

## SECTION 2.13 PUBLIC RECORDS POLICY (Requests for Public Records, Records Retention and Personnel Files)

### OVERVIEW

- A. As a public office of the State of Ohio, Hamilton County is subject to the Ohio Public Records Act (ORC 149.43), which provides for prompt inspection of public records and requires that copies of existing public records be provided in a reasonable period of time. Compliance with the Public Records Act is subject to audit by the State Auditor.
- B. The purpose of this policy is to provide employees of the Board of County Commissioners with information regarding the Public Records Act, to establish procedures for responding to requests for public records, and to establish procedures for the maintenance of departmental records and personnel files.

### GUIDELINES

- C. A two-stage analysis is required under the Public Records Act to determine what documents or electronic/recorded information is subject to public access. The first step is to determine if the document or electronic/recorded information qualifies as a "record." ORC Section 149.011(G) defines a "record" to be any document, device, or item, regardless of physical form or characteristics, including an electronic record, created or received by or coming under the jurisdiction of any public office of the state or political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations or other activities of the office. Documents or electronic/recorded information that does not document public office activities in this manner are not subject to the Public Records Act and are not subject to public access. For example, an email between employees setting a lunch date does not document county government activities and does not qualify as a "record."

If a document or electronic/recorded information does qualify as a "record" it is then a "public record," subject to public access and disclosure unless it is specifically exempt from disclosure under the terms of the Public Records Act. The second step of the analysis is to determine if any of the statutory exemptions apply to the document or electronic/recorded information. For example, attorney-client communications are confidential by state law and exempted from disclosure under the terms of the Public Records Act. A partial list of these exemptions is provided in the SOP. These exemptions are to be narrowly construed and if a record does not clearly fit into one of these categories of exemptions, it must be released.

- D. During each term of office, each elected official, or appropriate designee, is required to attend three hours of training (pertaining to the Ohio Public Records Law) that has been approved by the Ohio Attorney General as provided in Section 109.43 of the Revised Code. The CPD shall provide annual training on this policy to each BOCC department head and department representative responsible for records management within their department.
- E. A notice describing this Public Records Policy shall be posted in all buildings where Board employees are employed. The CPD and the County Facilities Department are jointly responsible for compliance.
- F. Each BOCC department shall follow the Hamilton County Records Retention Schedule, adopted by the Hamilton County Records Commission on 03/05/1992, as well as any Records Retention Schedules specific to each BOCC department. Records will be disposed only in accordance with the standard operating procedures (SOP 2.13).
- G. In accordance with ORC 149.43, the Hamilton County Records Commission is comprised of a member of the Board of County Commissioners, the Prosecuting Attorney, the Auditor, the Recorder, and the Clerk of Courts. All commission members, other than the member of the Board of County Commissioners, may designate a representative to attend Records Commission meetings on their behalf.

#### REQUESTS FOR PUBLIC RECORDS

- H. BOCC Departments shall ensure that all public records requests are promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Any questions regarding requests, including what can and cannot be released or redacted, shall be directed to the Department Head who may seek assistance from the County Prosecutor's office. Each department will be responsible for the following:
  - 1. Designate one employee as the point-of-contact for all records requests;
  - 2. Maintain a copy of the BOCC Records Retention Schedule and/or the departmental schedule and a copy of this policy and procedure for public access and review.
- I. While it is not required that public records requests be submitted in writing, the requestors are encouraged to submit the requests in writing (using Form CPD036), in an effort to prevent any misunderstanding as to the records the requestor is seeking. Individuals requesting a public record cannot be forced to provide identification or a reason for the request, and cannot be charged for time and labor spent fulfilling the request. If a requestor makes an overly broad request, or has difficulty in specifying the request, the department employee

(point-of-contact) shall provide the requestor with reasonable assistance to facilitate their request, such as providing a copy of the retention schedule and policy and the opportunity to revise the request. Note: If a request is made in writing, the response must also be in writing.

- J. If a request is denied in whole or in part, the requestor shall be provided, in writing using Form CPD036, an explanation including the legal authority setting forth why the request was denied. The requestor will be notified (using Form CPD036) if the request is for a record that was never maintained or is no longer maintained (i.e.; record met retention period and was destroyed).
- K. If a request includes information that is “exempted” from disclosure, that information must be redacted. The requestor must be notified in writing of what information was redacted and the specific section of the Ohio Revised Code granting legal authority for redaction. (Normally this notification will be made right on the document itself.)
- L. In response to a public records request, a maximum of 10 public records per month will be sent by mail unless the requester certifies in writing that such records are not being requested for any commercial purpose as provided in the Ohio Public Records Act.
- M. All charges for copies, plus any postage and delivery charges, are compiled on an invoice (Form CPD028). Payment for the cost of the copies may be requested in advance. Payment may be made by cash or a check written out to the Hamilton County Treasurer. The charge for copies of public records is as follows (as a cost saving measure, copies should be double-sided, unless requested otherwise):
  - 1. First ten (10) pages at no charge.
  - 2. All pages thereafter, five cents (\$.05) per page (double-sided is counted as 1 page).
- N. All instances when assistance is offered to facilitate a request, even if such assistance does not result in the release of records, must also be documented on Form CPD036. The original record request and a copy of the corresponding invoice shall be kept on file by the Board department for two years.

### RECORDS RETENTION

- O. All BOCC departments are responsible for maintaining and disposing of their records according to the County’s Records Retention Schedule and/or their departmental retention schedule. Each department head must designate an employee as the Records Management Coordinator who will also serve as the point-of-contact for records requests.

- P. The Records Management Coordinator must adhere to the appropriate standard operating procedures (SOP 2.13) when disposing of records that have met their retention period.
- Q. The Records Management Coordinator shall attend the Hamilton County Records Commission meetings held twice a year.

### PERSONNEL FILES

- R. The County Personnel Director shall be the official custodian of personnel files for employees under the BOCC.
- S. Personnel records will be kept confidential to the extent permissible by the Ohio Public Records Act (ORC 149.43).
- T. An employee may review his/her official personnel file in the presence of a Human Resources Officer of the CPD and copy any documents in the file at no charge. The employee may also attach letters of explanation to documents where the employee feels such explanation is necessary.
- U. For employment verification purposes, departments may release an employee's name, job title, employment dates, and salary information. Departments must consult with the CPD before releasing any additional information on current or former employees.
- V. Employees must advise the departmental payroll officer of any change in their personal information or status (e.g. name, address, marital status, telephone number, number of exemptions for tax purposes, citizenship, or association with any governmental military service organization).

### STANDARD OPERATING PROCEDURES

- W. The County Personnel Department shall establish, maintain and communicate standard operating procedures (SOPs) for effectively administering this policy in accordance with applicable laws and regulations and in cooperation with affected departments and agencies.