A copy of the job application for Public Employee Candidate

Please find attached the records responsive to your request. Note that we have redacted information that is subject to the following:

- Information that is not a record of this office, pursuant to *State ex rel. Dispatch Printing Co. v. Johnson*, 2005-Ohio-4384; and
- Drivers' license numbers pursuant to R.C. 149.43(A)(1)(dd) and R.C. 149.45(A)(1)(c)

If you have any questions or concerns regarding this response, please feel free to contact me at 555-555-5555.

Very respectfully yours,

Public Office Employee

MONDAY

TUESDAY

WEDNESDAY

2

3

4

Payday

Financial report due

7^{AM}

8

9

10

Section meeting; Microsoft Teams Meeting; ↻

11

12^{PM}

1

Meet to discuss all-staff symposium; Teams

2

3

4

Public Records Training

Dear Requester,

I am writing in response to the public records request you submitted to this Public Office on DATE. Specifically, you requested “a copy of Public Employee Jon Smith’s calendar for April 11-April 15, 2022” and “copies of emails about the press release issued by your office on DATE.”

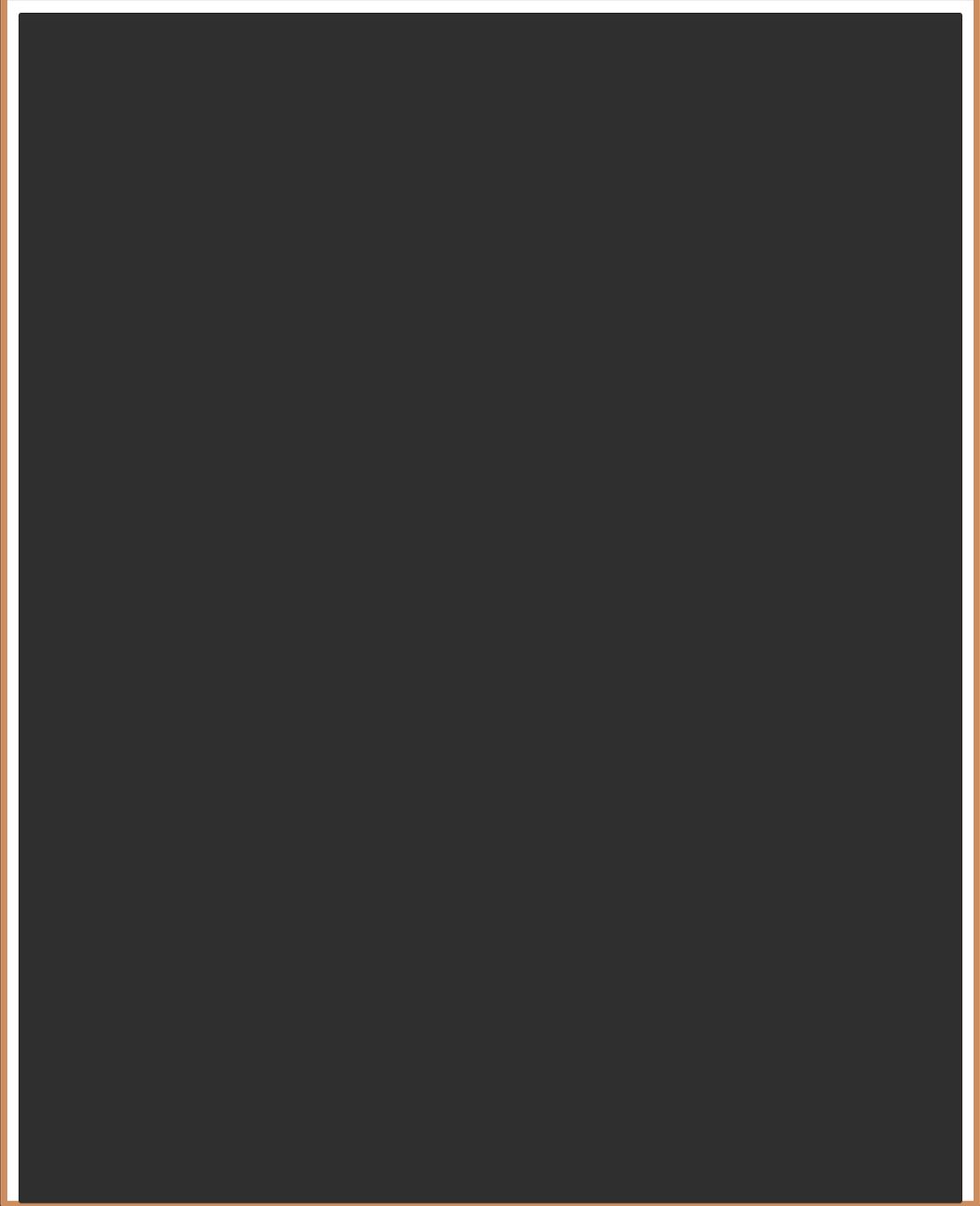
Please find attached the records responsive to your request. Note that we have redacted information that is subject to following:

- Information that is not a record of this office, pursuant to *State ex rel. Dispatch Printing Co. v. Johnson*, 106 Ohio St.3d 160, 2005-Ohio-4384, 833 N.E.2d 274.

If you have any questions or concerns regarding this response, please feel free to contact me at 555-555-5555.

Very respectfully yours,

Public Office Employee



Dear Requester,

I am writing in response to the public records request you submitted to this Public Office on DATE. Specifically, you requested “a copy of the personnel file for Public Employee.”

Please find attached the records responsive to your request. Note that we have withheld records that are subject to the following:

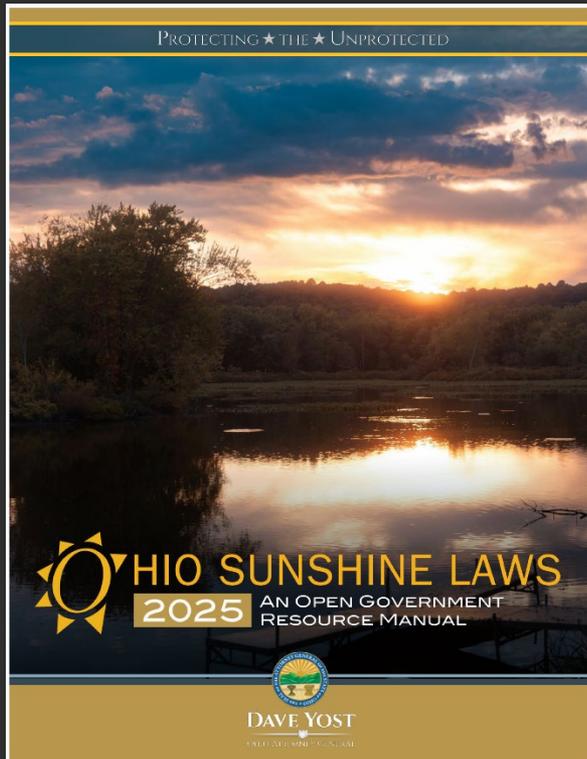
- Medical records, pursuant to R.C. 149.43(A)(1)(a) and R.C. 149.43(3).

