

Delaware General Health District Public Records Policy

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Introduction:

It is the policy of the Delaware General Health District Board of Health ("Board") that openness leads to a better informed citizenry, which leads to better government and better public policy. It is therefore the policy of the Board and the staff of the Delaware General Health District to strictly adhere to the state's Public Records Act.

I. Purpose:

The Board acknowledges that the Delaware General Health District maintains many records including, but not limited to, both fixed medium (i.e. paper, film, etc.) and electronic (i.e. email) that are used in the administration and operation of the Health District. The records maintained by the Board and/or the Health District and the ability to access them are a means to provide trust between the public and the Health District. To foster, maintain and continue to build such trust, the Board and the Health District, in accordance with state law, adopts this Public Records Policy ("Policy"). (R.C. § 149.43(E)(1)).

II. Definitions:

As provided by the Ohio Revised Code, the following definitions apply to this Policy:

- a. "Records" includes any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in section 1306.01 of the Revised Code, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office. (R.C. § 149.011(G)).
- b. "Public Record" means records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in this state kept by the nonprofit or for profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the records listed in OR.C. §149.43(A)(1)(a) through (y). (R.C. §149.43(A)(1)).

III. Scope:

All records of the Board and the Delaware General Health District are public records unless they do not meet either or both of the definitions of "Records" or "Public Record" as defined by the Ohio Revised Code (R.C. § 149.011G and R.C. § 149.43(A)(1)) or are otherwise specifically exempt from disclosure pursuant to the Ohio Revised Code or applicable federal law.

IV. Internal Procedure:

- a. The Board of the Delaware General Health District shall designate and maintain a designated employee who serves as the custodian of all records maintained by the Health District.
- b. Each such designated employee and/or record custodian shall have a copy of this Policy. The designated employee and/or record custodian shall, in writing, acknowledge receipt of this Policy. (R.C. 149.43 (3)(2)).
- c. This Policy, as well as, the Schedules of Records Retention and Disposition (RC-2) applicable to the Delaware General Health District
- d. This Policy, as well as, the Schedules of Records Retention and Disposition (RC-2) applicable to the Delaware General Health District are located at every location of that office in which the public may access records.
- e. This Policy is a part of and shall be available to employees in the same manner as the Delaware General Health District Employee Handbook.
- f. A poster which generally describes this Policy shall be displayed at every location in which the public may access records.

V. Fees and Costs:

Unless a different fee is required by law (i.e. copies of vital statistics records, ORC 3709.09, 3705.24 A, 3705.24 B and 3109.14), in accordance with R.C. § 149.43, a fee schedule is established for providing copies or reproductions of public records:

- a. The fee schedule shall be clearly posted and visible to the public at all locations authorized to provide copies of public records. Advance payment is required before any copies are prepared.
- b. The Board and/or the Health District shall charge the actual cost of material for media not listed in the fee schedule above.
- c. As a result of security issues and to preserve the integrity of the Delaware General Health District's computer systems, the Board and/or the Health District will not accept blank media supplied by the requesting party. The Board or the Health District will supply the media. The cost of the media is included in the fee schedule or, if not contemplated in the fee schedule, the media will be supplied at cost.
- d. The Board and/or the Health District shall notify the requesting party in advance in writing of any costs for labor or materials in situations where an outside vendor must be hired to fulfill the request(s).
- e. The Board and/or the Health District will charge the actual costs of postage and mailing supplies when the requesting party requires the public records be transmitted via the United States Postal Service or any type of priority mail service.

VI. Availability/Inspection

- a. Upon request and subject to R.C. § 149.43(B)(8), all public records shall be promptly prepared and made available for inspection to any person during regular business hours, with the exception of office closures
- b. Copies or reproductions of the requested records shall be made available at cost (See Fee Schedule) and within a reasonable period of time.
- c. "Promptly" and "Reasonable," as used above and in connection with the preparation and production of the requested records, is to be determined by the facts and circumstances of each public records request and take into account the following:
 - i. The opportunity for legal review,
 - ii. The volume of records requested, and
 - iii. The proximity of the location where the records are stored.

