

Open Records Mission Statement

Consistent with the premise that government at all levels exists first and foremost to serve the interests of the people, it is our mission and intent to, at all times, fully comply with and abide by both the spirit and the letter of Ohio's Public Records Act and Open Meetings Act.

Resolution on Statement of Principles

In order to accomplish the mission of fully complying with both the letter and spirit of the Public Records and Open Meetings Acts, we do hereby adopt the following Statement of Principles:

Statement of Principles

The Commissioners shall:

1. Enact a formal resolution memorializing this Mission Statement;
2. Ensure that all personnel become and remain fully trained in and are aware of the provisions of the Public Records and Open Meeting Acts.
3. Adopt policies that encourage employees to immediately report incidents of non-compliance from the acts that they may observe.
4. Do nothing that abridges the public's right to obtain information about their government or that inhibits or discourages citizens from doing so.
5. Do everything possible to aid those who are seeking information, including but not limited to fully explaining the scope and operation of the Public Records and Open Meetings Acts and assisting citizens in the formulation of requests.
6. Construe the provisions of the Public Records and Open Meetings Acts in a manner that favors compliance with requests for information.
7. Seek guidance from the Office of the Ohio Attorney General whenever a question arises about the application of the Public Records or Open Meetings Acts or about the appropriateness of a request for information.
8. Clearly and concisely state the reason or reasons why a request for information has been denied.

Mahoning County Commissioners' Public Records Policy

Introduction:

It is the policy of the Commissioners that openness leads to a better informed citizenry, which leads to better government and better public policy. It is the policy of the Commissioners to strictly adhere to the state's Public Records Act. All exemptions to openness are to be construed in their narrowest sense and any denial of public records in response to a valid request must be accompanied by an explanation, including legal authority, as outlined in the Ohio Revised Code. If the request is in writing, the explanation must also be in writing. **This policy is not intended to be legal advice.**

Section 1 Public records

The Mahoning County Board of Commissioners, in accordance with the Ohio Revised Code, defines records as including the following: any document – paper, electronic (including, but not limited to, e-mail), or other format – that is created or received by, or comes under the jurisdiction of the public office that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office. The 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 from existing records. All records of the Mahoning County Board of Commissioners are public unless they are specifically exempt from disclosure under the Ohio Revised Code or case law.

Section 1.1 Available for Inspection

It is the policy of the Mahoning County Board of Commissioner that, as required by Ohio law, records will be organized and maintained so that they are readily available for inspection and copying (See Section 5 for the e-mail record policy). Record retention schedules are to be updated regularly and posted prominently.

Section 1.2 Exemptions to Public Records Law

Generally, the confidential nature of certain types of information or records precludes their release. Federal and state law provides numerous exemptions to the general rule that disclosure of public records is mandatory. However, most of the exemptions do not, by themselves, prohibit the release of the prescribed records. Rather, these records merely are excluded from the general rule of mandatory disclosure.

In the event a request is made to inspect or obtain a copy of a record maintained by this public office whose release may be prohibited or exempted by either state or federal law, the request shall be forwarded to the County Prosecutor for research and/or review. The

requester shall be advised that their request is being reviewed by the County Prosecutor to ensure that exempted information is not improperly released.

Section 2 Record requests

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

Section 2.1 Identification of Public Record

Although no specific language is required to make a request, the requester must at least identify the records requested with sufficient clarity to allow the public office to identify, retrieve, and review the records. If it is not clear what records are being sought, the records custodian must contact the requester for clarification, and should assist the requestor in revising the request by informing the requestor of the manner in which the office keeps its records.

Section 2.2 Format of Request

This public office or the person 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 only after all of the following occur:

- Disclosure to the requester that a written request is not mandatory;
- Disclosure to the requester that the requester may decline to reveal the requester's identity or intended use; and
- Determination by this public office that a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability to identify, locate, or deliver the public records sought by the requester.

Section 2.3 Choices of Medium

Public records are to be available for inspection during regular business hours, with the exception of published holidays. Public records must be made available for inspection promptly. The requester can choose to have the record (1) on paper, (2) in the same form as this public office keeps it, or (3) on any medium upon which this public office determines the record can "reasonably be duplicated as an integral part of the normal operations of the public office." Copies of public records must be made available within a reasonable period of time. "Prompt" and "reasonable" take into account the volume of records requested, the proximity of the location where the records are stored and the necessity for any legal review of the records requested.

Section 2.4 Response Time to Requests

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), budgets, salary information, forms and applications, personnel rosters, etc. If fewer than 20 pages of copies are requested or if the records are readily available in an electronic format that can be e-mailed or downloaded easily, these should be made as quickly as the equipment allows.

All requests for public records must either be satisfied as outlined above or be acknowledged in writing by the Mahoning County Board of Commissioners within three business days following the office's receipt of the request. If a request is deemed significantly beyond "routine," such as seeking a voluminous number of copies or requiring extensive research, the acknowledgement must include the following:

Section 2.4a – An estimated number of business days it will take to satisfy the request.

Section 2.4b – An estimated cost if copies are requested.

Section 2.4c – Any items within the request that may be exempt from disclosure.

Section 2.5 Prohibition Against Requesters Right to Make Copies Themselves

A requester seeking copies of public records is not permitted to make their own copies of the requested records by any means. This measure is to protect the integrity of the original document.

Section 2.6 Limit to Number of Request by Mail

This office may limit the number of records requested by a person that the office will transmit by United States mail to ten per month, unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes.

Section 2.7 Requests by Incarcerated Persons

Under Ohio law, an incarcerated person may receive public records, but only if the records concern a criminal investigation. The incarcerated person must follow very strict guidelines, as identified below:

- The records must be "public records" which are not subject to an exemption from disclosure and
- The incarcerated person must have secured a finding from the judge who imposed the sentence of incarceration (or that judge's successor) that the information sought in the public record is necessary to support a justifiable claim of the person.