If you have any questions or concerns regarding this response, please feel free to contact me at 555-555-5555.

Very respectfully yours,

Public Office Employee

MORE INFORMATION ON EXEMPTIONS



Statutory Provisions Exempting Records from the Ohio Public Records Act or Declaring Records Confidential

The chart below is designed to be a helpful tool in identifying specific statutory exemptions to public records disclosure. This list is not exhaustive and does not include exemptions that may exist in federal law or that come from common law or case law. In addition, the list does not include exemptions listed in the Public Records Act, R.C. 149.43, which are addressed elsewhere in the Sunshine Laws Manual.

Many of the exemptions apply to specific types of records, in specific circumstances, and only to specific public offices. Public offices and officials should consult their designated attorney and/or conduct independent legal research to determine if these exemptions apply or to determine if there are additional applicable exemptions in Ohio or federal law.

The statute citations in the left column are hyperlinked to the full text of the statute. These can also be found by searching the Ohio Revised Code at <https://codes.ohio.gov/ohio-revised-code>.

REVISED CODE SECTION	TOPIC
3.16(C)(2)	Records of a special commission formed by the Chief Justice of the Ohio Supreme Court to determine if a public official should be suspended as a result of being charged with a felony, but only until the special commission issues its written report.
9.235(C)(1)	Records of the receipt or expenditure of non-public money by the recipient of a contract with a governmental entity.
9.28(B)(C)	Materials submitted to a public office in response to a competitive solicitation, until the date the public office either announces the award of a contract based on the competitive solicitation or cancels the competitive solicitation. This applies even if the office rejects all bids, while at the same time issues notice of intent to reissue.
9.312(A)	Additional financial information requested by a state agency or political subdivision from an apparent low bidder on a public contract.
9.37(G)	Specified written authorizations provided by public officials under county, municipal, or township direct deposit payroll policies.
9.92(E) and 2981.12(F)	Records maintained relative to a citizens' reward program.
9.96(C)	Records of ownership, registration, transfer, and exchange of securities kept by a public issuer and contracted to a qualified financial institution.
101.30(B)	Legislative documents arising out of confidential General Assembly member/staff and legislative staff relationship.

www.ohioattorneygeneral.gov/Legal/Sunshine-Laws

WITHHOLD IN GOOD FAITH, OFFICES SHOULD CONSULT ATTORNEY WHEN IN DOUBT



THE PUBLIC RECORDS ACT IS A “SELF-HELP” STATUTE



*Citizens can sue a public office
themselves or through a private attorney*

TWO LITIGATION OPTIONS:

Mandamus lawsuit in court of common pleas, court of appeals, or Supreme Court of Ohio

OR

Public records procedure in Ohio Court of Claims

PRE-FILING COMPLAINT REQUIREMENT

- ✓ Requesters must serve a pre-filing complaint on the public office before they can sue
- ✓ Court of Claims provides the pre-filing complaint form



PRE-FILING COMPLAINT REQUIREMENT

- ✓ **After three business days, requester may sue**
- ✓ **Requester must affirm that pre-filing complaint process was followed**

MANDAMUS ASKS COURT TO ORDER OFFICE TO COMPLY WITH PUBLIC RECORDS ACT



MEDIATION MAY BE AVAILABLE IN MANDAMUS ACTIONS



STATUTORY DAMAGES MAY BE AWARDED IN A MANDAMUS LAWSUIT



- ✓ \$100/business day, starting with the filing of the mandamus action, until the office complies
- ✓ Capped at \$1,000

TO GET DAMAGES, THE REQUEST MUST BE DELIVERED TO THE PUBLIC OFFICE:



Certified
mail



By hand



Electronically
(email)



INMATES
CANNOT GET
STATUTORY
DAMAGES,
EVEN IF THEY
WIN
THE LAWSUIT

ATTORNEY FEES IN SUCCESSFUL MANDAMUS LAWSUIT

- ✓ **Court order to comply with PRA**
- ✓ **Fails to respond in reasonable period of time**
- ✓ **Promises records in certain timeframe**
- ✓ **Office acted in bad faith in providing records after lawsuit filed**

