

# **Center Township - Columbiana County Ohio**

## **Public Records Policy**

### **Introduction:**

**It is the policy of Center Township of Columbiana County, Ohio that openness leads to a better informed citizenry, which leads to more transparent government and sound public policy. It is our policy to strictly adhere to the state's Public Records Act as well as other state and federal laws.**

**Ohio's Public Records Act imposes two primary obligations upon public offices:**

- 1. Provide prompt inspection of public records (R.C. 149.43) (B) (1)**
- 2. Provide copies of public records within a reasonable period of time (R.C.149.43) (B) (2)**

**The Public Records Act evolved from the principle that Ohio citizens are entitled to access the records of their government. We agree that to advance that principle, the Public Records Act should be interpreted liberally in favor of disclosure.**

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

**Under Ohio law, a public office may only create records that are necessary for the adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the agency and for the protection of the legal and financial rights of the state of Ohio and persons directly affected by the agency's activities. (R.C. 149.40)**

**In accordance with Ohio Revised Code and court rulings, "records" are defined as those items that meet all of the following:**

- 1. Any document, device, or item, regardless of physical form or characteristic, including an electronic record, which includes but not limited to email or other records created, generated, sent, communicated, received, or stored by electronic means.**
- 2. That is created or received by, or coming under the jurisdiction of a public office. And that documents the organization, functions, policies, decisions, procedures, operations or other activities of the office. (R.C.149.011) (G)**

## **Section 1 cont.**

The determination of whether a specific item constitutes a record will depend on the facts and circumstances surrounding the particular item requested. The Ohio Supreme Court has imposed an actual use standard in defining a "record" which means that an item is not automatically a record simply because the public office could (but did not) use a document it received to carry out its duties and responsibilities.

Furthermore, a public office is not required to create new records to respond to public records requests, even if it is only a matter of compiling information from existing records.

## **Section 1.1**

It is the policy of Center Township that as required by Ohio law, records will be organized and maintained so that they are made available for inspection to any person at all reasonable times during regular business hours. (R.C. 149.43) ( B ) ( I )

Copies will be made available upon request within a reasonable period of time. A records retention schedule will be readily available to the public upon request. (R.C. 149.43) (B) (2)

## **Section 1.2**

Not all of Center Township's records are "public records". Certain records are exempt from the Public Records Act. Exempt records include records: 1. The release of which is prohibited by state or federal law. 2. That is subject to an express exception set forth in Ohio Public Records Act, which may be released only if Center Township decides to waive the express exception.

Examples of records the release of which is prohibited by state or federal law, include but not limited to the following:

**Attorney-Client privileged information**

**Records of a Certified Public Accountant or public accountant in the performance of an audit of a public office (R.C. 4701.19) (B)**

**Federal Tax returns (26 U.S.C. 6103 (A))**

**Criminal background information and other law enforcement information on the LEADS/CCHINCIC computer database (42 USC. 3789 (G) )**

**Records that have been sealed pursuant to a statutorily authorized court order**



## **Section 1.2 cont.**

**Peace officer's home address during a pending criminal case in which officer is a witness or arresting officer. ( ORC 2921 (A) )**

**Employees and their family members records that were created for the purposes of the Family Medical Leave Act or the Americans Disabilities Act (29 CFR 825.500 (G) )**

**Examples of records that are subject to an express exception set forth in Ohio's Public Records Act, which may be released only if Center Township Trustees decides to waive the express exception included, but are not limited to the following:**

**Peace officer, firefighter, EMT, prosecutor, assistant prosecutor, children services worker or correction officer. Residential and familial information (RC. 149.43 (A) (7) )**

**Records that pertain to a patient's medical history, diagnosis, or medical condition and that were general and maintained in the process of medical treatment (ORC 149.43 (A) 1 a )**

**Records that contain information that specifically compiled in reasonable anticipation of, or in defense of a civil or criminal action or proceeding (ORC 149.43 (A) 1 g )**

**Records that pertain to a law enforcement matter of a criminal quasi criminal, civil, or administrative nature and that if released would create a high probability of disclosing any of the following information:**

**1. The identity of an uncharged suspect 2. The identity of a confidential source 3. Specific confidential investigatory techniques or procedures 4. Specific investigative work product 5. Information that would endanger the life or physical safety of law enforcement, crime victim, a witness or a confidential source. (ORC 149.43 (A) 2)**

**The exemptions to the Public Records Act will be narrowly construed by this township in the favor of disclosure. This township may seek a legal review prior to determining if an exception applies.**

## **Section 2.0 Records 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 this office to identify, retrieve and review the records. If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records such that this office cannot reasonably identify what records are to be requested, then this office may deny the request. In such cases this office will provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by this office and accessed in the ordinary course of this office's duties. (ORC 149.43 (B) 2)

