Public Records Policy of Jackson Township
Clermont County, Ohio

INTRODUCTION:

It is the policy of Jackson Township in Clermont County that openness leads to a better informed citizenry which leads to more transparent government and sounder public policy. It is our policy to strictly adhere to the state's Public Records Act as well as other state and federal laws.

Ohio's Public Records Act imposes two primary obligations upon public offices:

1. Provide prompt inspection of public records (R.C. 149.43 (B)(1)); and
2. Provide copies of public records within a reasonable period of time (R.C. 149.43 (B)(2)).

The Public Records Act evolved from the principal that Ohio's citizens are entitles to access the records of their government. We agree that to advance that principal, the Public Records Act should be interpreted in favor of disclosure.

SECTION 1. PUBLIC RECORDS

Under Ohio law, a public official 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 agency and for the protection of the legal and financial rights of the statement persons directly affect by the agency's activities. (R.C. 149.40).

In accordance with the Ohio Revised Code and court rulings, "records" are defined as those items that meet all of the following:

1. any document, device or item, regardless of physical form or characteristic, including an electronic record (which includes but is not limited to email or other record created, generated, sent, communicated, received, or stores by electronic means);
2. that is created or received by, or coming under the jurisdiction of a public office; and
3. that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office (R.C. 149.01 (G)).

The determination of whether a specific item constitutes a "record" will depend on the facts and circumstances surrounding the particular item requested. The Ohio Supreme Court has imposed an actual use standard in defining a "record," which means that an item is not automatically a "record" simply because the public office could (but did not) use a document it received to carry out its duties and responsibilities.

Furthermore, a public office is not required to create new records to respond to a public records request, even if it is only a matter of compiling information existing records.

SECTION 1.1

It is the policy of Jackson Township in Clermont County that, as required by Ohio law, records will be organized and maintained so that they are made available for inspection to any person at all reasonable times during regular business hours. (R.C. 149.43 (B)(1)).

Copies will be made available upon request within a reasonable period of time (R.C. 149.43(B)(2)).

SECTION 1.2

Not all of Jackson Township records are "public records." Certain records are exempt from the Public Records Act. Exempt records include records: (1) the release of which is *prohibited* by state or federal law, or 2) that are subject to an express exception set forth in Ohio's Public Records Act, which may be released only if Jackson Township decides to waive the express exception.

Examples of records, the release of which is *prohibited* by state or federal law, include, but are not limited to, the following:

Attorney-client privileged information;

Records of a Certified Public Accountant or public accountant in the performance of an audit of a public office (R.C. 4701.19(B));

Federal tax returns (26 U.S.C. 6103(a));

Criminal background information and other law enforcement information on the LEADS/CCH/NCIC computer database (42 U.S.C. 378g);

Records that have been sealed pursuant to a statutory authorized court order (i.e. R.C. 2953.52);

Peace officer's home address during the pendency of a criminal case in which the officer is a witness or arresting officer (R.C. 2921.24(A)); and

Employees' and their family members records that were created for purposes of the Family Medical Leave Act or the Americans with Disabilities Act (29 CRF 825.500(g) and 1630.14©(1).

Examples of records that are subject to an express exception set forth in Ohio's Public Records Act, which may be released only if Jackson Township decides to waive the express exception include, but are not limited to, the following:

Peace Officer, firefighter, EMT, prosecutor, assistant prosecutor, children's services worker, or corrections officer, Residential and Familial Information (R.C. 149.43(A)(7));

Records that pertain to a patient's medical history diagnosis, prognosis, or medical condition and that were general and maintained in the process of medical treatment (R.C. 149.43(A)(1)(a));

Records that contain information that as specifically compiled in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding (R.C. 149.43(A)(1)(g)); and

Records that pertain to a law enforcement matter of a criminal, quasi-criminal, civil or administrative nature and that, if released, would create a high probability or disclosing any of the following: (1) the identity of an uncharged suspect, (2) the identity of a

confidential source, (3) specific confidential investigatory techniques or procedures; (4) specific investigative work product; or (5) information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential source (R.C. 149.43(A)(2)).

The exemptions to the Public Records Act will be narrowly construed by this office in the favor of disclosure. This office may seek a legal review prior to determining whether or not an exception applies.

SECTION 2. RECORD REQUESTS

Each request for public records should be evaluated for a response using the following guidelines:

SECTION 2.1

Although no specific language is required to make a request, the requester must at least identify the records requested with sufficient clarity to allow this office to identify, retrieve, and review the records. If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records such that this office cannot reasonably identify what public records are being requested, then this office may deny the request. In such case, this office will provide the requester with an opportunity to revise the request by informing him/her of the manner in which records are maintained by the office and accessed in the ordinary course of this office's duties (R.C. 149.43(B)(2)).

SECTION 2.2

The requester does not have to put a records request in writing and does not have to provide his/her identity or the intended use of the requested public record. However, the records custodian may ask for a written request and may ask for the requestor's identity and/or intended use of the information requested if (1) It would benefit the requestor by helping the public office identify, locate or deliver the records being sought, and (2) the requestor is informed that a written request and the requestor's identity use of the information requested are not required (R.C. 149.43(B)(5)).

