

# PUBLIC RECORDS POLICY

## I. Introduction

- A. It is the philosophy of the Board of DD that openness leads to a better-informed citizenry, which leads to better government and better public policy. It is the policy of the Board of DD to adhere to the state's Public Records Act. Notwithstanding the existence of this policy, the Board of DD shall comply with the requirements and provisions of the Ohio Public Records Act. Any amendments of the Ohio Public Records Act shall supersede and take precedence over this policy. The Board of DD retains the right to amend this policy at any time.

## II. Public records

- A. A public record means records “kept by” any public office. A public record includes any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in ORC 1306.01, that (1) contains information stored on a fixed medium such as paper, electronic, film, etc., (2) is created, or received by, or coming under the jurisdiction of a public office of the state or its political subdivisions, and (3) which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office. The determination of whether a specific item constitutes a “record” will depend on the facts and circumstances surrounding the particular item requested. The Superintendent shall make this determination. A “kept” record is the type of item typically and actually retained by the Board of DD in the ordinary course of its business and in order to carry out its duties and functions.
- B. Under Ohio law, the Board of DD 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 Board of DD and for the protection of the legal and financial rights of the state and persons directly affected by the Board of DD's activities. The Board of DD shall not create new records to respond to a public records request, even if it is only a matter of compiling information from existing records.
- C. Records regarding individuals who are eligible for services from or who are served by the Board of DD are not public records and will be disclosed only in accordance with state and federal law and Board of DD policy. Generally, all records of individuals served by the Board are subject to OAC 5123-4-01.
- D. It is the policy of the Board of DD that, as required by Ohio law, records will be organized and maintained so that they are readily available for inspection and duplication. Based on ORC 149.351, all records are the property of the public office concerned and shall not be removed, destroyed, mutilated, transferred, or otherwise damaged or disposed of, in whole or in part, except as provided by law or under the rules adopted by the records commission per ORC 149.38 to ORC 149.42. Those records shall be delivered by outgoing employees to their successors. The Personnel Manager/Fiscal Coordinator shall insure that record retention schedules are updated regularly and posted prominently at the Board of DD's administration office. He shall also be responsible to insure that said schedule is followed by all departments of the Board of DD. Information concerning how to access a copy of the Board of DD's record retention schedule and how to access a copy of this policy will be posted prominently at the Board of DD's locations.
- E. The Personnel Manager/Fiscal Coordinator shall serve as the records officer for the Board of DD. He shall be responsible for all functions of record retention/disposition within the Board of DD. He

shall also be the liaison to the Fulton County Records Commission.

### III. Record requests

- A. Any person can make a request for public records. A requester must identify the records requested with reasonable clarity to allow the Board of DD to identify, retrieve, and review the records. If it is not clear what records are being sought, the Board of DD may deny a request but shall provide the requester an opportunity to revise the request by informing the requester of the manner in which records are maintained by the Board of DD and accessed in the ordinary course of the Board of DD's business.
- B. The requester may make a request in any manner the requester chooses: by phone, in person, or in an email or letter. When making a request to inspect or receive a copy of a public record, the requesting party shall be asked (but not required) to submit the request in writing, by providing the following information:
  1. the name of the individual or organization making the request;
  2. the date of the request;
  3. a list of the specific records sought to be inspected or copied;
  4. the medium of the request including paper, physical inspection, e-mail, computer storage device; and
  5. whether the record is to be picked up by the requesting party or mailed to a mailing address provided by the individual or organization making the request.
- C. If a requesting party cannot, or will not submit the request in writing, the Superintendent or designee shall so note, and ask the requesting party to verbally provide the above information so that the request can be processed in accordance with the requesting party's preference(s). The Superintendent or designee shall record the verbal request made by the party.
- D. Upon receiving a request to inspect specific existing public records, the Board of DD shall provide prompt inspection at no cost during regular business hours. If an employee is requested to provide a Program record to a member of the general public, news media or other person, the employee shall refer the matter to the Superintendent. The Superintendent shall determine whether or not the requested record is a public record, and if it is, shall make the requested public record available within a reasonable time frame.
- E. The Ohio Revised Code contains certain exemptions from disclosure, including employee information and information regarding individuals served that is lawfully confidential. With respect to each request, the Superintendent shall determine whether an exemption applies to prohibit disclosure or permit non-disclosure of the requested records. If a record contains information that does not constitute a public record in accordance with federal or state law, such information will be redacted. The Superintendent shall make the redaction plainly visible or notify the requester of the redaction. When a redaction is required or authorized by state or federal law, it is not considered a denial of a request. A denial of the provision of public records in response to a valid request shall be accompanied by an explanation.

### IV. Costs for Public Records

- A. A requester may specify whether he would like to inspect the records or obtain copies. If the requester asks for copies, he has the right to choose the copy medium (paper, film, electronic file, etc.). The requester may choose to have the record copied: (1) on paper, (2) in the same medium as the public

office keeps them, or (3) on any medium upon which the Board of DD or person responsible determines the record reasonably can be duplicated as an integral part of the normal operations of the Board of DD. The Board of DD may charge the requester the actual cost of copies made and may require payment of copying costs in advance.

- B. A requester may personally pick up copies of requested public records or may send a designee. Upon request, the Board of DD must transmit copies of public records via the U.S. mail or by any other means of delivery or transmission, at the choice of the requester. The Board of DD may require prepayment of postage or other actual delivery costs, as well as the actual cost of supplies used in mailing, delivery, or transmission.
- C. The Board of DD must make its public records available for inspection at all reasonable times during regular business hours. The Board of DD may not charge the requesters for inspection of public records. Requesters are not required to inspect the records themselves; they may designate someone to inspect the requested records.
- D. The Board of DD may charge costs for copies and/or delivery or transmission, and it may require payment of both costs in advance. "At cost" includes the actual cost of making copies, packaging, postage, and any other costs of the method of delivery or transmission chosen by the requester. The cost of employee time cannot be included in the cost of copies or of delivery.
- E. The Superintendent or designee may refer requests for payroll and employment records to the County Auditor, or if the records are available at the Board of DD office, the Superintendent or designee may prepare or make available lawfully public employment and payroll records, upon the request of any person.
- F. Documents in email format are records as defined by the Ohio Revised Code when their content relates to the business of the Board of DD. E-mail is to be treated in the same fashion as records in other formats and will follow the same retention schedules.

Records in private e-mail accounts used to conduct public business are subject to disclosure, and all employees or representatives of the Board of DD are instructed to retain their e-mails that relate to public business. The Fulton County Information Technology Department backs up and archives all emails sent to or from Board of DD email addresses based on the approved county retention schedule.

- G. The Superintendent, at his option, may waive any or all provisions under this policy when a request to inspect or obtain copies of records is made by another governmental agency or a court order.