

# **Ohio Public Records Act Frequently Asked Questions**

## **What is the Ohio Public Records Act?**

The Ohio Public Records Act is built on the United States' historical position that the records of government are "the people's records." The Public Records Act provides any person details on how to request records from any public office in Ohio, while protecting certain records from disclosure. It also establishes a legal process to enforce compliance when a requester feels that a public office has failed to satisfy its public records obligations.

## **Who can make a request for public records?**

Any person; including corporations, government agencies, and individuals; can request public records by simply asking for them. Usually, the request does not have to be in writing and can be made in any manner the requester chooses: by phone, in person, or in an e-mail or letter. The requester cannot be required to identify him- or herself, or to explain why the records are being requested, unless a specific law requires it. Often, however, a voluntary discussion or written request is helpful to aid the public office in locating the specific records sought and producing the desired records.

## **What does a public office have to do when it receives a public records request?**

A public office must maintain its records to meet its duty to respond to public records requests promptly, and must keep a copy of its records retention schedule at a location readily available to the public. When it receives a public records request for specific existing records, the public office must provide inspection of the requested records during regular business hours or provide copies within a reasonable period of time. A requester is entitled to delivery of copies at the actual cost of packaging and delivery by any available means of delivery that he or she requests.

The public office may withhold specific records or specific portions of records that are covered by an exception to the Public Records Act. It is required to give the requester an explanation for any part of a record withheld, including the supporting legal authority. In addition to denials based on an exception, a public office may deny a request in circumstances where compliance would unreasonably interfere with the discharge of the office's duties. A request can also be refused if the office no longer keeps the records, if the request is for items that are not records of the office, if the requester does not revise an ambiguous or overly broad request, or if the requester refuses to pay the cost of copies. Additionally, a public office is not required to create new records to respond to a public record request.

## **To whom does the Public Records Act apply?**

The rights and duties set out in the Act apply only to a "public office or person responsible for public records," which includes governmental subdivisions, private entities that are the

“substantial equivalent” of public institutions, and other “persons responsible for public records.” The act does not apply to private corporations or organizations, and is also different from the federal Freedom of Information Act (FOIA), which applies only to federal agencies.

## **If someone is not given public records, what legal options does that person have?**

Requesters who believe they have been wrongly denied a public record that they requested can file a lawsuit, called a mandamus action, against the public office. The burden will be on the public office to show the court that any record that it withheld was clearly protected by one or more valid exceptions under the law. If not, the public office may be ordered to provide the record, and may be subject to a civil penalty and payment of attorney fees. The Public Records Act is a “self-help” statute, which requires those who believe that the act has been violated to independently pursue a remedy (like a lawsuit), rather than asking a public official such as the Ohio Attorney General to initiate legal action on their behalf.

## **What is a "public record"?**

Records that document the organization, functions, policies, decisions, procedures, operations, and other activities of the public office are “public records” under the Public Records Act.

Records that are identified as exempt under the Ohio Public Records Act or the release of which is prohibited by state or federal law are not public records.

## **Can some public records be withheld from a requester?**

The General Assembly has passed a number of laws that protect certain records by either requiring or allowing a public office to withhold them from public release. Where a public office uses one of these “exceptions,” the office may only withhold a record or part of a record clearly covered by the exception, and must tell the requester what legal authority it is relying on to withhold the record. If only part of a record is protected by an exception, then the public office must redact (obscure or delete) only that part of the record and provide the unprotected remainder to the requester. R.C. 149.43(B)(1).

The General Assembly can change the preceding rights and duties for any particular records, for particular public offices, for particular requesters, or in specific situations. In other words, the general rules of public records law may be modified in a variety of ways. In applying the Public Records Act, the courts interpret the act and any claimed exceptions in favor of disclosure.

## **Is all information that is contained in a record disclosable?**

Not all information contained in a record (or for that matter the record itself) is subject to release under the public records law. For example, Social Security numbers should always be removed

from a document before it is released. Also, certain personally identifiable information of students and records containing intellectual property or trade secrets are not to be released.

## **Does a public office have to work with the requester to find public records?**

If a requester makes an ambiguous or overly broad request that the public office denies, the Public Records Act provides for negotiation between the parties to help identify, locate, and deliver the requested records. R.C. 149.43(B)(2). Unless a specific law says otherwise, a requester does not have to give the reason for wanting the records, give his or her name or make the request in writing, but the request does have to be clear and specific enough for the public office to reasonably identify what public records are being requested. R.C. 149.43(B)(5).

## **Can an individual inspect a public record in person?**

Yes. An individual may inspect records at a mutually convenient time arranged during business hours. However, if the person also would like copies of records and such records cannot be readily copied due to the volume or the need to remove certain information, the requester may need to return at a later date to collect copies or make arrangements for copies to be mailed.

## **Are there fees for retrieving and copying records?**

The law allows us to require prepayment of costs associated with producing copies, including copying and mailing expenses. Generally, the College may charge only its actual cost of producing copies of the records.

## **What if my office or department receives a public records request?**

The office or department should contact the College's Legal Office to coordinate a response. As a public office, the College is required to provide records to a requester within a reasonable period of time. All efforts should be made to comply with the individual's request within this timeframe. Sometimes, however, the request may be so broad and ambiguous that the request cannot be fulfilled. While an individual is not required to submit a request in writing to inspect or receive a copy of a public record, the College encourages the requester to submit a written request as an effort to minimize any confusion in identifying the records sought.

## **Where can an individual make a public records request to the College?**

Public record requests can be made directly to the College's Legal Office by mail, email, phone, or in person during normal business hours.

## **Resources and Links**

Columbus State Community College's Public Records Policy 11-06, and Public Records Request Procedure 11-06(B) can be found in the College's Policy and Procedures Manual at:

<http://www.csc.edu/about/policy/>

The Ohio Public Records Statute is codified in Ohio Revised Code 149.43, and can be found on line at: <http://codes.ohio.gov/orc/149.43>

The Office of the Ohio Attorney General publishes a handbook entitled "Ohio Sunshine Laws Update," which can be found on the Attorney General's website at:

<http://www.ohioattorneygeneral.gov/YellowBook>