SECTION 2.21

This office will permit a requestor to choose to have the public record duplicated upon paper, upon the same medium which this office keeps it, or upon any other medium which this office determines that if reasonably can be duplicated as an integral part of the normal operations of this office. This office is not required to allow the requester to make the copies of the public record. (R.C. 149.43(B)(6)).

SECTION 2.3

Public records should be available for inspection at all reasonable times during regular business hours. Public records should be made available for inspection promptly. (R.C. 149.43(B)(1)). To the extent that an office may operate 24 hours a day, the records of that office will be made available for inspection during normal administrative hours. Copies of public records should be made available within a reasonable period of time (R.C. 149.43(B)(1)).

The determination of the terms “prompt” and “reasonable” take into account the volume of records requested; the proximity of the location where the records are stored; and the necessity of any legal review of the records requested.

SECTION 2.4

Each request should be evaluated for an estimated length of time required to gather the records. Routine requests for records should be satisfied immediately if feasible to do so. Routine requests include, but are not limited to, meeting minutes (both in draft and final form), resolutions, budgets, etc.

SECTION 2.5

Upon request, this office will provide copies of public records to a requestor by United States mail or by any other delivery means or transmission that this office deems reasonable (R.C. 149.43(B)(7)).

This office will limit to ten the number of copies of public records provided per month to the requester by United States Mail, unless the requester certifies in writing that he/she does not intend to use or forward the requested records, or the information contained in them, for commercial purposes. (The word “commercial” should be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research). (R.C. 149.43(B)(7)).

SECTION 2.6

By Ohio law, this office is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation if the subject of the investigation or prosecution were an adult unless the judge who imposed the sentence or made the adjudication with respect to the person, or the judge’s successor in office, finds that the information being sought in the public record is necessary to support what appears to be a justifiable claim of the person (R.C. 149.43(B)(8)).

SECTION 2.7

This office in response to a written request made and signed by a journalist’s employer and which states that the disclosure of the information sought would be in the public interest, will provide the address of the actual personal residence of anyone employed by this office as a peace officer, firefighter, EMT, prosecutor, assistant prosecutor, children’s service worker, or corrections officer, and, if such employee’s spouse, former spouse, or child is employed by a public office, the name and address of that public office (R.C. 149.43(B)(9)).

SECTION 2.8

Any denial of public records requested, in part or in whole, should include an explanation, including legal authority, as to why the request was denied. If the initial request was provided in writing, the explanation for denial will be provided for denial will be provided to the requester in writing (R.C. 149.43(B)(3)).

SECTION 2.9

This office has no duty to provide records acquired after a request for records is complete.

SECTION 3 COSTS FOR PUBLIC RECORDS

Those seeking public records should be charged only the actual cost of making copies, unless the cost is otherwise set by statue (R.C. 149.43(B)(1)). Employee time should not be calculated into the charge for copying a public record. However, in the event that circumstances make it reasonable for this office to hire an outside contractor to make copies of requested records, the requester will be charged the actual cost paid to the outside contractor for the copying service (R.C. 149.43(F)(2)(a)). These circumstances may include but not be limited to a lack of in-house photocopying resources or labor.

This office has no duty to provide copies of public records free of charge to someone who indicates an inability or unwillingness to pay for them.

SECTION 3.1 THE CHARGE FOR PAPER COPIES IS (TEN) CENTS PER PAGE

SECTION 3.2

This office may require the requester to pay in advance the cost involved in providing the copy of the public record as requested (R.C. 149.43(B)(6)).

SECTION 3.3

Upon request, this office will provide will provide copies of public records to a requester by United States mail or by any other delivery method or transmission that this office deems reasonable. This office may require such a requester to pay in advance the cost of postage or costs incurred for other supplies used in the mailing, delivery, or transmission (R.C. 149.43(B)(7)).

SECTION 3.4

There may be instances when this office may be able to provide copies made in-house without disrupting its normal functions, but only over an extended period of time. In that instance, this office may offer the requester the options of (1) having the documents produced through a faster method of employing temporary personnel and equipment, (2) using an external private contractor, or (3) having the documents produced in-house by this public office's normal staff and equipment in a less efficient and more time-consuming manner.

SECTION 4. FAILURE TO RESPOND TO A PUBLIC RECORDS REQUEST

This office recognizes the legal and non-legal consequences of failure to properly respond to a public records request. In addition to the distrust in government that failure to comply may cause this office's failure to comply with a request may result in the requester commencing a mandamus action against this office in either the Court of Common Pleas, in the Court of Appeals, or in the Supreme Court of Ohio. The court may order this office to comply with the Public Records Act, as well as order this office to pay statutory damages of one hundred dollars for each business day (beginning with the day the requester files the mandamus action) during which this public office failed to comply (up to a maximum of one thousand dollars), as well as court costs and the requester's reasonable attorney fees.