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## **PUBLIC RECORDS POLICY**

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**Subject:** Public Records  
**Approval:** Executive Staff

**Originally Issued:** June 19, 2013  
**Revised:** September 28, 2016

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### **APPLIES TO**

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OFCC Employees and Agents

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### **POLICY**

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It is the policy of the Ohio Facilities Construction Commission and the Ohio School Facilities Commission (collectively “the Commission”) that openness leads to a better informed public, which leads to better government and better public policy. It is the policy of the Commission to strictly adhere to the state’s Public Records Act, to construe possible exemptions to the Records Act in their narrowest sense, and to present an explanation of any denial of public records in response.

### **Section 1 - Public records**

This office, 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 a public office that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office. All records of the Commission are public unless they are specifically exempt from disclosure under the Ohio Revised Code.

It is the policy of the Commission that, as required by Ohio law, records will be organized and maintained so that they are readily available for inspection and copying. Because the Commission administers facility construction across the state of Ohio, certain records, particularly those associated with a primary or secondary educational facility project, may be kept at the actual construction site in the care of the Commissions’ agent overseeing that particular construction project. Each agent will organize and maintain their records in an appropriate manner.

### **Section 2 - Record requests**

When the Commission receives a public records request, staff shall make every reasonable attempt to fulfill the request with records that are held at the Commission or that are immediately available to the staff. In the event that necessary records are held at the project site, the Commission shall contact the appropriate agent and request that the records are forwarded to the Commission for distribution to the requestor. If it facilitates a faster response, the Commissions’ staff may arrange for the agent to provide the records directly to the requestor.

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Public records requests received directly on-site by the agent shall be forwarded to the Commission for response.

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 the Commission or its agent to identify, retrieve, and review the records. If it is not clear what records are being sought, the records custodian will contact the requester for clarification, and will assist the requestor in revising the request.

Section 2.2 - The requester does not have to put a records request in writing, and does not have to provide his or her identity or the intended use of the requested public record. It is the Commission's general policy that this information need not be requested.

Section 2.3 - 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. 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 - Each request should be evaluated for an estimated length of time required to gather the records. Routine requests for records will be satisfied immediately when feasible. Routine requests include, but are not limited to, meeting minutes, budgets, forms and applications, personnel rosters, etc. If the records are readily available in an electronic format that can be e-mailed or downloaded easily, the records may be produced in such a format. In general, records shall be provided in the medium in which they are maintained, however, a change in medium may be approved at the discretion of the Commission.

In the event a requester makes a request for a voluminous amount of material, the staff or agent (as appropriate) shall apprise the requestor of the projected estimate of cost for making the copies and offer the requestor the opportunity to review the material prior to making the copies.

All records requests shall either be satisfied, or acknowledged as to the complexity, within a reasonable period of time.

Section 2.5 - Any denial of public records requested must include an explanation, including 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 legal authority.

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## **Section 3 - Costs for Public Records**

Those seeking public records will be charged only the actual cost of making copies.

Section 3.1 - The Commissions' standard charge for paper copies is 5 cents per page. If the request is voluminous by nature or the time needed to respond would be lessened, the staff (or agent where applicable) shall make arrangements with the requesting party for the documents to be sent to a commercial copying business. If the requestor has an account with the commercial copying business, then the requestor shall take responsibility to make direct billing arrangements. If the agent or Commission arranges the copying/billing, then the invoice for the copying may be sent directly to the requestor.

There shall be no charge for documents e-mailed or made available for download from the Commissions' Internet resources. There shall be no charge for records provided on CD-ROM.

Section 3.2 - Additional charges, such as fees for retrieval or transportation of records may not be imposed. Charges for staff time in compiling the requested records are also prohibited. Access to the records cannot be limited to conditions where the requestor will incur expenses for that access (such as room rental fees at the storage facility).

Section 3.3 - Requesters may ask that documents be mailed to them. They will be charged the actual cost of the postage and mailing supplies.

## **Section 4 – Email**

Documents in electronic mail format are records 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 - Failure to respond to a public records request**

The Commission 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, the Commissions' failure to comply with a request may result in a court ordering this agency to pay the requester attorney's fees and damages.

## **Section 6 – Records Retention / Disposal**

The Commission recognizes the legal and non-legal consequences of failure to properly maintain records and to provide for the correct and legal disposal of public records under its control. The Commission, its staff, and its agents shall maintain records in accordance with state law and the records retention

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schedule for the agency located in the Records Information Management System (RIMS) administered by the Ohio Department of Administrative Services and found at <http://apps.das.ohio.gov/rims/default/Default.asp>

Records that have been identified due to their content as being eligible for long-term retention may be stored at an off-site facility. All records maintained by the Commission that have been placed in storage shall be marked with a date at which time they will be subject to disposal in accordance with the agency's retention schedule. Prior to the actual disposal of the records, notification shall be given to the record-holder (or their successor) for confirmation of the disposal action. Any record that has been determined to have potential historic value shall be offered to the State Archives office.

In the event that it is determined that there is a reasonable anticipation of litigation or other legal actions, Commission legal counsel may place a Legal Hold on records maintained by staff members. If a Legal Hold is in effect, then action regarding the normal disposal or destruction of records as established by the Records Retention Schedule shall be suspended and all affected records shall be maintained until the Hold is lifted.

In the event that a specific record can be demonstrated as not being found within the categories of records on the RIMS system, the staff member or agent shall bring the record to the attention of the Records Officer for the Commission who shall, with the consultation and agreement of the Chief Legal Counsel for the Commission, determine the proper disposition of the record. No record of this type shall be destroyed or disposed of until a determination is made.