## **Section 2.2**

The requester does not have to put a records request in writing and does not have to provide identity or the intended use of the requested public records. However, the records custodian may ask for requester's identity if it would help deliver the records being sought. And the requester was informed that identity and use of the records are not required. (ORC 149.43 (B) 5)

## **Section 2.3**

Public records should be made available promptly for inspection during normal posted business hours. Copies of records should be made available within a reasonable period of time. (ORC 149.43 (B) 1 ) Determination of the terms *prompt* and *reasonable* takes into account the volume of records requested, and the need for legal review of requested records. This office will communicate with requesters on progress of request if this office is given requester's contact information. Each request should be evaluated for an estimated length of time required to gather records. Routine requests such as meeting minutes and resolutions should be satisfied immediately.

## **Section 2.4**

Upon request, this office will provide copies of public records to a requester by U.S. mail or by any other delivery means or transmission that this office deems reasonable. (ORC 149.43 (B) 7)

This office will limit the number of copies of public records provided per month to ten (10) provided through the U.S. Mail, unless requester certifies in writing that these records are not intended for commercial purposes or forward the records, or the information contained in them for commercial purposes. (The word commercial should be narrowly construed and does not include reporting or gathering news, reporting gathering information to assist citizen oversight or understanding of the operating or activities of government, or nonprofit educational research.) (ORC. 149.43 (B) 7)



## **Section 2.5**

**By Ohio law, this office is not required to permit a person who is incarcerated pursuant to a criminal conviction or juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation of prosecution or concerning what would be a criminal investigation if the subject of the investigation or prosecution were an adult, unless the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office finds that the information sought in the public records is necessary to support what appears to be a justifiable claim of the person. ( ORC> 149.43 (B) 8)**

## **Section 2.6**

**This office, in response to a written request made and signed by a journalist, which must include the journalist's name, title and name and address of the journalist employer and which states that the disclosure of information sought would be in the public interest, will provide the address of the actual personal residence of anyone employed by this office as a peace officer, firefighter, EMT, prosecutor, children's services worker or corrections officer and if such employee's spouse, former spouse or child is employed by a public office, the name and address of that public office. (ORC 149.43(B)9)**

## **Section 2.7**

**Any denial of public records requested in part or in whole should include an explanation including legal authority, as to why the request was denied. If the initial request was provided in writing the explanation for denial will be provided to the requester in writing. (ORC. 149.43(B)3)**

**If portions of a record are public and portions are exempt the exempt portions should be redacted and the rest released. If there are redactions the office will notify the requester of any redactions or make the redactions plainly visible. Each redaction should be accompanied by a supporting explanation, including legal authority as to why the redaction was made. (ORC. 149.43(B) (1) and 2)**

## **Section 2.8**

**This office has no duty to provide records acquired after a request for records is complete.**

## **Section 3.0 Cost for public records**

Those receiving public records should be charged only the actual cost of making copies, unless the cost is otherwise set by statute. (ORC> 149.43 (B) (I)) Employee time should not be calculated into the Section

charge for copying a public record. However, in the event that circumstances make it reasonable for this office to hire an outside contractor to make copies of requested records the requester may be charged the actual cost paid to the outside contractor for the copy service. (ORC. 149.43(F) 2 a) These circumstances may include but are not limited to the lack of in-house copying resources or labor.

This office has no duty to provide copies of public records free of charge to someone who indicates an inability or willingness to pay for them.

### **Section 3.1**

The charge for copies is ten cents per page.

### **Section 3.2**

This office may require a requester to pay in advance the cost involved in providing the copy of the requested record. (ORC> 149.43(B) 6)

### **Section 3.3**

Upon request, this office will provide copies of public records to a requester by United Statemail or by any other delivery means or transmission that this office deems reasonable. This office may require such a requester to pay in advance the cost of postage or costs incurred for other supplies used in mailing, delivery, or transmission.

(ORC> 149.43(B) 7)

### **Section 3.4**

There may be instances when this office may be able to provide copies made in house but may require extra time. In that instance this office may offer the requester the options of :

1. Having documents produced through a faster method.
2. Using external private contractor
3. Having the documents produced in-house by this public office's normal staff and equipment in a less efficient and more time consuming manner.

#### **Section 4.0 Failure to respond to a public records request**

**This office 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 failing to comply may cause. This township office failure to comply with a request may result in the requester commencing a mandamus action against this office in either court of common pleas, or higher courts of law thereafter.**

**The court may order this office to comply with the Public Records Act as well as order payment for statutory damages of one hundred dollars for each business day, beginning with the day the requester files the mandamus action, up to one thousand dollars as well as court cost and the requester's reasonable attorney fees.**

#### **Section 5 Adoption and Amendments**

**This policy was adopted by resolution 02222023 during the public meeting of the Center Township Trustees on February, 22nd 2023.**