COMPLAINT IN COURT OF CLAIMS



COURT OF CLAIMS PROCESS

Complaint
form, \$25
filing fee

Mediation

Short
briefing
schedule

No discovery,
limited evidence

Report and
recommendation

Objections

Automatic
right to
appeal

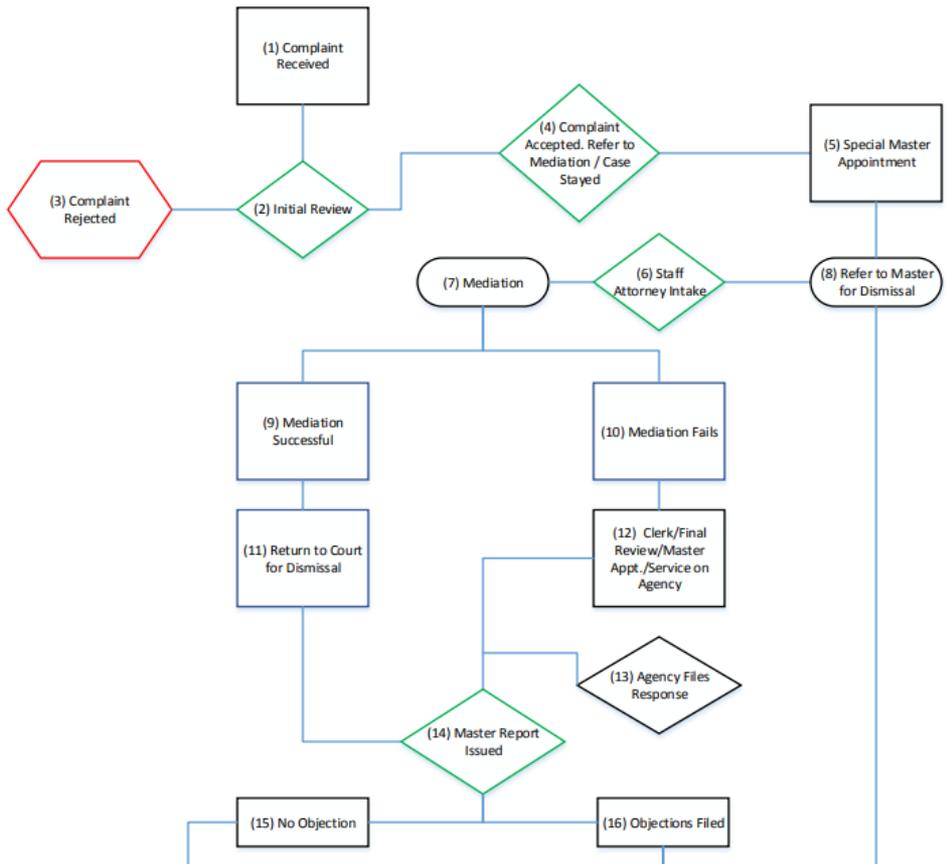
No
damages or
fees

OHIOCOURTOFCLAIMS.GOV/PUBLIC-RECORDS/



Court of Claims

Public Records Case Management Process



BEST PRACTICES TO AVOID LITIGATION



DOCUMENT ALL REQUESTS THE OFFICE RECEIVES

(NAME OF AGENCY/DEPARTMENT/SUBDIVISION)
LOG OF PUBLIC RECORDS REQUESTS
(PERIOD OF TIME COVERED BY LOG)

	Date Rec'd	Form of Request	Date of Response	Name of Requesting Person or Entity	Description of Records Requested	Copy of Released Records		Exemption Redaction		Legal Authority for Exemption Redaction	Name of Person Fulfilling Request
						Yes	No	Yes	No		
1											
2											
3											
4											
5											
6											
7											
8											
9											
10											
11											
12											
13											
14											
15											
16											
17											

Sample public records request log

DOCUMENT ALL REQUESTS THE OFFICE RECEIVES

- ✓ **Request**
- ✓ **Communications**
- ✓ **Steps taken**
- ✓ **Response**

STAY UP-TO-DATE ON PUBLIC RECORDS LAW



PUBLIC OFFICES MUST HAVE A PUBLIC RECORDS POLICY

Model Public Records Policy for Public Offices Pursuant to R.C. 149.43(E)

MISSION STATEMENT

Openness leads to a better informed citizenry, which leads to better government and better public policy. It is the mission and intent of [public office] to at all times fully comply with and abide by both the spirit and the letter of Ohio's Public Records Act.

DEFINING PUBLIC RECORDS

A "record" is defined to include the following: A document in any format – paper, electronic (including, but not limited to, business e-mail) – that is created, received by, or comes under the jurisdiction of [public office] that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office.

A "public record" is a "record" that is being kept by this office at the time a public records request is made, subject to applicable exemptions from disclosure under Ohio or federal law. All public records must be organized and maintained in such a way that they can be made available for inspection and copying.

RESPONSE TIMEFRAME

Public records are to be available for inspection during regular business hours. Public records must be made available for inspection promptly. Copies of public records must be made available within a reasonable period of time. "Prompt" and "reasonable" take into account the volume of records requested, the proximity of the location where the records are stored, the necessity for any legal review and redaction, and other facts and circumstances of the records requested.

It is the goal of [public office] that all requests for public records should be acknowledged in writing or, if feasible, satisfied within three business days following the office's receipt of the request.

HANDLING REQUESTS

No specific language is required to make a request for public records. However, the requester must at least identify the records requested with sufficient clarity to allow the office to identify, retrieve, and review the records.

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(s). It is this office's general policy that this information is not to be requested. However, the law does permit the office to ask for a written request, the requester's identity, and/or the intended use of the information requested, but only if (1) a written request or disclosure of identity or intended use would benefit the requester by enhancing the office's ability to identify, locate, or deliver the public records that have been requested, and (2) the

1

requester is first told that a written request is not required and that the requester may decline to reveal the requester's identity or intended use.

In processing the request, the office does not have an obligation to create new records or perform a search or research for information in the office's records. An electronic record is deemed to exist so long as a computer is already programmed to produce the record through the office's standard use of sorting, filtering, or querying features. Although not required by law, the office should consider generating new records when it makes sense and is practical under the circumstances.

In processing a request for inspection of a public record, an office employee may accompany the requester during inspection to make certain original records are not taken or altered.

A copy of the most recent edition of the Ohio Sunshine Laws Manual is available via the Attorney General's website (www.ohioattorneygeneral.gov/YellowBook) for the purpose of keeping employees of the office and the public educated as to the office's obligations under Ohio's Public Records Act, Ohio's Open Meetings Act, records retention laws, and Personal Information Systems Act.

ELECTRONIC RECORDS

Records in the form of e-mail, text messaging, and instant messaging, including those sent and received via a hand-held communications device, are to be treated in the same fashion as records in other formats, such as paper or audiotape.

Public record content transmitted to or from private accounts or personal devices is subject to disclosure. All employees or representatives of this office are required to retain their e-mail records and other electronic records in accordance with applicable records retention schedules.

DENIAL AND REDACTION OF RECORDS

If the requester makes an ambiguous or overly broad request or has difficulty in making a request such that the office cannot reasonably identify what public records are being requested, the request may be denied, but the office must then provide the requester an opportunity to revise the request by informing the requester of the manner in which records are maintained and accessed by the office.

If the office withholds, redacts, or otherwise denies requested records, it must provide an explanation, including legal authority, for the denial(s). If the initial request was made in writing, the explanation must also be in writing. If portions of a record are public and portions are exempt, the exempt portions may be redacted and the rest must be released. When making public records available for public inspection or copying, the office shall notify the requester of any redaction or make the redaction plainly visible.

2

COPYING AND MAILING COSTS

Those seeking public records may be charged only the actual cost of making copies, not labor. The charge for paper copies is **DD** cents per page. The charge for electronic files downloaded to a compact disc is **DD** per disc.

A requester may be required to pay in advance for the actual costs involved in providing the copy. The requester may choose whether to have the record duplicated upon paper, upon the same medium on which the public record is kept, or upon any other medium on which the office determines that the record can reasonably be duplicated as an integral part of the office's normal operations.

If a requester asks that documents be delivered to them, he or she may be charged the actual cost of the postage and mailing supplies, or other actual costs of delivery. There is no charge for e-mailed documents.

MANAGING RECORDS

[Public office]'s records are subject to records retention schedules. The office's current schedules are available at **location**, a location readily available to the public as required by Ohio Revised Code § 149.43(B)(2).

