Ohio Sunshine Laws & AOS StaRS Rating System

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

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
Example Public Records Policy

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 provide 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

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

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
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.

Certified Public Records Trainings

- Online CPRTs available through the Ohio Attorney General’s Office
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

Minneapolis
Resolutions shall be in the format of the City of Minneapolis, the Board of Education, and the City Council shall establish a format for the preparation, filing and maintenance of minutes of meetings.

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)
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 a 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;
- Information required to be kept confidential by federal law or regulations or state statute;
- Specific 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)
Sunshine Law Star Rating System (StaRS)

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<tr>
<th>StaRS Levels</th>
<th>Description</th>
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<td>Non-Compliant</td>
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StaRS Best Practice #1

- The public office employs some method to track public records requests. For example, the public office uses a log or similar tracking method. The tracking method should include a majority of these elements:
  - 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)
  - Type of records requested
  - Date requests were fulfilled
  - Name of person fulfilling request

Example PRR Log

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 e-mail, mail, fax, or in person.

example PRR Form


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 (ARCID # 1234)

Date

I am writing in response to the public records request you submitted to the [entity name] on [DATE]. Specifically, you requested [X] and all records that were sent less or received by the email address of former [entity name] employee [Name], with the email address of [Job, Position, Group or equivalent class], 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.
**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**

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

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

Example Virtual Meeting Access

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