

Allen County Health Department

Public Records Policy

Effective November 1, 2007

A. Purpose

The Allen County Board of Health acknowledges it maintains many records used in the administration and operation of the health department. In accordance with state law and the Allen County Records Commission, this Board has adopted Schedules of Records Retention and Disposition (RC-2) that identify these records. These schedules identify records stored on a fixed medium (paper, computer, film, etc.) that are created, received, or sent under the jurisdiction of the health department and document its organization, functions, policies, decision, procedures, operations and other activities. (R.C. 149.011(G); R.C.149.43(A)(1)). The records we maintain and the ability to access them are a means to provide trust between the public and the health department.

Exceptions:

Addendum A describes records, some of which are maintained by the Health Department, but which are not considered "Public Records". Addendum B describes Infrastructure and Security Records which are exempt from release under the provisions of ORC 149.433.

B. Scope

1. Each health department division, office, or function that maintains records has one or more designated employees who serve as the custodian of the records maintained.
 - a. Each employee is to be provided a copy of this public records policy.
2. Our public record policy, as well as our Schedules of Records Retention and Disposition (RC-2) is located at every location in which the public may access our records.
3. This public records policy is located in our personnel policy manual.
4. This department will display a poster which generally describes our public records policy at every location in which the public may access the records.

C. Fees

1. The Board of Health, 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 health department:

- a. For photocopies of either letter or legal size documents, there shall be no fee for the first 10 pages. For a request for photocopies that exceeds 10 pages, the fee shall be five (5) cents per photocopy calculated from the first photocopy. Advance payment is required before any copies are prepared which exceed 10 pages. For photocopies of 11 x 17 size, the fee is five (5) cents each beginning with the fifth page.

Exceptions: there is no charge made for copies of medical records. Fees for vital records are established as per ORC Chapter 3705.

- b. For video tapes, cassette tapes or for any other type of media, the fee shall be the replacement cost or the reproduction (copying) cost. Reproduction costs may only be charged if a commercial or professional service is contacted to provide the copy. The charge for media such as compact discs, floppy discs, etc. to download computer files shall be the actual cost of the media purchased by this office. There is no charge for documents emailed.
- c. Board of Health established costs/fees under this policy shall be clearly posted and visible to the public at all health department locations authorized to provide copies of public records.

D. Availability

1. All public records maintained by this office shall be promptly prepared and made available for inspection to any person during regular business hours, as well as a copy of the Health Department's current record retention schedule (s). Promptness is to be determined by the facts and circumstances of each public records request. Regular business hours are 8:00 AM to 4:30 PM, Monday through Friday except holidays, weather emergencies, and during staff training/special events.
2. For the purpose of enhancing our ability to identify, provide for prompt inspection, and provide copies of the requested items in a reasonable period of time, individuals requesting copies of public records will be asked to voluntarily complete a written public records request form explaining or identifying the records they wish to inspect and/or receive copies of. In no event shall an individual be denied access to inspect and/or obtain copies of public records based on their refusal to complete a written request.
 - a. "Prompt inspection and copies of records within a reasonable amount of time" is meant to allow for the opportunity for legal review by the Prosecuting Attorney's office when any doubt exists.
 - b. Although health department staff may ask the requestor to make the request in writing, for his or her identity, and may inquire about the intended use of the information requested, the requester shall be advised that:

1. The information requested is not mandatory; and
 2. The requestor's refusal to complete the written public records request form does not impair the requestor's right to inspect and/or receive copies of the public records.
- c. In the event a request is made to inspect and/or obtain a copy of a record maintained whose release may be prohibited or exempted by either state or federal law, the request may be forwarded to legal counsel for the health department for research and/or review when any doubt exists. When necessary the person submitting the request shall be advised that their request is being reviewed by legal counsel to ensure that protected and/or exempted information is not improperly released. Records, whose release is prohibited or exempted by either state or federal law, or not considered public records as defined in R.C. 149.43(A)(1), shall not be subject to public inspection.
- d. 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 authorized employee shall promptly respond to the request.
 2. An authorized employee shall, by any means practical, contact the requestor and advise them that advance payment is required prior to providing copies of public records via the US Postal Service, and in addition, the fee shall also include the cost of postage and the envelope.
 3. When practical, the authorized employee may forward copied records by any other means reasonably acceptable to the requestor.
 4. when a person requests a copy of a public record, the requestor will be allowed to choose to have the public record duplicated on paper, or upon the same medium upon which the health department maintains the public record, or upon any other medium on which the record can reasonably be duplicated as an integral part of health department normal operations, or that of the responsible employee for the public record.
 5. Persons seeking copies of public records are not permitted to make their own copies of the requested records by any means. Nor will health department staff accept a requestor's media (jump drive, disc, tape, etc.) in order to protect the health department electronic system.

