

OHIO AUDITOR OF STATE
KEITH FABER



Ohio Sunshine Laws & AOS STaRS Rating System

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References

- 2020 Ohio Compliance Supplement Manual
 - Chapter 2, Section 2-23, Pages 97 – 105
- Ohio Public Records Act – R.C. 149.43
- Ohio Open Meetings Act – R.C. 121.22
- Public Records Training Programs – R.C. 109.43
 - Community School Public Records Training Programs – R.C. 3314.037

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Mandatory Testing Item #1

- The public office shall create and adopt a policy for responding to public records requests.
- The public records policy may not generally:
 - limit the number of public records that the public office will make available to a single person,
 - limit the number of public records that it will make available during a fixed period of time, and
 - establish a fixed period of time before it will respond to a request for inspection or copying of public records, unless that period is less than eight hours.
- Ohio Rev. Code § 149.43(E)(2)
 - See Ohio Rev. Code § 149.43(B)(7)(c) for exceptions

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Example Public Records Policy



Source: <https://www.ohioattorneygeneral.gov/Files/Government-Entities/Model-Public-Records-Policy.aspx>

Mandatory Testing Item #2

- Public records are promptly prepared and sent to the requestor, and/or promptly prepared and made available for inspection by the requestor within a reasonable time.
- Ohio Rev. Code § 149.43(B)(1)

What is "prompt" and "a reasonable time"?

- Includes times to:
 - Identify
 - Locate and retrieve
 - Review and obtain legal advice
 - Prepare and redact
 - Deliver

Mandatory Testing Item #3

- If a request is denied, in part or in whole, the public office shall provide the requester with an explanation, including legal authority.
- Ohio Rev. Code § 149.43(B)(3)

What is a reason to deny a public records request?

- Must seek records in the form kept by the entity
- Overly broad or ambiguous
- Information is privileged

Mandatory Testing Item #4

- The public office shall notify the requester of any redaction(s) or make them plainly visible and provided an explanation, including legal authority.
- Ohio Rev. Code § 149.43(B)(1)

What is a reason to redact a public records request?

- The record contains privileged information:
 - Social Security Numbers
 - Peace officer's residential address
 - Date of birth
 - Medical records
 - Intellectual property records

Mandatory Testing Item #5

- A public office shall have a copy of its current records retention schedule at a location readily available to the public.
- Ohio Rev. Code § 149.43(B)(2)

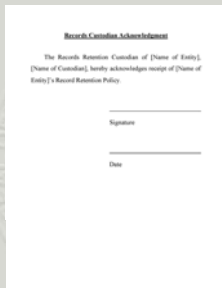
Example Retention Schedule

The image shows two pages of a records retention schedule. The left page is titled 'GENERAL RECORDS' and lists various record types such as 'Administrative Records', 'Personnel Records', and 'Financial Records' with their respective retention periods. The right page is titled 'SPECIAL RECORDS' and lists records like 'Litigation Records', 'Records of the Ohio State Auditor', and 'Records of the Ohio State Treasurer' with their retention periods. The document is a detailed table with columns for record type, retention period, and disposal instructions.

Mandatory Testing Item #6

- The public office shall distribute the public records policy to the employee who is the records custodian or records manager or employee who otherwise has custody of the records of that office.
- The public office shall require that employee to acknowledge receipt of the copy of the public records policy.
- Ohio Rev. Code § 149.43(E)(2)

Example Records Custodian Acknowledgment



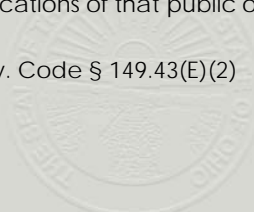
The form is titled "Records Custodian Acknowledgment". It contains the following text: "The Records Retention Custodian of [Name of Entity], [Name of Custodian] hereby acknowledges receipt of [Name of Entity]'s Record Retention Policy." Below this text are two lines for "Signature" and "Date".