3

www.OhioAttorneyGeneral.gov/Sunshine

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PUBLIC RECORDS POLICY

DO NOT:

- ✓ Limit number of records available to one person
- ✓ Limit number of records available in fixed period of time
- ✓ Establish fixed period before office will respond to request

DO:

- ✓ Distribute policy
- ✓ Include policy in existing manual of policies
- ✓ Display poster of policy conspicuously in office

OFFICES MUST ORGANIZE
AND MAINTAIN RECORDS FOR
INSPECTION AND COPYING



IMPORTANCE OF GOOD RECORDS MANAGEMENT

More records
means more work

Identification of
records that can
be destroyed

Defensible and
consistent
disposition of
records

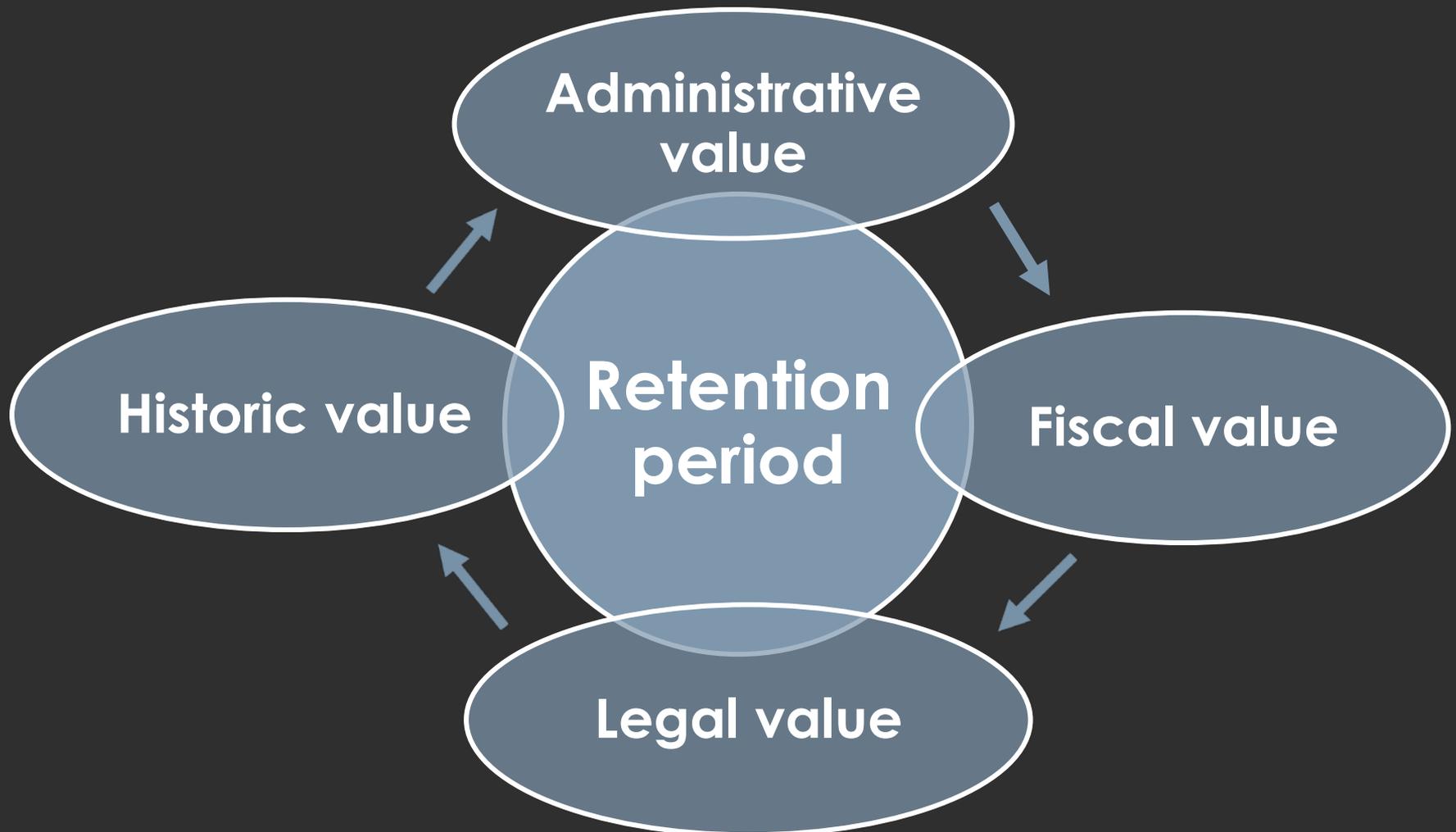
Removal of
inactive or
useless records
from public office

Compliance with
laws and
regulations

CONTENTS OF RECORDS RETENTION SCHEDULES

- ✓ **Title**
- ✓ **Description of purpose/function of records and types of information**
- ✓ **Retention period**
- ✓ **Retention format**
- ✓ **Disposal method**

FACTORS DETERMINING RECORD RETENTION PERIOD



RETENTION SCHEDULE APPROVAL PROCESS

Local Records Commission

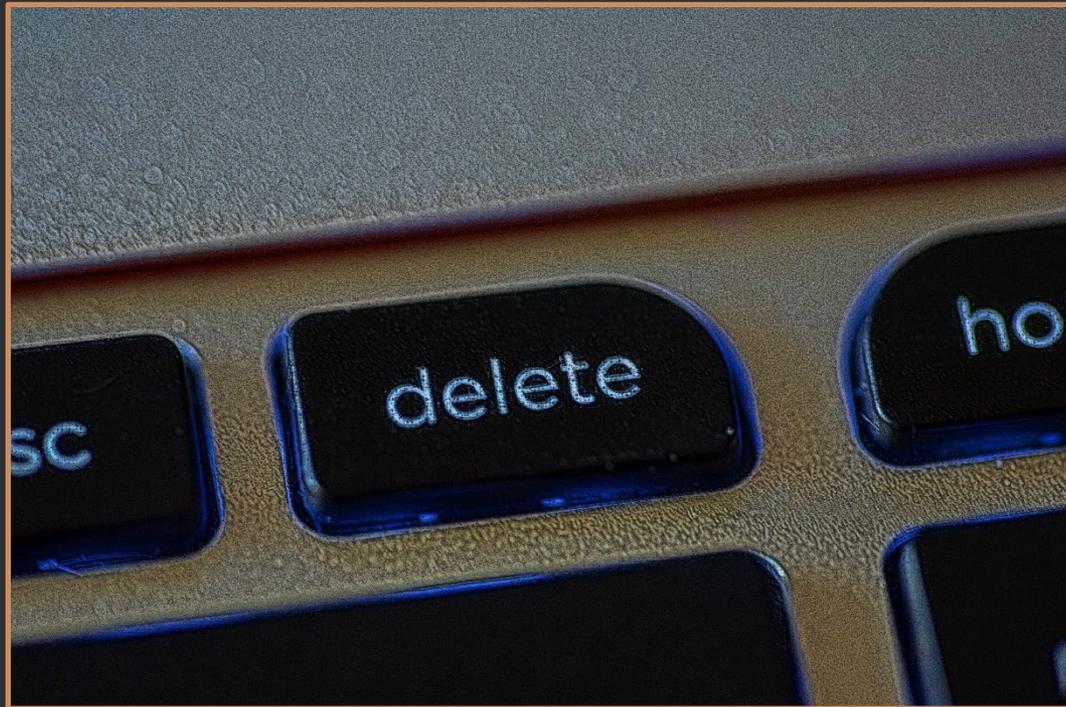


Ohio History Connection
(State Archives)



Auditor of State

OFFICES CAN ONLY DISPOSE OF RECORDS PURSUANT TO AN APPROVED RETENTION SCHEDULE



KEEP UP WITH RECORDS RETENTION SCHEDULES





MANAGING ELECTRONIC RECORDS

BEST PRACTICES FOR MANAGING ELECTRONIC RECORDS



UPDATE RETENTION

All informal communications which convey information of temporary importance in lieu of oral communication including telephone voicemail, chats, posts, instant, and text messages, post-it notes, drafts, generic emails, social media posts, and shared departmental calendars. These communications have very little administrative value as they do not set policy, establish guidelines, define procedures, certify a transaction, or become a receipt.

