



OHIO SUNSHINE LAWS CERTIFICATION TRAINING

USING OHIO'S PUBLIC RECORDS ACT TO PROMOTE
OPEN AND ACCOUNTABLE GOVERNMENT

*A seminar for public officials, citizens, and the media
presented by Ohio Attorney General Mike DeWine*

WHY DO WE CARE?





PUBLIC RECORDS ACT OVERVIEW



WHAT IS A PUBLIC RECORD?

Ohio Revised Code Section 149.43

1

2

“‘Public Record’ means records kept by
any public office”

3

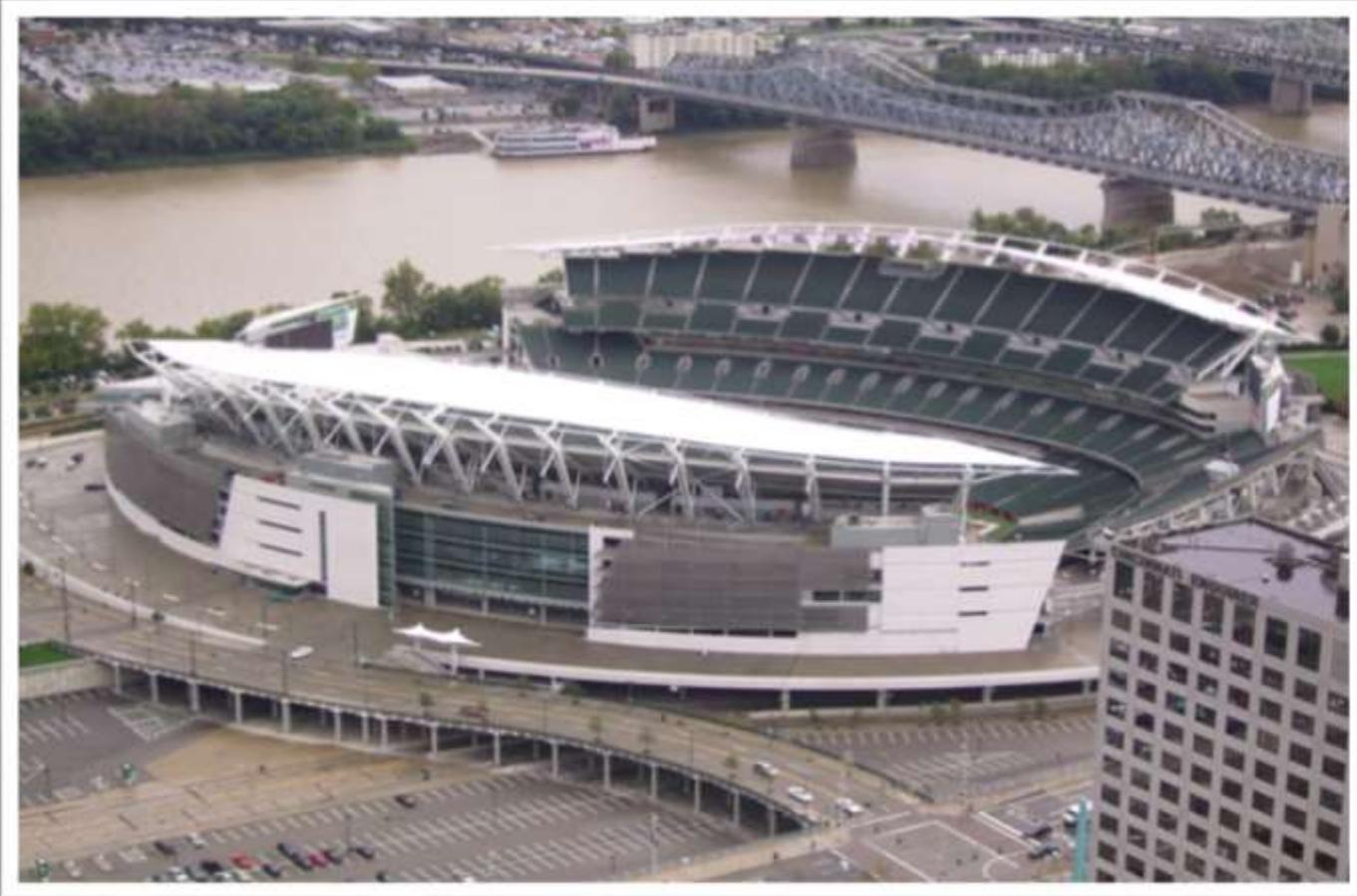
WHO IS SUBJECT TO THE PRA?