6. In accordance with Section 149.43(B)(7) of the Ohio Revised Code, this policy limits the number of requested public records, to be transmitted through the U.S. Main, to a maximum of ten records per month, unless the requestor certifies that the records or information in them will not be used for commercial purposes.
 - a. "Commercial purposes" shall 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.
 7. Authorized employees shall comply with the following procedures upon receiving a valid public record request through the United States Postal Service:
 - a. Employee shall promptly process requests.
 - b. Requestors shall be charged the postage fees and the cost of the envelope required to properly send the requested records through the mail, or an appointment is to be made with the requestor for pick up of the records.
 8. Written or verbal requests for copies made by the public records requestor or their designee shall be processed in the same manner as mailed requests.
- e. Documents in electronic mail format are records as defined by Ohio Revised Code when their content relates to the business of the health department. Email is to be treated in the same fashion as records in other formats and follows the same record retention schedules. Records in public and private email accounts used to conduct business are subject to disclosure; all employees are instructed to retain their emails that relate to public business and to copy them to their business email accounts and/or the office's records custodian, or copy them to paper and retained in hard copy as per the record retention schedule. The records custodian is to treat the emails from the private accounts as records of the public office, filing them in the appropriate way, retaining them as per established schedules, and making them available for inspection and copying in accordance with the Public Records Act.
 - f. Requests for inspection and/or copies of public records, which are not maintained by this office or are prohibited from release pursuant to applicable state or federal law, shall be processed in the following manner:

1. If a request is received for a record that is not maintained or the request is for a record which is no longer maintained, the requestor shall be so notified in writing that one of the following applies:
 - a. Their request involves records that have never been maintained;
 - b. Their request involves records that are no longer maintained or have been disposed of or transferred pursuant to applicable Schedules of Record Retention and Disposition (RC-2);
 - c. Their request involves a record that has been disposed of pursuant to an Application of the One-Time Records Disposal (RC-1); or
 - d. That the record requested is prohibited from release due to applicable state or federal law.
 - e. If the record that is requested is not a record used or maintained by the health department, the requestor shall be notified that in accordance with Ohio Revised Code Section 149.40, the office is under no obligation to create records to meet public record requests.

g. Ambiguous or Overly Broad Request for Public Records

If a requestor 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 employee responsible for the requested public record cannot reasonably identify what public records are being requested, the employee may deny the request, but shall provide the requester with an opportunity to revise the request by informing the requestor of the manner in which records are maintained and accessed in the ordinary course of business.

h. Denial of a Record

If a request is ultimately denied in part or whole, the authorized employee shall provide the requestor with an explanation, including legal authority, setting forth why the request was denied. If the request was provided in writing, then the explanation shall also be in writing. The explanation shall not preclude the department from relying upon additional reasons or legal authority in defending an action commenced under the law (RC149.43). When appropriate, legal counsel will respond with the legal authority for a denial.

i. Redacting Exempted Records/Procedure

1. "Redaction" means obscuring or deleting any information that is exempt from the duty to permit public inspection or copying (such as a Federal Social Security number and information pertaining to medical treatment) from an item that otherwise meets the definition of a "record" in Section 149.011 of the Ohio Revised Code.
 - a. A 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 redaction.
 - b. If a request is ultimately denied, in part or in whole, the authorized employee shall provide the requester with an explanation, including legal authority, setting forth why the request was denied.
2. If a public record contains certain information that is exempt from the duty to permit public inspection or to copy the public record, the authorized employee shall make available of the information within the public record that is not exempt.
3. When making that public record available for public inspection or copying that public record, the authorized employee shall notify the requester of any redaction or make the redaction plainly visible.
4. The authorized 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.

j. Grievances

1. 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 they may:
 - a. Contact the Health Commissioner or County Prosecutor's Office.
 - b. If the person is not satisfied after contacting the Health Commissioner's and/or the Prosecutor's Office, he or she shall be advised that Ohio Revised Code Section 149.43 provides a legal means for addressing their complaint in these disputes. (R.C. 149.43(C)(1)(2))

E. Training and Education

The Health Department will continue to update and address all education, training, disclosure, and policy requirements mandated by R.C. 109.43 and R.C. 149.43 (E)(1)(2).

