

# PUBLIC RECORDS POLICY OF THE FULTON COUNTY PROSECUTING ATTORNEY'S OFFICE

## I. Purpose

We are an open government. We welcome participation by our citizens. We believe openness leads to a better informed public, which leads to more transparent government and better public policy. Citizens are entitled to access government records and the Public Records Act should be interpreted liberally in favor of disclosure.

## II. Scope

A. The Prosecutor's Office has or will have a designated employee who serves as the custodian of all records maintained by this office. The record custodian has or will have a copy of the office's public records policy.

B. The public records policy, as well as, the Records Commission's Schedules of Records Retention and Disposition (RC-2) are or will be located at a location where it will be readily available to the public.

C. This office shall create a poster which generally describes the office's public records policy and shall post the poster in a conspicuous place in the office.

## III. Definitions

A. "Records" (as used in Section 149.011(G) of the Ohio Revised Code): Includes any document, device, or item, regardless of physical form or characteristic, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.

B. "Public Record" (as used in Section 149.43(A)(1) of the Ohio Revised Code): Records kept by any public office, including, but not limited to, state, county village, township and school district units, and records pertaining to the delivery of educational services by an alternative school in Ohio kept by a nonprofit or for profit entity operating such alternative school pursuant to Section 3313.533(3313.53.3) of the Revised Code.

## IV. Fees

A. The Prosecutor's Office, in accordance with Section 149.43 of the Revised Code, has established the following fees for providing copies or reproductions of public records maintained by the office.

1. For photocopies of either letter or legal size documents there shall be no fee for the first 20 pages. For requests for photocopies that exceed 20 pages the fee shall be five (5) cents per photocopy calculated from the twenty-first photocopy. Advance payment is required for all requests that exceed 20 pages before any copies are prepared.

2. For video tapes, cassette tapes or for any other type of media, the fee shall be the replacement cost or the reproduction (copying) cost. No reproduction costs shall be charged unless a commercial or professional service is contracted to provide the copy.

3. The Prosecuting Attorney's Office reserves the right to charge fees authorized by law.

B. Cost and fees established under this policy represent the actual cost. The *actual cost* means the cost of depleted supplies, records storage media costs, actual mailing and alternative delivery costs, or other transmitting costs, and any direct equipment operating and maintenance costs, including actual costs paid to private contractors for copying services.

V. Availability

A. All public records maintained by the Prosecuting Attorney's Office shall be promptly prepared and made available for inspection to any person, corporation, or governmental agency at all reasonable times during regular business hours. Except for a person incarcerated pursuant to a criminal conviction or a juvenile adjudication, a request for copies of a public record or records shall be made at cost within a reasonable period of time.

B. The Prosecutor's Office or the employee responsible for public records may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory and that the requester may decline to reveal the requester's identity or the intended use and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the Prosecutor's Office or employee responsible for public records to identify, locate, or deliver the public records sought by the requester. A refusal of the requester to make the request in writing or to reveal the requester's identity or intended use does not impair the requester's right to inspect and/or receive copies of the public record.

C. In the event a request is made to inspect and/or obtain a copy of a record maintained by the Prosecutor's Office the release of which may be prohibited or exempted by either state or federal law, the request shall be reviewed by the County Prosecutor or an Assistant Prosecutor to ascertain if the release may be prohibited or exempt by either State or Federal law. The person submitting the request shall be advised that their request is being reviewed by the Prosecutor or Assistant Prosecutor to ensure that protected and/or exempted information is not improperly released by the office.

D. A record, the release of which is prohibited or exempted by either state or federal law, or which is not considered a public record as defined by R.C. 149.43 (A)(1) shall not be subject to public inspection.

VI. Public Record Requests

A. Mailed Requests for Public Records

1. Upon receiving a written request for copies of a public record made in accordance with section 149.43 of the Ohio Revised Code via the United States Postal Service, the Prosecutor's Office shall promptly respond to the request.

2. An authorized employee of the Prosecutor's Office shall, by any means practical, contact the requester and advise them that advance payment is required prior to providing copies of public records via the United States Mail System, and, in addition, the fee shall also include the cost of postage and the envelope.

3. When practical, the Prosecutor's Office may forward copied records by any other means reasonably acceptable to the requester.
    - a. If a person requests a copy of a public record, the Prosecutor's Office shall permit the requester to choose to have the public record duplicated on paper or upon the same medium upon which the Prosecutor's Office maintains the public record or upon any other medium on which the record can reasonably be duplicated as an integral part of the normal operations of the Prosecutor's Office, or of the responsible Prosecutor's Office employee for the public record.
    - b. Persons seeking copies of public records are not permitted to make their own copies of the requested records by any means.
  4. In accordance with section 149.43(B)(7) of the Ohio Revised Code, the Prosecutor's Office limits the number of requested public records, to be transmitted through the U. S. Mail, to a maximum of ten records per month, unless the requester certifies that the records or information in them will not be used for commercial purposes.
  5. Authorized Prosecutor's Office employees shall comply with the following procedures upon receiving a valid public record request through the United States Postal System:
    - a. The employees shall promptly process requests.
    - b. The requester shall be charged the postage fees and the cost of the envelope required to properly send the requested records through the mail
- B. Written or oral requests for copies made by the public records requester or their designee shall be processed in the same manner as mailed requests.

## VII. Response and Denials of Public Records Requests

### A. Ambiguous or Overly Broad Request for Public Records

1. If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records under section 149.43 of the Ohio Revised Code such that the public office or the Prosecutor's Office employee responsible for the requested public record cannot reasonably identify what public records are being requested, the Prosecutor's Office or the office employee responsible for the requested public record may deny the request, but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's or Prosecutor's Office employees duties.

### B. Denial of Record Maintained by the Prosecutor's Office.

The Prosecutor's Office may deny a request for a public record maintained by the office if

1. The record that is requested is prohibited or exempted from release due to applicable state or federal law.

2. If a request is ultimately denied, in part or whole, the responsible Prosecutor's Office employee shall provide the requester with an explanation, including legal authority, setting forth the reason(s) the request was denied.
3. If the initial request was provided in writing then the explanation shall also be provided in writing.
4. The explanation shall not preclude the Prosecutor's Office or the person responsible for the requested public record from relying upon additional reasons or legal authority in defending an action commenced under law.

C. Redacting Exempted Records / Procedure

1. "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in section 149.011 of the Ohio Revised Code. Redaction shall be deemed a denial of a request to inspect or copy the redacted information, except if federal or state law authorizes or requires a public office to make the redact.
2. If a request is ultimately denied in part or in whole, the Prosecutor's Office or the person responsible for the requested public record shall provide the requester with an explanation, including legal authority, setting forth why the request was denied.
3. If a public record contains certain information that is exempt from the duty to permit public inspection or to copy the public record, the responsible Prosecutor's Office employee for the public record shall make available all of the information within the public record that is not exempt.
4. When making that public record available for public inspection or copying the Prosecutor's Office or the person responsible for the public record shall notify the requester of any redaction or make the redaction plainly visible.
5. The releasing employee shall then reproduce a copy of the page with the redactions; the resulting copy shall be the page that is released to the requester.
6. The first reproduction page, with the original redactions made by the employee, is the work sheet. It shall be attached to the original record, and maintained in accordance with the retention period established for the original document.

VIII. Grievances

If a person allegedly is aggrieved, due to the inability to inspect a public record or due to the inability to receive a copy of the public record; the person shall be advised that Ohio law provides a legal means for addressing his or her complaint.