Section 3 Denial of Public Record Requests

Any denial of public records requested must include an explanation, including citations to legal authority. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the rest released. If there are redactions, each redaction must be accompanied by a supporting explanation, including citations to legal authority. Further, if the initial request was provided in writing, then the explanation shall be provided to the requester in writing.

Section 3.1 Denial of an Ambiguous or Overly Broad Request for Public Record

If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies of inspection of public records such that this public office cannot reasonably identify what public records are being requested, then this office may deny the request. However, this public office shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained in the ordinary course of business.

Section 3.2 Denial of a Public Record Not Maintained by Mahoning County Commissioners' Office

If this public office receives a request for a record that it does not maintain or the request is for a record which is no longer maintained, the requester shall be so notified in writing.

Section 3.3 Denial of a Public Record Maintained by the Mahoning County Commissioners' Office

This public office may deny a request for a record maintained by the office if the record that is requested is prohibited from release due to applicable state and federal law.

- If the record request is denied in its entirety:
 - This office may check the appropriate box on Form PR-1 if the employee is simply applying the statutory exclusion.
 - This office shall consult the County Prosecutor if the employee is unsure if the record requested is exempt from disclosure.
- If only part of the record is not subject to release, this office will redact such information and release the non-exempted information:
 - "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".
 - This office will check the appropriate box on Form PR-1 and cite the exemption from Appendix A, B, or C with the corresponding redaction.
 - This office shall consult the County Prosecutor if the employee is unsure if a part of the record requested is exempt from disclosure.

Section 4 Costs for Public Records

Those seeking public records will be charged only the actual costs of reproduction. Employee time will not be calculated into the "actual cost" charge. This public office may require a requester to pay in advance the cost involved in providing the copy of the public record, as requested. The following cost schedule shall be imposed by the Commissioners' Office, though these fees are subject to change:

1. Paper copies are 5 cents per page.
2. Downloaded computer files to a compact disc are \$1 per disc.
3. No charge for documents e-mailed.

Section 4.1

Requesters may ask that documents be mailed to them. They will be charged the actual cost of the postage and mailing supplies.

Section 5 E-mail

Documents in electronic mail format are records as defined by the Ohio Revised Code when their content relates to the business of the office. E-mail is to be treated in the same fashion as records in other formats and should follow the same retention schedules.

Section 5.1 Public Email Accounts

- Public e-mail accounts used to conduct public business are subject to disclosure. All employees or representatives of this office are instructed to retain their e-mails that relate to public business (see Section 1 definition of public records) and may be required to copy them to the office's records custodian.
- The records custodian shall file emails in the appropriate way, retaining them per established schedules and making them available for inspection and copying in accordance with the Public Records Act.

Section 5.2 Private Email Accounts

- Emails sent or received by employees of this office from their private email accounts are public records if the content of such emails relate to the business of this office. All officials, employees, or other representatives of this office are instructed to copy all emails that relate to public business to their public email account and may be further required to copy them to the record's custodian.

- Emails from private accounts that relate the public business must be retained per established schedules, and shall be available for inspection and copying in accordance with the Public Records Act.

Section 6 Failure to Respond to a Public Records Request

The Commissioners recognizes the legal and non-legal consequences of failing to properly respond to a public records request. In addition to the distrust in government that failing to comply may cause, the Mahoning County Board of Commissioners' failure to comply with a request may result in a court order ordering the Commissioners to comply with the law and may be required to pay the requester attorney's fees and damages.

**RESOLUTION
RES 08-10-028**

WHEREAS, R.C. §149.43(E)(1) requires each public office to create and adopt a public records policy for responding to public records requests; and

WHEREAS, R.C. §149.43(E)(2) requires each public office to distribute its public records policy to the employee of the public office who is the records custodian, records manager or otherwise has custody of the records of each public office; and

WHEREAS, R.C. §149.43(E)(2) further provides that each public office shall require the records custodian employee to acknowledge receipt of his/her copy of the public records policy; and

WHEREAS, R.C. §149.43(E)(2) further provides that each public office shall create a poster that describes its public records policy and shall post the poster in a conspicuous place; and

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts the public records policy attached hereto as Exhibit A; and

BE IT FURTHER RESOLVED that the office's records custodian for this office shall be provided a copy of this policy and shall execute an acknowledgment of receipt of this policy on the form attached hereto as Exhibit B; and


BE IT FURTHER RESOLVED that a poster that describes this office's public records policy shall be created and posted in a conspicuous location within this office; and

BE IT FURTHER RESOLVED that the Human Resources Director is hereby instructed to ensure that this office's employee handbook be revised to include a copy of the public records policy herein adopted.

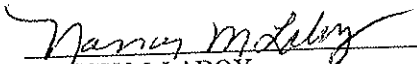
It was moved by Mr. McNally, and seconded by Mr. Ludt, that the foregoing Resolution be approved this 16th day of October, 2008.

Roll call voting resulted:	Mr. Ludt:	aye
	Mr. McNally:	aye
	Mr. Traficanti:	aye

WHEREUPON, the President of the Board declared the foregoing Resolution be duly adopted this 16th day of October, 2008.


ANTHONY T. TRAFICANTI,
PRESIDENT OF THE BOARD

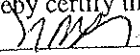
ATTEST:


NANCY M. LABOY,
CLERK OF THE BOARD

JR. VOL. 96, PAGE 700-704

cc: Human Resources Director ✓
Office Manager/Records Custodian

Presento -

As Clerk of the Board of Mahoning County Commissioners, State of Ohio, I hereby certify that this is a true and correct copy of the original now on file in the Mahoning County Commissioners Office.  CERTIFIED COPY.