Mandatory Testing Item #7

- If the public office has established a manual or handbook of its general policies and procedures, the public office shall include the public records policy in the manual or handbook.
- Ohio Rev. Code § 149.43(E)(2)

Mandatory Testing Item #8

- The public office shall create a poster describing their public records policy and shall post it in a conspicuous place in all public locations of that public office.
- Ohio Rev. Code § 149.43(E)(2)

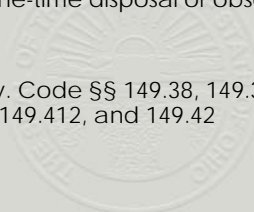


Example Public Records Poster



Mandatory Testing Item #9

- The appropriate records commission shall review the schedules of records retention and disposition, as well as any applications for the one-time disposal of obsolete records.
- Ohio Rev. Code §§ 149.38, 149.39, 149.41, 149.411, 149.412, and 149.42



Example Application for Disposal

Source: <https://www.ohiohistory.org/learn/archives/library/state-archives/local-government-records-program>

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Mandatory Testing Item #10

- All elected officials or their designees shall attend public records training approved by the Attorney General.
 - Ohio Rev. Code § 149.43(E)(1)
- Training is required to be three hours for every term of office.
 - Ohio Rev. Code § 109.43(B)
- Community school administrators are required to complete annual training on public records and open meeting laws.
 - Ohio Rev. Code § 3314.037
- Newly elected public officials should be able to receive training prior to actually taking office.

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Certified Public Records Trainings

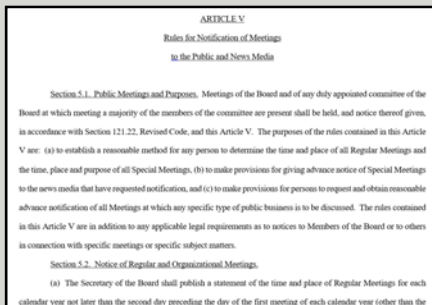
- Online CPRTs available through the Ohio Attorney General's Office
- <https://www.ohioattorneygeneral.gov/Legal/Sunshine-Laws/Sunshine-Law-Training>

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Mandatory Testing Item #11

- Every public body shall establish a reasonable method whereby any person may determine the time and place of all regularly scheduled meetings, and the time, place and purpose of all special and emergency meetings.
 - A public body shall not hold a special meeting unless it gives at least twenty-four hours' advance notice to the news media that have requested notification, except in the event of an emergency requiring immediate official action.
 - In the event of an emergency, the member or members calling the meeting shall notify the news media that have requested notification immediately of the time, place, and purpose of the meeting.
- Ohio Rev. Code § 121.22(F)

Example Resolution



Mandatory Testing Item #12

- The minutes of a regular or special meeting of any public body shall be promptly prepared, filed and maintained and shall be open to public inspection.
- Ohio Rev. Code § 121.22(C)

Example Minutes

City of Columbus
Minutes - Final
Columbus City Council

AUTHORIZED RELEASE OF MEETING DOCUMENTS
 AVAILABLE TO ANY MEMBER OF THE PUBLIC UPON REQUEST
 CONTACTED BY E-MAIL OR BY PHONE. COMMENTS AND
 OTHER PUBLIC INPUT RECEIVED BY E-MAIL OR BY PHONE
 BY THE CITY CLERK'S OFFICE OR BY VISITING THE CITY CLERK'S OFFICE.

Monday, July 27, 2020 8:00 PM City Council Chambers, Rm 201

REGULAR MEETING NO. 31 OF COLUMBUS CITY COUNCIL, JULY 27, 2020 at 8:00 PM (The Public's attendance restricted due to COVID-19 stay at home orders)

ROLL CALL
 Present: Council Members: Michael Brown, Rob Deery, Sharda Foster, Emmanuel Henry, Phyllis Taylor, and Shannon Taylor

READING AND DISPOSAL OF THE JOURNAL
 A motion was made by Council Member Emmanuel Henry to approve the Journal and the minutes of the meeting as reported by the City Clerk's Office.

COMMUNICATIONS AND REPORTS RECEIVED BY CITY CLERK'S OFFICE

Source: <https://www.columbus.gov/council/>

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Mandatory Testing Item #13

- An executive session requires a majority of a quorum by roll call vote at a regular or special meeting for the sole purpose of the consideration of only the following matters:
 - Specified employment matter of public employee/official;
 - Purchase of property for public purpose or sale/disposition of property;
 - Conferences with an attorney for the public body concerning disputes that are the subject of pending or imminent court action;
 - Preparing for, conducting or reviewing negotiations or bargaining sessions;
 - Matters required to be kept confidential by federal law or regulations or state statutes;
 - Specialized details of security arrangements and emergency response protocols;
 - Consideration of trade secrets for hospitals;
 - Confidential information related to marketing plans, business strategy, trade secrets, or personal financial statements of an applicant for economic development assistance.
- Ohio Rev. Code § 121.22(G)

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Example Minutes

Jefferson Township Board of Trustees
Emergency Meeting Minutes

The Jefferson Township Board of Trustees met in an Emergency Meeting on December 29, 2019 at 9:00 a.m. at the Administration Building, One Business Park Drive, Dayton, Ohio.