VII. Requests for Public Records

- a. Any person, including corporations, individuals, and even governmental agencies, may request public records, and will be allowed prompt inspection of public records and copies within a reasonable amount of time upon request.
- b. No specific language is required to make a request for public records. The requestor must, however, identify the records requested with sufficient clarity to allow the Board and/or the Health District to identify, retrieve, and review the records.
- c. If it is not clear what records are being sought, the records custodian shall contact the requestor for clarification and should inform the requestor of the manner in which the office keeps its records.
- d. The requestor may be asked, but the requestor does not have to:
 - i. Put a records request in writing,
 - ii. Provide his or her identity, or
 - iii. The intended use of the requested public record.
- e. If the requestor is asked for any of this information, he or she shall first be advised:
 - i. The requestor does not have to answer any of these questions, and
 - ii. The requestor's refusal to provide any of this information does not impair the requestor's right to inspect and/or receive copies of the requested public records. (R.C. 149.43(B)(5)).

f. For the purpose of enhancing the ability of the Board and/or the Health District to identify and provide for prompt inspection and/or copies of the requested records in a reasonable period of time, the requestor shall be provided with Form 2 for the requestor to complete. The requestor, the requestor shall be informed:

- i. The requestor does not have to complete the request form, and
- ii. The requestor's refusal to complete or provide any and/or all information on the request form does not impair the requestor's right to inspect and/or receive copies of the requested public records. (R.C. 149.43(B)(5)).

VIII. Response/Release

- a. Requests for public records shall be processed the same regardless of the means by which the request was made. (Note Section X - Special Provisions for Public Records Requests Received by Email, Regular Mail, or Other Delivery Service.)
- b. The records custodian shall complete the public records request using the Processing Form for Requests for Public Records.
- c. Requests for records that are capable of being satisfied immediately and about which there are no issues concerning release should be satisfied immediately.
- d. Requests for public records that are not capable of being satisfied immediately shall be dealt with as follows:

- i. Voluminous/Copying or Reproduction Time Required Request:

- a) Each such request for public records should be evaluated for the estimated number of copies required to satisfy the request and/or an estimated length of time required to gather the records.
- b) The requestor shall be informed of the estimated length of time required to respond.
- c) The requestor shall be informed of the estimated total fee/cost associated with copying or reproducing and delivery of the record(s) and that such estimated total cost must be paid in full prior to the record(s) being copied or reproduced.
- d) The requestor shall be informed that any difference between the total estimated cost and the total actual cost shall be settled either by the Health District re-paying any overage or, prior to the delivery of the records, the requestor paying any deficit.
- e) The requestor shall be informed of any items within the request that may be exempt from disclosure.
- f) If the request is made verbally the above information shall be provided to the requestor either verbally or in writing. If the request is made in writing, the requestor shall be informed of the above information in writing.
- g) All such information as required above shall be provided to the requestor in no more than three (3) working days after receiving the request.
- h) Considering the volume of records requested, the requested records should be made available to the requestor within a reasonable period of

- ii. Legal Issue Concerning Release:

1. In the event a request for public records is made to inspect and/or obtain a copy of a record whose release may be prohibited or exempted by either state or federal law, the request shall be forwarded to legal counsel (Delaware County Prosecuting Attorney) for research and/or review.
2. 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. If the request is made verbally this

information shall be provided to the requestor either verbally or in writing. If the request is made in writing, the requestor shall be informed in writing.

3. If after review, it is determined that the record shall be released, refer to the procedures in subsection (A) and (B) above, whichever, depending on the record(s) requested, is applicable.

4. If after review, it is determined that the record shall NOT be released, refer to Section XIII.

e. Copied records may be forwarded to the requestor by any means reasonably acceptable to the requestor. Records, whose release is prohibited or exempted by either state or federal law, or not considered public records as defined by R.C. 149.43(A)(1), shall NOT be subject to public inspection. Refer to Section XIII.

IX. Special Provisions for Public Records Requests Received by Email, Regular Mail, or Delivery Service

a. Requests for public records received by email, regular mail, or other delivery service shall be responded to in the same manner as public records requests received via any other means, except that the records custodian, upon receipt of the request, shall, by any means practical, contact the requestor and advise them as follows:

i. Advance payment is required prior to providing copies of public records,

ii. The estimated total fee/cost associated with copying or reproducing and delivery of the record(s) and that such estimated total cost must be paid in full prior to the record(s) being copied or reproduced.

iii. That any difference between the total estimated cost and the total actual cost shall be settled either by the Health District re-paying any overage or, prior to the delivery of the records, the requestor paying any deficit.

iv. Any items within the request that may be exempt from disclosure.

b. Upon receipt of the fees/costs and where no issues concerning release exist, the copied or reproduced records shall be forwarded to the requestor by any means reasonably acceptable to the requestor.

c. Voluminous requests, requests requiring time for copying or reproduction, and/or requests involving legal issues concerning release shall in all other respects be handled in accordance with Section IX.

X. Medium

a. The requestor shall be permitted to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or record custodian determines that it reasonably can be duplicated as an integral part of the operations of the public office or records custodian. When the requestor makes a choice, the public office or records custodian shall provide a copy of it in accordance with the choice made by the requestor. (R.C. 149.43(B)(6)).

b. Persons seeking copies of public records are not permitted to make their own copies of the requested records regardless of means or media. (R.C. 149.43(B)(6)).