Records Policy – Addendum A

“Public record” does not mean any of the following:

1. Medical Records
2. Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;
3. Records pertaining to actions under Section 2151.85 and Division (C) of Section 2919.121 of the Ohio Revised Code and to appeals of actions arising under those sections;
4. Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under Section 3705.12 of the Ohio Revised Code;
5. Information in a record contained in the putative father registry established by Section 3107.062 of the Ohio Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to Section 3111.69 of the Ohio Revised Code, the office of child support in the department or a child support enforcement agency;
6. Records listed in Division (A) of Section 3107.42 of the Ohio Revised Code or specified in Division (A) of Section 3107.52 of the Ohio Revised Code;
7. Trial preparation records;
8. Confidential law enforcement investigatory records;
9. Records containing information that is confidential under Section 2710.03 or 4112.05 of the Ohio Revised Code;
10. DNA records stored in the DNA database pursuant to Section 109.573 of the Ohio Revised Code;
11. Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to Division (E) of Section 5120.21 of the Ohio Revised Code;
12. Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to Section 5139.05 of the Ohio Revised Code;

13. Intellectual property records;
14. Donor profile records;
15. Records maintained by the department of job and family services pursuant to Section 3121.894 of the Ohio Revised Code;
16. Peace officer, firefighter, or EMT residential and familial information;
17. In the case of a county hospital operated pursuant to Chapter 339. of the Ohio Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Ohio Revised Code, information that contains a trade secret, as defined in section 1333.61 of the Ohio Revised Code;
18. Information pertaining to recreational activities of a person under the age of eighteen;
19. Records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board acting under Sections 307.621 to 307.629 of the Ohio Revised Code, other than the report prepared pursuant to Section 307.626 of the Ohio Revised Code;
20. Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to Section 5153.171 of the Ohio Revised Code other than the information released under that section;
21. Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of examiners of nursing home administrators administers under Section 4751.04 of the Ohio Revised Code or contracts under that section with a private or government entity to administer.
22. Records the release of which is prohibited by state or federal law;
23. Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under Section 50.01 of the Ohio Revised Code;
24. Information reported and evaluations conducted pursuant to Section 3701.072 of the Ohio Revised Code;
25. Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance to the agency.

Records Policy – Addendum B

Infrastructure and Security Records are exempted from release under the provisions of the Ohio Revised Code Section 149.433.

1. “Infrastructure record” means any record that disclosed the configuration of a public office’s critical systems including, but not limited to, communication, computer, electrical, mechanical, ventilation, water, and plumbing systems, security codes, or the infrastructure or structural configuration of the building in which a public office is located. “Infrastructure record” does not mean a simple floor plan that discloses only the spatial relationship of components of a public office of the building in which a public office is located.
2. “Security record” means either of the following:
 - a. Any record that contains information directly used for protecting or maintaining the security of a public office against attack, interference, or sabotage;
 - b. Any record assembled, prepared or maintained by a public office or a public body to prevent, mitigate, or respond to acts of terrorism, including any of the following:
 1. Those portions of records containing specific and unique vulnerability assessments or specific and unique response plans either of which is intended to prevent or mitigate acts of terrorism, and communication codes or deployment plans of law enforcement or emergency response personnel;
 2. Specific intelligence information and specific investigative records shared by federal and international law enforcement agencies with state and local law enforcement and public safety agencies;
 3. National security records classified under federal executive order and not subject to public disclosure under federal law that are shared by federal agencies, and other records related to national security briefings to assist state and local government with domestic preparedness for acts of terrorism.

A record kept by a public office that is a security record or an infrastructure record is not a public record under Ohio Revised Code Section 149.43 and is not subject to mandatory release or disclosure under that section.

1. Notwithstanding any other section of the Ohio Revised Code, a public office’s or a public employee’s disclosure of a security record or infrastructure record that is necessary for construction, renovation, or remodeling work on any public building or project does not constitute public disclosure for purposes of waiving division (B) of the Section and does not result in that record becoming a public record for purposes of Ohio Revised Code Section 149.43.

Information related to/and maintained in accordance with the Americans with Disability Act (ADA), the Family and Medical Leave Act (FMLA) and the Health Insurance Portability and Accountability Act (HIPAA) requires that qualifying personal medical information be kept separate from regular personnel information and maintained in a secure area. Such information may only be released to:

1. Supervisors and managers in order to provide information regarding work restrictions.
2. First aid or safety personnel if the disability would require treatment or procedures related to the disability.
3. Government officials investigating compliance with ADA, FMLA and HIPAA provisions.
4. With respect to Bureau of Workers' Compensation second injury funds or in compliance with workers' compensation laws.
5. To insurance companies which require medical exams to provide health or life insurance for the employee.