Record Series Title	Agency Series Author Number		Retention Period
Transient Documents	GAR-C 105517		Electronic – Retain until no longer of administrative value, then destroy. Paper – Retain until no longer of administrative value, then destroy.

MANAGING TRANSIENT RECORDS

“Thank you” emails, accepted/declined meeting requests, read receipts, etc.

Applicable records retention schedule in place

Delete immediately

No records retention schedule in place

Retain indefinitely

TRANSIENT RECORDS RETENTION SCHEDULE

Record Series Title	Agency and Series Authorization Numbers	Record Series Description	Confidential Description	Vital Description	Retention Period
Transient Documents	GAR-CM-04 10551778	All informal communications which convey information of temporary importance in lieu of oral communication including telephone voicemail, chats, posts, instant, and text messages, post-it notes, drafts, generic emails, social media posts, and shared departmental calendars. These communications have very little administrative value as they do not set policy, establish guidelines, define procedures, certify a transaction, or become a receipt.			Electronic – Retain until no longer of administrative value, then destroy. Paper – Retain until no longer of administrative value, then destroy.

LITIGATION AND REMEDIES FOR IMPROPER DISPOSAL

- ✓ **Civil lawsuit**
- ✓ **Court of Claims proceeding**
- ✓ **Forfeiture of \$1,000 per violation**
- ✓ **Attorney fees**

RECORDS MANAGEMENT RESOURCES



Ohio History Connection
& State Archives

Ohio
Department of
Administrative
Services

DAS General Retention
Schedule



Ohio Electronic Records
Committee (OhioERC)



Ohio County Archivists
and Records Managers
Asso.

OPEN MEETINGS ACT TRAINING OVERVIEW

- ✓ **What is a “public body”**
- ✓ **What is a “meeting”**
- ✓ **Obligations of public bodies**
- ✓ **Executive session**
- ✓ **Litigation and liabilities**

THE OPEN MEETINGS ACT
APPLIES TO THE
“MEETINGS” OF
“PUBLIC BODIES”



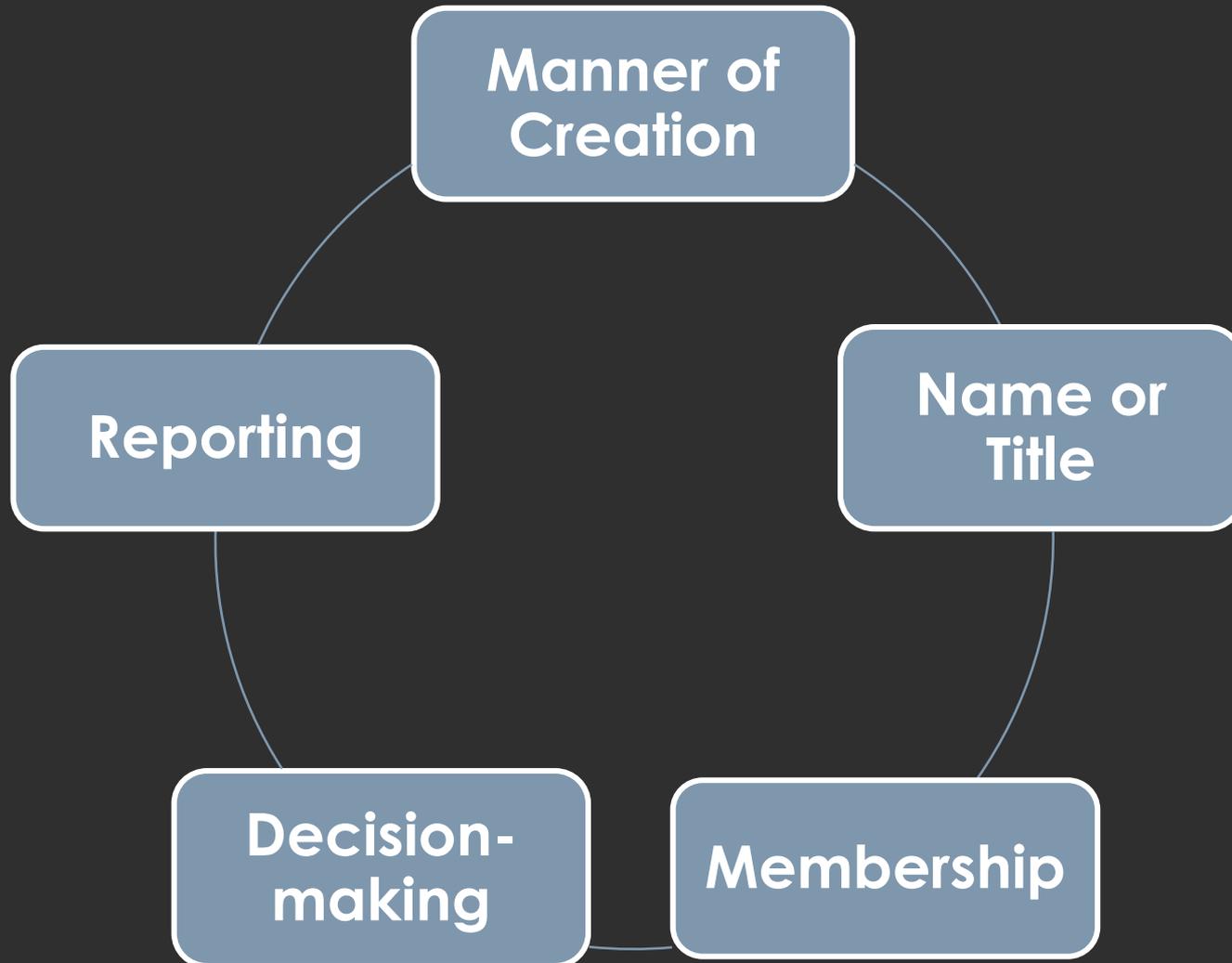
WHAT IS A “PUBLIC BODY”



COMMITTEES OF A PUBLIC BODY



WHAT IS A “PUBLIC BODY”?