Trustees Mattie made a motion to get into Executive Session with the only purpose of meeting with the representatives of Wolf, Dewald and Tamm, Company of Licensed Practicing Attorneys, to discuss pending legal matters. The motion was seconded by Trustee Mack.

Trustee Mattie asked for any questions on the motion.

Trustees Mack asked if the Trustee want the Administrator and Lawyers to go to Executive Session. He would advise that the Trustee must advise both the and the Lawyers.

Trustees unanimously asked both Attorneys and Administrator to go with them to Executive Session. **Roll Call: Mattie (yes) James McGhee (yes) Russell Mack (yes)**

The roll call end 9:05 a.m. to commence meeting.

The Board of Trustees and Administrator met in the Jefferson Township Meeting Room. Vice President James McGhee made a motion to come out of the Executive Session. The motion was seconded by Trustee Mack.

Roll Call: Mattie (yes) James McGhee (yes) Russell Mack (yes)

Trustee Mack asked the Trustee if there was any other business to conduct. Trustees replied that there was none.

Jefferson Township Administrator Steve Wolf thanked the Board of Trustees for inviting him to be the Executive Session and the legal firm. Wolf stated he has no other projects at this time to discuss.

Trustee Mack asked for a motion to adjourn meeting. A motion to adjourn was made by Trustee McGhee. Motion was seconded by Trustee Mack.

Source: <https://www.jeffersontownship.org/>

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StaRS Best Practice #2

- To assist the public in making a request for records, the public office has an optional standard request form that is available to requestors to use if they wish, as well as for the staff to use when a request is made via phone. The informational fields can include:

- The date of the request in order to be tracked.
- A description of the records requested (agendas, minutes, resolutions, budgets, etc.).
- The format the requestor would like the records produced in (paper, electronic, etc.).
- The method the requestor would like to receive the requested records (in person, via e-mail, standard mail, electronic media, etc.).
- If the public office has a website, is the form available in order to submit a request on the website, or to download and submit by email, mail, fax, or in person.

Example PRR Form

(Name of Agency/Department/Division) Public Records Request:

Date in person, verbal, written or email request received
(date stamp written requests): _____

Name of Requester (only if voluntarily provided; requests can be under a pseudonym or made anonymously): _____

Address (required for mail): _____

City: _____ State: _____ Zip Code: _____

Phone (optional): _____ Email (optional): _____

Description of records: _____

Desired format (paper, electronic, etc.): _____

Method of delivery (in person or via email, standard mail, electronic media, etc.): _____

Source: <https://www.ohioauditor.gov/publications/bulletins/2019/2019-003.pdf>

StaRS Best Practice #3

- The public office provides an acknowledgement to the requestor when a public records request is received, consistent with the manner in which the request was made.

- The acknowledgement by phone, email or mail provides a "tracking" number (date of request for example) the requestor can reference.
- The acknowledgement is recorded in the public records log or similar tracking method by date and method that request was submitted to the office.
- The acknowledgement should be made in a reasonable period of time to assure requestor their request has been received and is being processed.

Example Acknowledgement

Date

First Name Last Name
Street Address 1
Street Address 2
City, State ZIP

Re: Your Public Records Request (ABCD # 1234)

Dear _____,

I am writing in response to the public records request you submitted to the [entity name] on DATE. Specifically, you requested "Any and all emails that were sent from or received by the email address of former [entity name] employee John Doe, with the email address of john.doe@ohio.gov or equivalent alias, during the period January 1, 2014 through March 1, 2016."

StaRS Best Practice #4

- The public office has publicized (website, public records poster, etc.) the name or office title of the records custodian and his/her contact information.
- The public office's staff has been trained on how to route public records requests to the record custodian.
- The record custodian has been trained on fulfilling the public records requests, including guidelines for negotiating ambiguous or large requests.

Source: <https://www.columbus.gov/police/>

StaRS Best Practice #5

- Certified Public Records Training for all elected officials or their designees was completed within the first year of taking office or each subsequent term.
- In addition, community school administrators are required to complete annual training on public records and open meeting laws.
- The applicable required Certified Public Records Training and the annual training for community school administrators was completed within the first four months of employment or the beginning of each school year for rehires/retained personnel.

