



**TED STRICKLAND**  
GOVERNOR  
STATE OF OHIO

# Public Records Policy and Procedures

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*“Ohio has one of the most broad public information laws in the country – and that’s as it should be. Because an important part of earning the people’s trust is letting the people see what we’re doing. I believe in transparency in what this administration does. I believe in it as a policy, and I believe in it as a practice. “*

Governor Ted Strickland

- I. **Public Records Defined.** The Governor’s Office, in accordance with the Public Records Act (Section 149.43 of the Ohio Revised Code), defines a “public record” as including the following:

Any item (1) that is stored on a fixed medium (i.e., paper, computer, film); (2) that is created, received, or sent by a public office; and (3) that documents the organization, functions, policies, decisions, procedures, operations or other activities of the Governor’s Office.

- A. **Public Record Status Dependent on Use and Substance.** The determination of whether a particular item is a public record focuses on the use and substance of the document or record, not on the form of the document or record, or where and how it was created.
- B. **E-mail as Public Record.** Documents in electronic mail format are records as defined by the Public Records Act when their content relates to the business of the office, or are used to conduct public business. E-mail is to be treated in the same fashion as records in other formats and should follow the same retention schedules.

- C. Use of Private E-mail Accounts for Public Business.** The Governor’s Office discourages the use of private e-mail accounts (*e.g.* Gmail, Yahoo, AOL, or any other private internet provider accounts) to conduct public business. However, the Governor’s Office recognizes that staff cannot always prevent third-parties from sending e-mails related to public business to staff private e-mail accounts. Any correspondence and/or documents created with or in private e-mail accounts which are used to conduct public business are public records and subject to disclosure. Governor’s Office employees are instructed to retain any private-account e-mails that relate to public business and to copy them to their State e-mail accounts and/or to the Governor’s Record Officer.
  
- II. Public Record Maintenance and Organization.** The Governor’s Office shall organize and maintain all public records in a manner that serves both the administrative needs of the office, as well as the public’s interest in the availability of those records for inspection and copying.

  - A. Governor’s Record Officer.** The Governor shall designate a Governor’s Record Officer who shall have the authority and responsibility of agency record officers as set forth at Chapter 149:1-1-02(A) of the Ohio Administrative Code. The Governor’s Record Officer shall also act as the coordinator for Governor’s Office records maintenance, as well as the supervisor and coordinator of all responses made to requests for public records.
  
  - B. Record Retention Schedule to be Posted.** Governor’s Office record retention schedules are to be updated regularly and posted prominently at the Department of Administrative Services (DAS) website:  
<http://gsdprint.das.ohio.gov/records/index.html>.
  
- III. Record Requests.** Each request for public records should be evaluated for a response using the following guidelines:

  - A. Identification of Requested Record(s).** Although the Public Records Act does not require that specific language is required to make a public records request, the requester must identify the records requested with sufficient clarity to allow the public office to identify, retrieve, and review those records. If a request is received by the Governor’s Office, and it is not clear what records are being sought, the Governor’s Record Officer will contact the requester for clarification, and assist the requester in revising the request by informing the requester of the manner in which the office maintains its records.

- B. Form of Request.** Requesters are encouraged to make any and all public records requests to the Governor’s Office in written form. While the requester does not have to put a records request in writing, a written request enables the Governor’s Office to identify responsive records with greater speed and accuracy, and to maintain a log of requests and responses.
- 1. Identification of Requester and Intended Use of Records.** A requester does not have to provide his or her identity or the intended use of the requested public record(s). It is the Governor’s Office general policy that this information is not to be requested. In some cases, however, such information could enhance the ability of the Governor’s Office to identify, locate, and/or deliver responsive public records in response to the request. If the Governor’s Record Officer reviews a public records request and determines in his or her reasonable judgment that additional information would enhance the Office’s ability to identify, locate and/or deliver responsive records, Governor’s Office staff may ask the requester to: (i) put the request in writing, (ii) provide his or her name and address, and/or (iii) explain the purpose of the request or intended use of the information provided that the requester is informed that a written request is not mandatory and that the requester may decline to reveal his or her identity, address and the intended use of the records.
  - 2. Identification of Requester Contact Information.** While the Governor’s Office respects the right of requesters to withhold their identity, the Governor’s Office does require that requesters provide a means for the Governor’s Office to communicate with them about their request, and to ultimately identify the location where responsive public records are to be forwarded. Said means of communication may consist of an e-mail address, mailing address or P.O. box, or telephone number.
  - 3. Public Record Request Log.** All public record requests shall be entered into a log to record the following: name (if provided) and address (mail or e-mail) of requester; date request received; records requested; redactions and/or exemptions asserted (if any); and date of response.
- C. Availability of Records.** 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 form of the requested records; the proximity of the location where the records are stored; and the necessity for any pre-release review of the records requested.