XI. Limited Requests

a. In accordance with section 149.43(B)(7) of the Ohio Revised Code, the Board and the Health District limits the number of requested public records to be transmitted through United States mail 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 or unless the request is for vital statistics records..

b. For purposes of this section, "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.

XII. Response/Denial

a. Records Not Maintained by the Office Where the Request is Made

- i. The requested records have never been maintained by the office where the request is made,
- ii. The requested records are no longer maintained or have been disposed of or transferred pursuant to applicable Schedules of Record Retention and Disposition (RC-~~0~~), The requested record is a record that has been disposed of pursuant to an Application of the One-Time Records Disposal (RC-1) or Certificate of Records Disposal (RC-3),
- iv. The requested record is not a record used or maintained by the office where the request is made. In such case, the requestor shall be notified that in accordance with Ohio Revised Code Section 149.40, that there is no requirement to create records to meet public record requests.

b. Ambiguous or Overly Broad Request for Public Records (R.C. 149.43(B)(2))

If a requestor makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records such that the office responsible for the requested public record cannot reasonably identify what public records are being requested:

- i. The request may be denied.
- ii. However, the requestor shall be provided with an opportunity to revise the request. In such case, the records custodian shall inform the requestor of the manner in which records are maintained by the office and accessed in the ordinary course of the office's or records custodian's duties.

c. Denial of the Public Records Request

The request for a record or public record maintained by the office where the request is made may be denied if the record that is requested is prohibited from release due to applicable state or federal law.

1. Any denial of public records requested must include an explanation, including legal authority.
2. 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 legal authority.
3. Employees shall consult legal counsel if they are unsure of whether the record requested should be withheld from disclosure.
4. As governed by R.C. 149.43(B)(3), if a request is ultimately denied, in whole or in part, the requestor shall be provided with an explanation, including legal authority, setting forth why the request was denied.
5. If the initial request was provided in writing then the explanation shall also be provided in writing. The explanation shall not preclude the Board or the Health District from relying upon additional reasons or legal authority in defending an action commenced pursuant to R.C. 149.43.

d. Redaction/Procedure

Definition and Effect of a Redaction

1. "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" in section 149.011 of the Ohio Revised Code. (R.C. 149.43 (A)(11)).

2. 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. (R.C. 149.43(B)(1)).

Redaction Procedure

1. If a public record contains certain information that is exempt from the duty to permit public inspection or to copy the public record, the information within the public record that is exempt shall be redacted and that information in the record which is not exempt shall be made available.
2. Where a redaction is to be made, the records custodian shall reproduce a copy of the page where the redaction is to be made. The redaction shall be made on the copied page. The copied page shall then be re-copied with the redactions. The resulting copy shall be the page that is released to the requestor.
3. The first reproduction page with the original redactions made by the employee is the work sheet. It shall be attached to the original record, and maintained in accordance with the retention period established for the original document.
4. When making that public record available for public inspection or copying, the records custodian shall notify the requestor of any and all redactions and/or make any and all redactions plainly visible. (R.C. 149.43(B)(1)).
5. As governed by R.C. 149.43(B)(3), if a request is ultimately denied, in whole or in part, including redactions, the requestor shall be provided with an explanation, including legal authority, setting forth why the request was denied.
6. If the initial request was provided in writing then the explanation shall also be provided in writing.
7. The explanation shall not preclude the Board or the Health District from relying upon additional reasons or legal authority in defending an action commenced pursuant to R.C. 149.43.

XIII. Special Provisions Related to Email

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

- a. Records in private email accounts used to conduct public business are subject to disclosure, and all employees or representatives of the Board and the Health District are instructed to retain their e-mails that relate to public business and to copy them to their business email accounts and/or to the office's records custodian.
- b. The records custodian is to treat the emails from private accounts as records of the public office, filing them in the appropriate way, retaining them per established schedules and making them available for inspection and copying in accordance with the Public Records Act.

II. Grievances

- a. 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 contact the senior representative of the office where the request was made.
- b. If the person is not satisfied after contacting the senior representative of the office where the request was made, they 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) and(2)).

L. Failure to Respond to a Public Records Request

The Board and the Health District recognize 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

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to comply may cause, the failure to comply with a request may result in a court ordering the and/or the Health District to comply with the law and to pay the requestor's attorney's fees and damages.

LI. Training and Education

The Board and the Health District 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), which provides that the attorney general will be responsible for developing, and providing training programs to all elected officials or their designees.