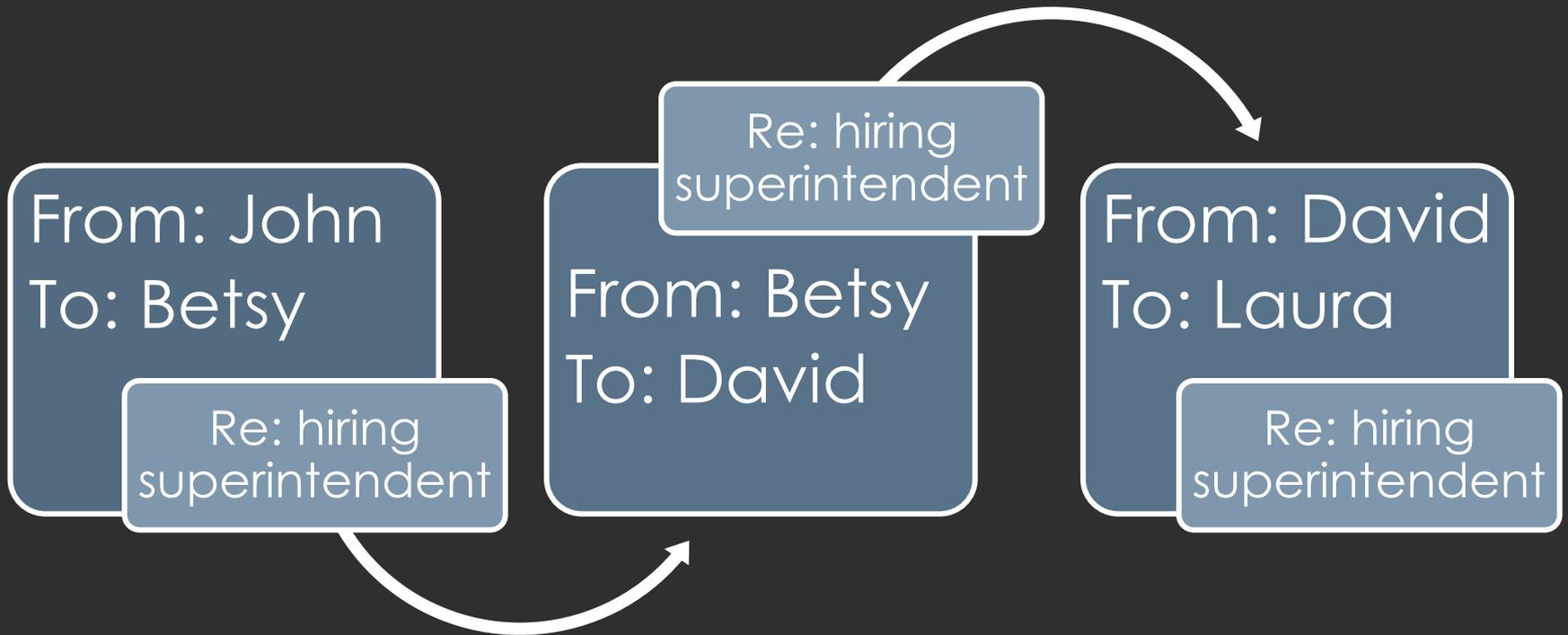
WHAT IS A “PUBLIC BODY”?



WHAT IS A “MEETING”?

- (1) A prearranged**
- (2) Discussion of public business**
- (3) By a majority of members of public body**

WHEN IS A MEETING “PREARRANGED”?



WHEN IS A MEETING “PREARRANGED”?



A “MEETING” HAS DISCUSSION AND DELIBERATION OF “OFFICIAL BUSINESS”





A MEETING
IS STILL A
MEETING
EVEN IF
CALLED
SOMETHING
ELSE

WHEN A PUBLIC BODY MEETS IT MUST:

Give notice

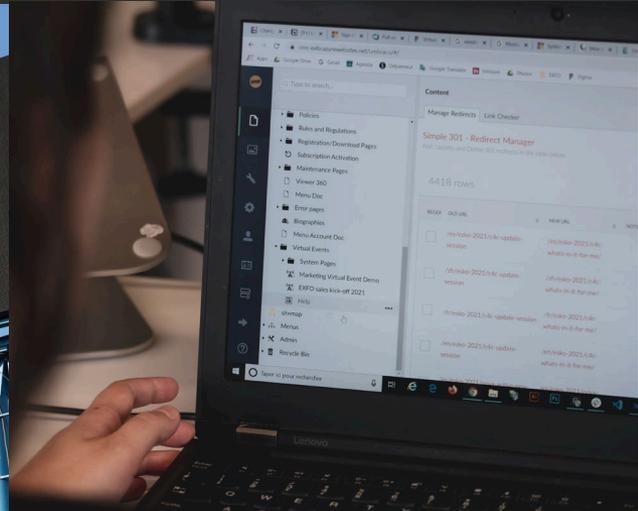
A white downward-pointing arrow with a black outline, positioned between the first and second boxes.

Keep meetings
open

A white downward-pointing arrow with a black outline, positioned between the second and third boxes.

Keep minutes

OPEN MEETING OBLIGATION 1: NOTICE



Regular meeting:

prescheduled intervals, e.g.,
first Thursday of every month

Special meeting: any meeting
that is not held on the regular
meeting date

Emergency meeting: a special
meeting when an issue
requires immediate action

Virtual meeting: meeting via
video- or teleconference
(only bodies with authority)



Regular meeting

Time

Place

Special meeting

Time

Place

Purpose

Virtual meeting

Time

Location

Agenda

How

OPEN MEETING OBLIGATION 2: OPENNESS

- ✓ **Deliberate in public**
- ✓ **Vote in public**
- ✓ **Take official actions in public**