**Public
Offices**

**Persons
Responsible**

**Functional
Equivalents**

PRIVATE ENTITIES PERFORMING GOVERNMENT WORK



FUNCTIONAL EQUIVALENCE

1. Performing a governmental function
2. Level of government funding
3. Government involvement or regulation
4. Created to avoid requirements of the PRA

DEFINITION OF RECORD

Fixed Medium

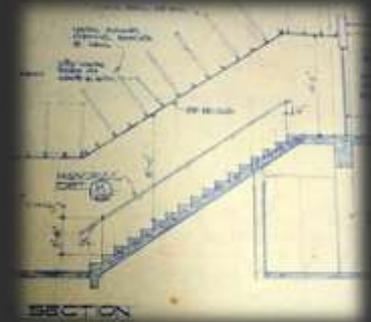


**Created, Received,
Under Jurisdiction**

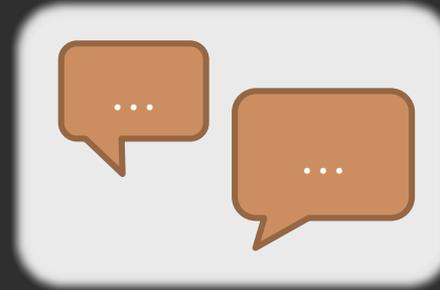


Documents Activities

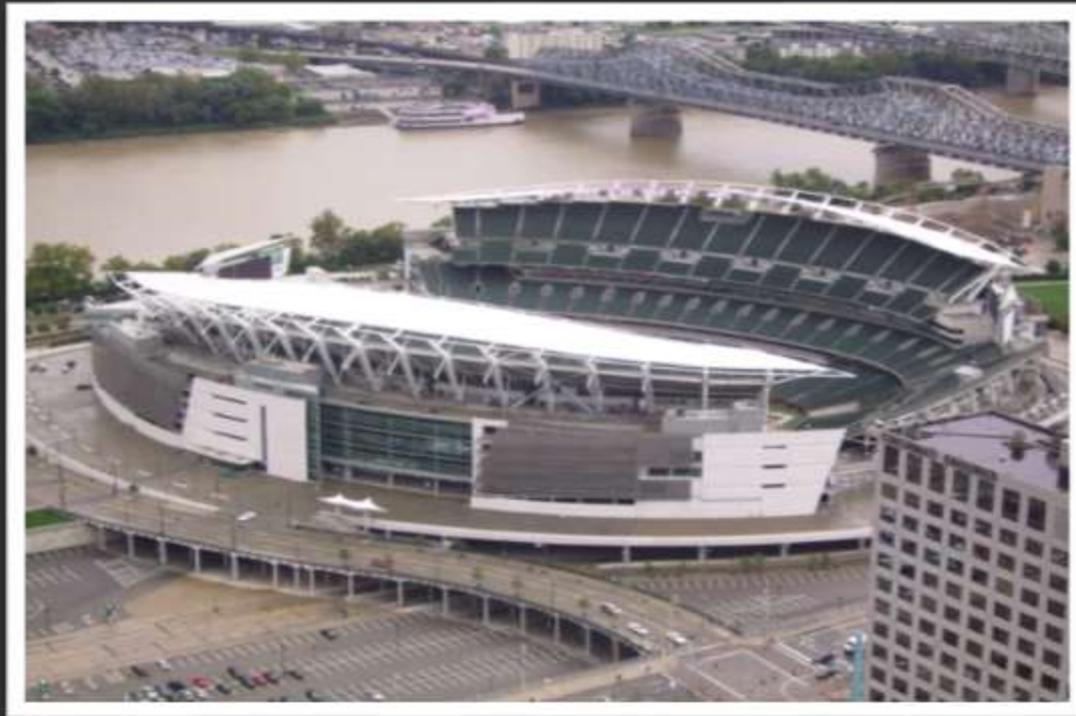
Fixed medium:



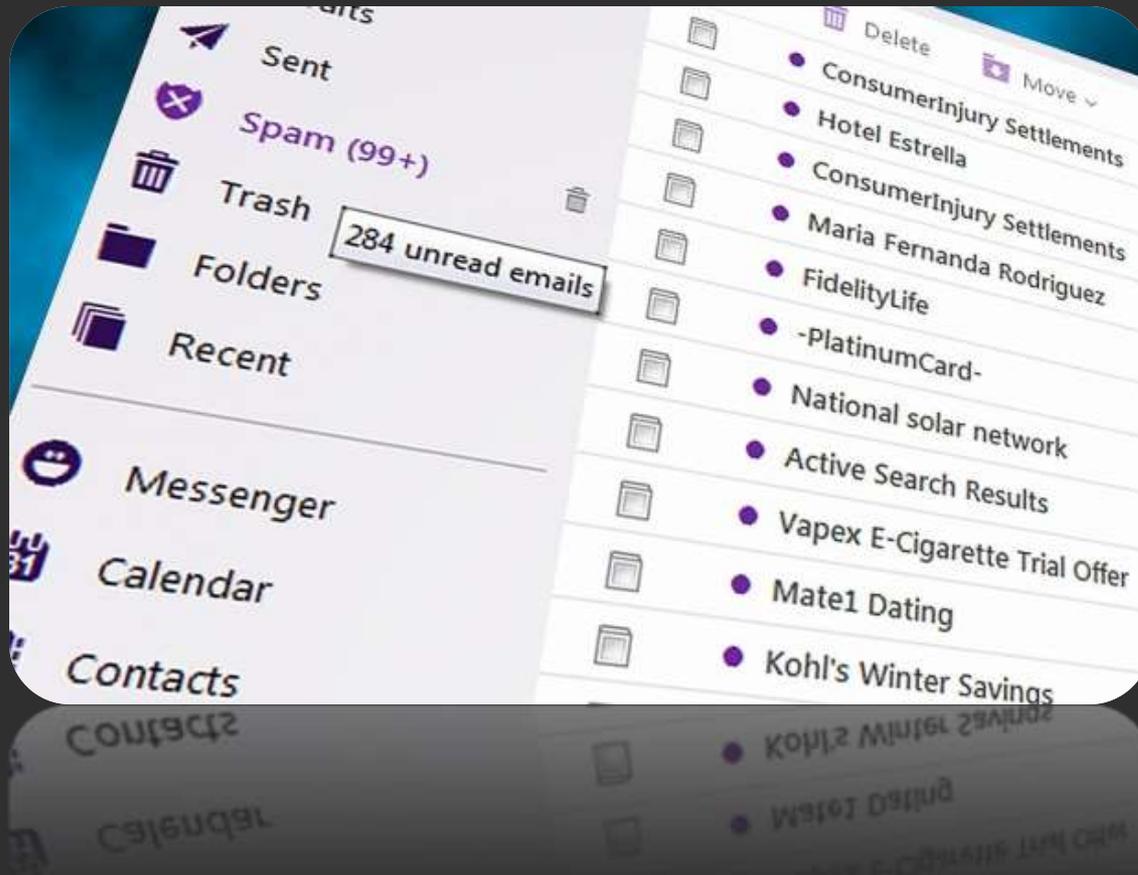
Not fixed medium:



CREATED, RECEIVED BY, OR COMING UNDER THE JURISDICTION OF A PUBLIC OFFICE



DOCUMENTS ACTIVITIES OF THE OFFICE



DOCUMENTS ACTIVITIES OF THE OFFICE

<http://www.ohiochannel.org/MediaLibrary/Media.aspx?fileId=119414>



PUBLIC RECORDS — RECORDS “KEPT BY” ANY PUBLIC OFFICE



RECORD VS. NON-RECORD

- **PRA does not apply to non-records**
- **Non-record items can be redacted or removed**
- **Non-record \neq confidential**

NOTES

Not records if:

1. Personal papers
2. Kept for convenience; and
3. Others did not use/access



DRAFTS



- Record?
- Transient?

