



Dave Yost • Auditor of State

PROTOCOL FOR SUNSHINE AUDITS

The purpose of this process and the following protocol is to afford individuals who believe they are aggrieved as the result of a public entity's refusal to release records recourse to seek release without the necessity of protracted and potentially expensive litigation. It is envisioned that complaints will be considered under this process only after the complainant has attempted to secure resolution of the matter through the mediation processes provided by the Ohio Attorney General. The scope of this procedure is to be limited, and it is anticipated that complaints will be accepted, reviewed, and pursued only in situations in which the expenditure of time will not exceed some five total hours of staff involvement.

1. Public records complaint related to a state agency or local subdivision is received, via telephone, mail, E-mail, or via online web site;
2. Administrative staff logs in complaint reviews complaint information;
3. Administrative staff determines if additional information is needed to complete complaint in-take form;
4. Administrative staff contacts complainant to secure additional information needed to complete complaint in-take form, as is necessary;
5. Administrative staff completes complaint in-take form;

PROTOCOL FOR SUNSHINE AUDITS

Page 1 of 3

Effective: 3/11/2015

6. Administrative staff determines if the complainant has made efforts to utilize the Attorney General's Public Records Mediation Program, or, if the mediation program has been utilized without successfully resolving the matter. The mediation process is not available as to complaints involving state agencies. As such, the requirement of utilizing mediation is not applicable to such complaints and Open Government Counsel may review the complaint and related material as stated in step 9;
7. If the complainant has not made efforts to utilize the mediation process, or the mediation process has not been undertaken or, once undertaken, completed, other than because of the refusal of the public body to participate in or to complete mediation, administrative staff refers the matter to Open Government Counsel for review;
8. If it is determined that the complainant has not made efforts to utilize the mediation process, or the mediation process has not been undertaken or completed, other than because of the refusal of the public body to participate in or to complete the mediation process, the matter is referred to inactive status, and both parties are so advised. The complaint remains subject to reactivation and further consideration upon presentation within a period of one hundred and eighty days that the complainant attempted to initiate the mediation process, but the process was not undertaken or completed because of the refusal of the public body to participate;
9. In the event the complainant made efforts to utilize the mediation process but the public body declined to participate in mediation, or, if mediation was undertaken, but failed to resolve the matter, Open Government Counsel reviews the complaint and related material;
10. Both parties are given written notice of the filing of the complaint and the initiation of the process;
11. Open Government Counsel will request a statement of position and supporting documentation from the parties and may contact the Complainant and/or the public body to secure additional information, or clarification as to information already provided . Any such contacts will be fully documented, and information secured will be preserved as part of the file;

PROTOCOL FOR SUNSHINE AUDITS

12. If Open Government Counsel determines that the complaint is without merit, or that the matter involves issues which require judicial interpretation and resolution, or the matter is beyond the scope and limitations of the process, the parties will be so advised via written communication.
13. If it is determined that the public body improperly has failed to provide public records in a manner consistent with the requirements of the Ohio public records law, the public body will be so advised via written communication, and it will be requested that the public body act within a period of not less than five (5) days to provide the requested document or documents in compliance with the law. A copy of the letter to the public body will be forwarded to the complainant. At the conclusion of the five (5) day period, further inquiry will be made of both parties as to the status of the matter. If it is determined, at the conclusion of the five (5) day period, that the requested records have not been provided, the matter will be considered for referral under Paragraphs 16 and 17;
14. If it is determined that there is a legitimate basis for the complaint, but the complaint involves issues which require additional review and consideration, both parties will be so advised, and it will be suggested to both parties that they attempt to effect a resolution of the matter within a period of thirty days (30) after the date of such notice.
15. In the event that, at any time during the thirty day period, either party advises the Auditor of State's Office that the matter has been resolved to the satisfaction of both parties, the result will be confirmed, and, if accurate, no further action will be taken.
16. At the conclusion of the thirty day period, inquiry will be made of both parties as to the status of the matter; and
17. If it is determined that there appears to be a violation of relevant provisions of Ohio's public records law, the matter will be referred to audit staff for consideration as part of the next regular audit of the political subdivision. Notice of final action by the Auditor of State's Office will be sent to both parties. Notice to the complainant will include information as to the complainant's rights and enforcement prerogatives under the Ohio Public Records Law.

PROTOCOL FOR SUNSHINE AUDITS