**D. Responses to be Completed within a Reasonable Time.** Responses to public record requests will be completed in a reasonable time taking into account the scope of the request, the ease or difficulty of identifying, compiling and reviewing potentially responsive records, and the operational needs of the Governor's Office.

- 1. Routine Requests.** Routine requests for records should be satisfied in an expedient manner. Routine requests include requests for materials that do not require either an extensive search for responsive documents or detailed pre-release review (*e.g.*, press releases, forms and applications, and personnel rosters). However, if more than fifty (50) pages of copies are requested, it may be necessary for the Governor's Office either to schedule an appointment with the requester for hand-delivery or to request an address where copies can be mailed or e-mailed.
- 2. Non-Routine Requests.** If a request is deemed beyond "routine," such as seeking a voluminous number of copies or requiring an extensive search for materials or pre-release review, the Governor's office shall acknowledge receipt of the request in writing. Further, the written acknowledgement must include the following:
  - a)** An estimate of the time it will take to satisfy the request;
  - b)** An estimated cost to be borne by the requester if the request is fulfilled or an indication that any such costs will be waived; and
  - c)** Identification of the type of items within the responsive records that may be exempt from disclosure and/or subject to redaction.
- 3. Review of All Requests.**
  - a) Notice to Governor's Record Officer.** All public record requests will be referred promptly to the Governor's Record Officer within three (3) working days of receipt of the request. The Governor's Record Officer will assist, coordinate and supervise the response to all public records requests.

- b) Pre-release Review.** The Governor’s Office has an affirmative duty to review any and all records deemed initially responsive to a public records request. This pre-release review is required to prevent disclosure of personal information that may be protected by state and federal privacy laws (i.e., certain Social Security, account numbers and medical information), and certain confidential records which must not be disclosed under penalty of law (i.e., certain investigatory, criminal and education records). Additionally, documents must undergo a pre-release review to identify material protected by attorney-client and executive privilege, as well as to redact critical security and infrastructure records. Such records may be exempt from public disclosure under the Ohio Public Records Act.
- c) Waiver of Exemption.** The availability of a privilege or an exemption under Ohio law shall not result in the automatic assertion of such privilege or exemption by the Governor’s Office to deny the release of any public record, or any part of a public record. The Governor’s Office will evaluate each potential assertion of any privilege or exemption by weighing the public’s interest in disclosure against the public’s interest in preventing the release of protected and confidential information. The Governor’s Office may choose to waive any and all available assertions of privilege or exemption when providing responsive materials to a public records request. Waiver of any privilege and/or exemption should not be construed to waive, and does not in fact waive, any right to the future assertion of privilege and/or exemption.
- d) Denial of Public Records Request.** Any denial of public records requested must include an explanation, including legal authority. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the remainder released. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority.

**E. Calculation of Costs for Public Records.**

- 1. Actual Costs.** Those seeking public records will be charged only the actual cost of making copies, including charges for the following:

  - a)** The charge for paper copies is 5 cents (\$.05) per 8 ½” by 11” page. Two-sided photocopies shall be charged at the rate of 10 cents (\$.10) per page.

Documents which require copies larger than 8 ½” by 11” may require the payment of an additional fee which shall reflect the actual costs of copying.
  - b)** The charge for downloaded computer files to a disc is one dollar (\$1.00) per disc.
  - c)** There is no charge for documents e-mailed, except where third-party software and/or services are required to e-mail large electronic files.
  - d)** Requesters may ask that documents be mailed to them. They may be charged the actual cost of the postage and mailing supplies.
- 2. Pre-payment of Costs.** Advance payment is required for all actual costs which are anticipated to exceed ten dollars (\$10.00).
- 3. Waiver of Costs.** The Governor’s Office may choose to waive any and all costs associated with compliance with a public records request. Any waiver of costs should not be construed to waive, and does not in fact waive any right to the assertion of the Governor’s Office to request and collect actual costs of compliance with a later public records request.