QUIZ

“I’d like copies of all the pictures that the Attorney General has on his desk.”



Record?



Non-record?



Fixed medium



Created, received, under jurisdiction of office



Documents activities of the office

Non-record



QUIZ



“Send me a copy of AAG Joe Smith’s personal cell phone call detail statement - he receives a state employee discount on his bill!”



Record?



Non-record?



Fixed medium



**Created, received, under jurisdiction
of office**



Documents activities of the office

Non-record

WHO CAN MAKE A PUBLIC RECORDS REQUEST?



Any “person”



NO WRITING, OR SPECIAL FORMAT, OR PARTICULAR LANGUAGE REQUIRED



**Verbal or
Written**

PUBLIC RECORDS REQUEST FORM

IDENTITY AND MOTIVE IRRELEVANT

**Cannot ask for motive
unless specifically
authorized by law**



**Cannot demand the
identity of the
requester**

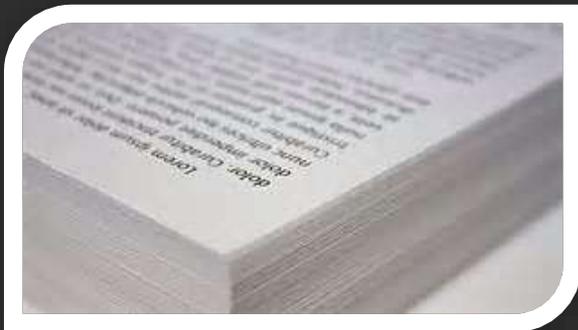
REQUESTER'S RIGHTS TO: INSPECT OR COPY



COPIES

Requester can choose:

1. Paper
2. Medium record is kept on
3. Any other reasonably available medium



INSPECTION: REASONABLE TIMES DURING BUSINESS HOURS



OPENING HOURS	
Mon	8.30 - 5.30
Tues	8.30 - 5.30
Wed	8.30 - 5.30
Thur	8.30 - 5.30
Fri	8.30 - 7.00
Sat	8.30 - 5.00
Sun	Closed



TIME TO RESPOND

Includes time to:



- 1. Retrieve**
- 2. Review**
- 3. Obtain legal advice**
- 4. Redact**

PUBLIC RECORDS POLICIES

Model Public Records Policy available at www.OhioAttorneyGeneral.gov/Publications

Model Public Records Policy for Public Offices Pursuant to R.C. 149.43(E)

MISSION STATEMENT

Openness leads to a better informed citizenry, which leads to better government and better public policy. It is the mission and duty of [public office] to, at all times fully comply with and abide by both the spirit and the letter of Ohio's Public Records Act.

DEFINING PUBLIC RECORDS

A "record" is defined to include the following: a document in any format – paper, electronic (including, but not limited to, business e-mail) – that is created, received by, or copied under the jurisdiction of [public office] that documents the organization, functions, policies, decisions, or records of its operations, or other activities of the office.

A "public record" is a "record" that is being held by this office at the time a public records request is made, subject to applicable exemptions from disclosure under the Ohio or federal law. All public records must be organized and maintained in such a way that they can be made available for inspection and copying.

RESPONSE TIMEFRAME

Public records are to be available for inspection during regular business hours. 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" time are defined in terms of the volume of records requested, the proximity of the records where the records are stored, the feasibility for any legal review and redaction, and other facts and circumstances of the records requested.

It is the goal of [public office] that all requests for public records should be acknowledged by e-mail or a letter, mailed within three business days following the office's receipt of the request.

HANDLING REQUESTS

The specific language is required to make a request for public records. However, the requester must, at least, specify the records requested with sufficient clarity to allow the office to identify, remove, and review the records.