StaRS Best Practice #6

- The public office has an online presence and it provides details regarding upcoming events and the operations of the office. Examples are:
 - Agendas of meetings in advance.
 - Public records policy.
 - Records retention policy.
 - Meeting schedule of the public office and any of its committees.
 - Minutes of all meetings of the public office and any of its committees.

Example Website

The screenshot shows the City of Columbus Public Health website. At the top, there is a navigation menu with links for Residents, Businesses, Visitors, Elected Officials, Departments, and Quick Links. Below the menu is a table with two tabs: 'Upcoming' and 'Past'. The 'Upcoming' tab is active, displaying a table of meeting dates, titles, and agendas. To the right of the table is a section titled 'PUBLIC RECORDS REQUESTS' with a sub-heading 'Columbus Public Health adheres to all Ohio Public Records Laws.' Below this is a 'Making a Request' section and an 'Important Links' section with links to Public Records Request Portal, Open Access, and Other Records.

Meeting Date	Title	Agenda
8/31/2020 12:30 p.m.	August 31, 2020 Regular Meeting	
9/28/2020 12:30 p.m.	September 28, 2020 Regular Meeting	
10/26/2020 12:30 p.m.	October 26, 2020 Regular Meeting	
11/16/2020 12:30 p.m.	November 16, 2020 Regular Meeting	
12/14/2020 12:30 p.m.	December 14, 2020 Regular Meeting	

Source: <https://www.columbus.gov/>

StaRS Best Practice #7

- The public office has an online presence that provides access to official documents that may be routinely requested by the public or media. Examples are:

- Annual Budget
- Annual Report
- Compensation for Public Officials
- Most recent Audit Report
- Contact information and hours of various departments

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COVID 19 Response

- House Bill 197
- Members of a public body may conduct and attend hearings by means of teleconference, video conference, or any other similar electronic technology
- The public body shall provide public access
- Effective: March 9, 2020-period of emergency declared by Executive Order 2020-01D

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Example Virtual Meeting Access



How to Testify During COVID-19

Public Notice (Effective April 06, 2020) Pursuant to Section 101.01 of the Columbus City Code, City Council unanimously approved a motion to temporarily suspend the rules for attending before the Council pursuant to Sec. 101.01 of the City Code during the period of time that they are restricting in-person attendance due to the COVID-19 risk of being seen.

Nothing at the City Council Meeting
For further notice, Councilman City Council meetings will be held in a teleconference format with members attending in public, with the standard protocol and procedure of Counciling legislation will be followed. Interested parties wishing to testify at the meeting are advised as follows:

City residents wishing to submit testimony in lieu of an in-person appearance are **strongly advised** to submit their testimony in writing to the City Clerk. Written testimony must be received by 5:00 p.m. on the day of the meeting. Testimony should be emailed to cityclerk@colombusga.gov.
Testimony can also be mailed to: Columbus City Council, Attn: City Clerk, 500 North Broad Street, Columbus, Ohio, 43219. Please include contact information (name, phone number, and the representative's name) that you wish to address.

All public testimony to be heard during Council meetings will be heard in a public session. City Clerk will be available on the Council website at www.colombusga.gov/council or www.colombusga.gov/council on the day of the Council meeting to require attendance at the meeting. The Clerk will provide the 100% meeting information allowing those who prefer to attend the meeting in person. Those submitting testimony must join the 100% meeting no later than 5:00 p.m. on the day of the Council meeting.

In accordance with public meeting access provisions, residents may still attend the meeting in person at the real-time location open to the public until the meeting is adjourned by 5:00 p.m. for the regular meeting and 8:00 p.m. for the January meeting. However, in consideration of the State of Ohio's stay-at-home policy and social distancing guidelines, Councilman City Council urges residents to submit their testimony in writing or via email rather than attend the meeting in person. The purpose of the meeting is to provide information and to be a virtual public Council. Citizens submitting testimony, and that the records in Councilman will be permanently retained.

Council to Hold Virtual Public Hearing on Columbus COVID-19 Small Business Response and Recovery Fund

Info:
Council President: Deborah L. Stearns
Councilmember: Christopher J. Davis

When:
Thursday, June 4, 2020
5pm

Where:
1000 N. High Street
Room 12140

or
Virtual Link:
<https://www.colombusga.gov>

or
1-800-474-3337
Access code: 161 982 1683

Source: <https://www.colombusga.gov>

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