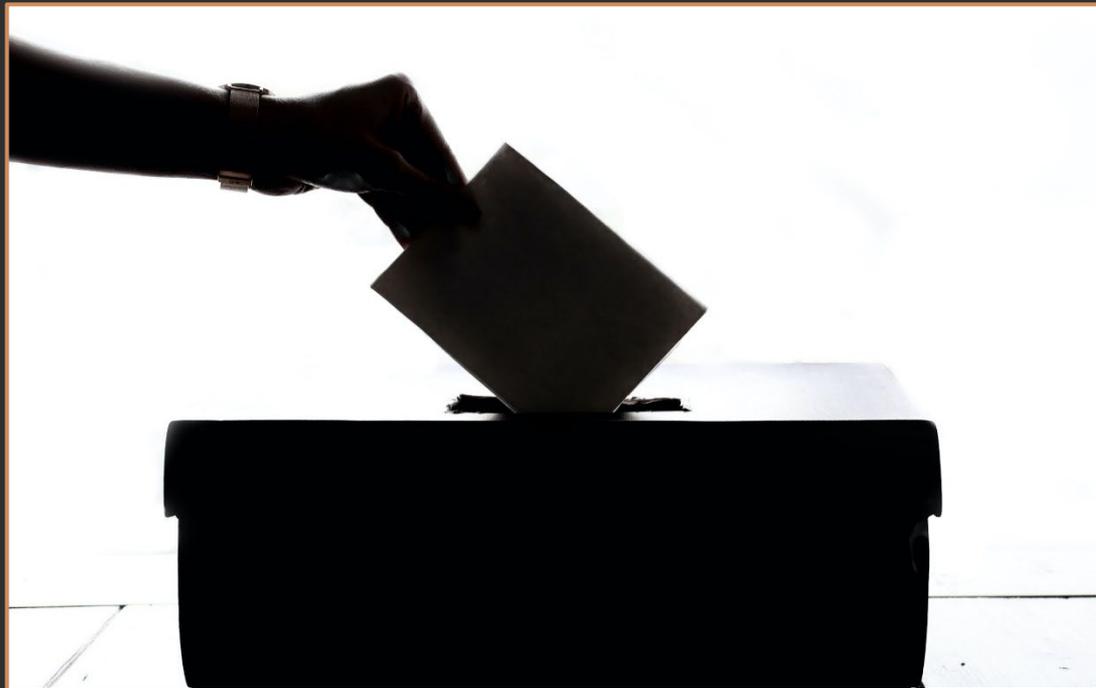
FORUM REQUIREMENTS OF OPEN MEETINGS



ALL DELIBERATION AND DECISION-MAKING MUST BE IN OPEN MEETINGS



NO SECRET BALLOTS, WHISPERING, AND CAUTION IF VOTING ON A CONSENT AGENDA





SOME PUBLIC
BODIES HAVE
STATUTES THAT
AUTHORIZE
THEM TO MEET
VIRTUALLY

A PUBLIC BODY CANNOT MEET BY VIDEO CONFERENCE OR OTHER ELECTRONIC MEANS IF ITS MEMBERS:

- ✓ *Are compensated for their positions*
- OR
- ✓ *Are elected by the general public*



Virtual Meeting Policy Requirements:

- ✓ At least 72-hours' notice with time, location, agenda, and how meeting will be conducted
- ✓ A way for the public to see and hear the meeting, e.g., livestreaming or other similar electronic technology
- ✓ All votes taken by roll call unless a unanimous consent motion is adopted
- ✓ Members attending remotely must notify chair at least 48 hours before meeting

RECORDING AND SPEAKING AT OPEN MEETINGS



OPEN MEETING OBLIGATION 3: MINUTES

Minutes must be:

- ✓ **Promptly prepared**
- ✓ **Filed**
- ✓ **Maintained by public body**

MEETING MINUTES (INCLUDING DRAFTS) ARE PUBLIC RECORDS

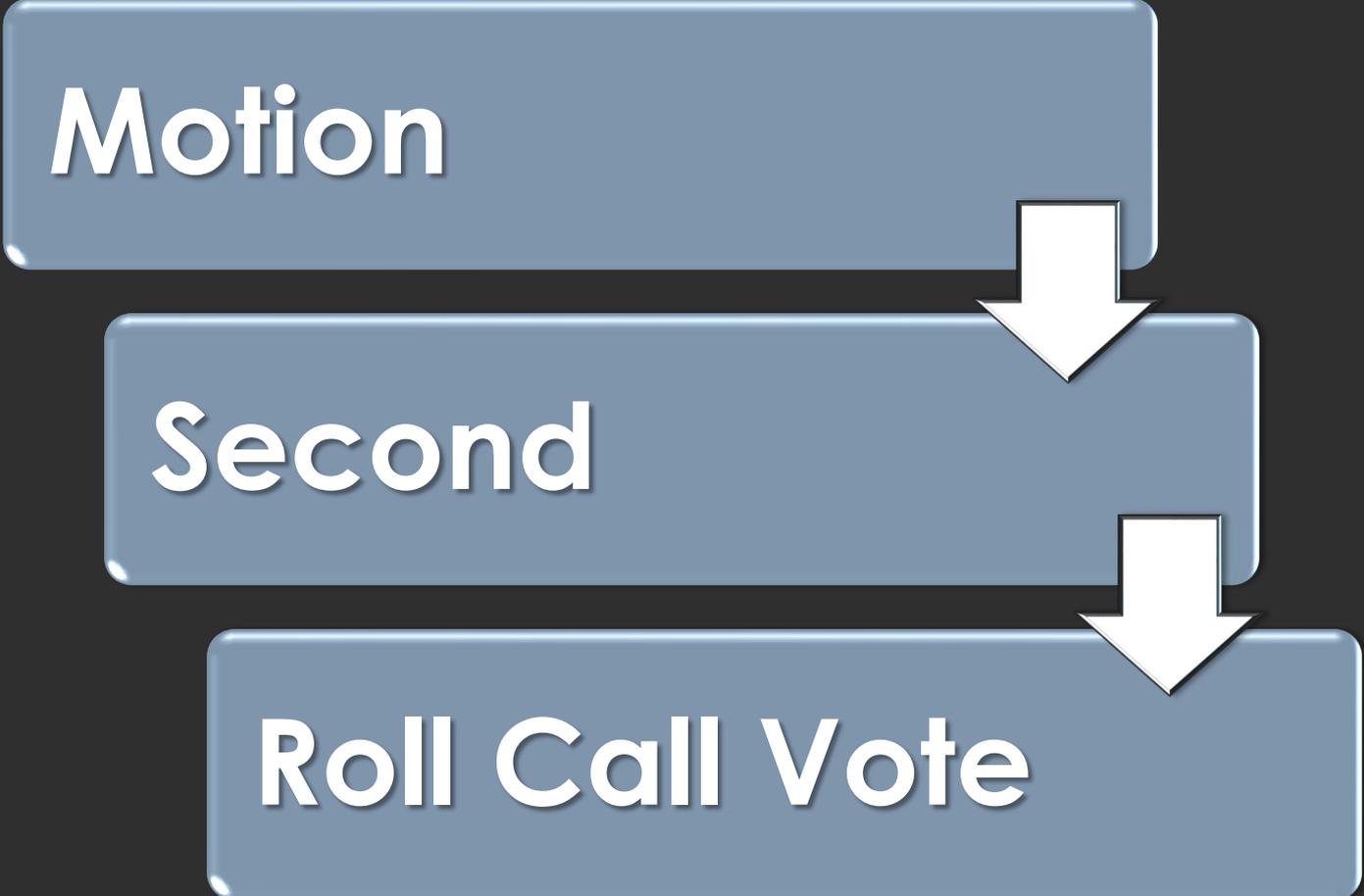


OPENNESS EXCEPTION: EXECUTIVE SESSION



VOTING PROCEDURE TO CONVENE EXECUTIVE SESSION

Motion



```
graph TD; A[Motion] --> B[Second]; B --> C[Roll Call Vote];
```

Second

Roll Call Vote

EXECUTIVE SESSION MUST OCCUR AFTER MEETING OPENS AND BEFORE MEETING CLOSES



NINE PERMISSIBLE EXECUTIVE SESSION TOPICS

- 1) **Certain personnel matters (must be specific)**
- 2) **Purchase or sale of property**
- 3) **Pending or imminent court action**
- 4) **Collective bargaining matters**
- 5) **Matters required to be kept confidential**
- 6) **Security matters**
- 7) **Hospital trade secrets**
- 8) **Confidential business information of an applicant for economic development assistance**
- 9) **Veterans Service Commission applications**

EXECUTIVE SESSION TOPIC: PERSONNEL MATTERS



- ✓ Appointment
- ✓ Employment
- ✓ Dismissal
- ✓ Discipline
- ✓ Promotion
- ✓ Demotion
- ✓ Compensation

PERSONNEL MATTERS



** Laws vary by appellate district on whether public body can discuss more than one person*

** Cannot consider discipline or removal of an elected official*

EXECUTIVE SESSION TOPIC: PENDING OR IMMINENT COURT ACTION



EXECUTIVE SESSION TOPIC: MATTERS REQUIRED TO BE CONFIDENTIAL



There must be a state or federal law or regulation that makes the matter confidential

WHO CAN BE PRESENT IN EXECUTIVE SESSION?

- ✓ **Members of the public body**
- ✓ **Majority cannot exclude minority**
- ✓ **Anyone members invite**

DO NOT VOTE OR MAKE DECISIONS IN EXECUTIVE SESSION



DISCUSSION AND
DOCUMENTS IN EXECUTIVE
SESSION MAY
NOT BE CONFIDENTIAL



DO NOT HAVE TO KEEP MINUTES IN EXECUTIVE SESSION

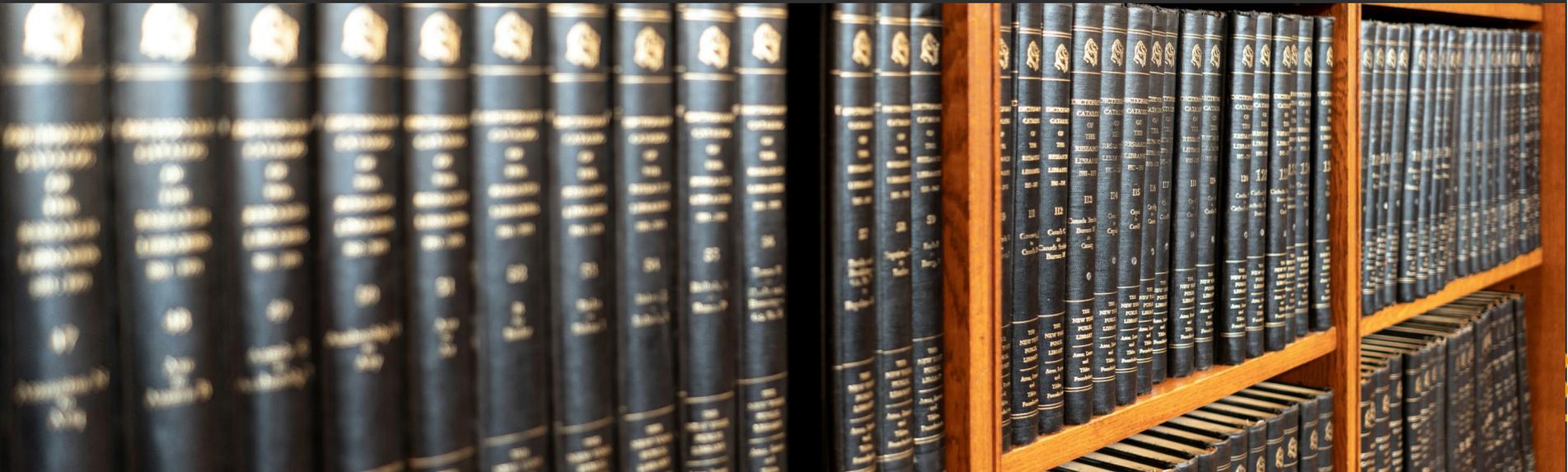


DOCUMENTS DISCUSSED IN EXECUTIVE SESSION MAY BE PUBLIC RECORDS



THE OPEN MEETINGS ACT IS A “SELF-HELP” STATUTE

*Citizens can sue a public body
themselves or through a private attorney*



REMEDIES FOR VIOLATING THE OPEN MEETINGS ACT

- ✓ **Fine of \$500 per violation**
- ✓ **Attorney fees
(if applicable)**
- ✓ **Invalidation of action(s)**
- ✓ **Removal from office**



OHIO SUNSHINE LAWS MANUAL

www.OhioAttorneyGeneral.gov/YellowBook

DAVE YOST
OHIO ATTORNEY GENERAL

[Legal](#) > Sunshine Laws

Ohio's Sunshine Laws and the role of the AGO

Ohio's Public Records and Open Meetings laws, collectively known as the state's "Sunshine Laws," give citizens access to government records and meetings. These laws allow citizens to monitor their elected officials and governmental agencies at every level, making them fundamental to democracy. The Ohio Attorney General's Office (AGO) is committed to these ideals; we help citizens see and know what their government is doing by providing:

- ✓ [The Sunshine Laws Manual](#), a comprehensive guidebook published annually.
- ✓ [Three-hour trainings](#) that cover the Sunshine Laws in depth. Trainings are offered as bimonthly virtual webinars and on-demand videos. Trainings are free, are available to the public, and fulfill the training requirement for elected officials or their designees.
- ✓ A [model public-records policy](#) that local governments can use as a guide when creating their own policies, and a [model policy for law enforcement agencies](#) to use as a guide on charging for production of video records.

Public Records Act Open Meetings Act Sunshine Laws Manual Exemptions in Ohio Statutes Training

Tips for making, responding to records requests The 2025 Sunsh

ATTORNEY GENERAL'S OFFICE SUNSHINE LAWS WEBPAGE

www.OhioAttorneyGeneral.gov/Sunshine

ATTORNEY GENERAL'S OFFICE PUBLIC RECORDS UNIT

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CREDIT AND PROOF OF ATTENDANCE



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Public Records Act



Open Meetings Act



Sunshine Laws Manual



Exemptions in Ohio Statutes



Trainings