The requester does not have to put a records request in writing, and does not have to provide (a) his identity or the intended use of the requested public records; (b) if it is the office's general policy that the information is not to be requested. However, the law does permit the office to ask for a written request, the requester's identity, and/or the intended use of the information requested, but only if (1) a written request or disclosure of identity or intended use would benefit the requester by enhancing the office's ability to identify, locate, or deliver the public records that have been requested, and (2) the

requester is not and that a written request is not required and that the requester may decline to reveal the requester's identity or intended use.

In processing the request, the office does not have an obligation to create new records or perform a search or research for information in the office's records. An electronic record is deemed to exist so long as a computer is already programmed to produce the record through the office's standard use of mailing, filing, or saving, features. Although not required by law, the office should consider generating new records when it makes sense and is practicable under the circumstances.

In processing a request for inspection of a public record, an office employee may accompany the requester during inspection to make certain original records are not taken or altered.

A copy of the most recent edition of the Ohio Sentinel Law Manual is available on the Attorney General's website (www.ohioattorneygeneral.gov/Website) for the purpose of keeping employees of the office and the public educated as to the office's obligations under Ohio's Public Records Act, Ohio Open Meetings Act, and the federal laws, rules, and regulations that pertain thereto.

ELECTRONIC RECORDS

Records in the form of e-mail, text messaging, and other messaging, including those sent and received via a handheld communications device, are to be treated in the same fashion as records in other formats, such as paper or microfilm.

Public records cannot be exempted to or from public records or personal freedom to request laws that the office cannot reasonably identify what public records are being requested, the request may be denied, but the office must then provide the requester an opportunity to revise the request by informing the requester of the material to which records are maintained and accessed by the office.

DENIAL AND REDACTION OF RECORDS

If the requester makes an attempt to copy or read a record of the office in making a request that the office cannot reasonably identify what public records are being requested, the request may be denied, but the office must then provide the requester an opportunity to revise the request by informing the requester of the material to which records are maintained and accessed by the office.

If the office withholds, redacts, or otherwise denies requested records, it must provide an explanation, including legal authority, for the denial(s). If the initial request was made in writing, the explanation must also be in writing. If portions of a record are public and portions are exempt, the exempt portions may be redacted and the rest must be released. When making public records available for public inspection or copying, the office shall notify the requester of any redaction or make the redaction clearly visible.

COPIING AND MAILING COSTS

These meeting public records may be charged only the actual cost of making copies, not labor. The charge for paper copies is 10¢ per page. The charge for electronic files downloaded to a compact disc is \$10 per disc.

A requester may be required to pay in advance for the actual costs involved in providing the copy. The requester may choose whether to have the records digitized upon request, under the same manner as which the public record is held, or under any other medium on which the office determines that the record can reasonably be duplicated as an integral part of the office's normal operations.

If a requester asks that documents be delivered to them, he or she may be charged the actual cost of the postage and mailing supplies, or other actual costs of delivery. There is no charge for e-mailed documents.

MANAGING RECORDS

Public office records are subject to records retention schedules. The office's current schedules are available at www.ohioattorneygeneral.gov/Website in a location readily available to the public, as required by Ohio Revised Code § 149.01(F)(2).

A PROPER REQUEST

1. Seeks existing records
2. Not research or information



IS THE REQUEST AMBIGUOUS, OR OVERLY BROAD?

Requester has a responsibility to identify records with “reasonable clarity”



LIMITS ON REQUESTS



NEGOTIATE



Required when denying request as ambiguous or overly broad

Explain how records are maintained and accessed



OPTION TO ASK FOR PURPOSE, IDENTITY, OR WRITTEN REQUEST

Conditions:

1. Must enhance ability to identify, locate, or deliver records
-

AND

2. Advise that providing information is not required
-

CHARGING?



ACTUAL COST

<https://www.youtube.com/watch?v=PZbqAMEwtOE>



DELIVERY?

Any available means



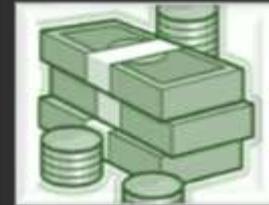
GO ABOVE AND BEYOND



Time

Save...

Expense



Conflict

LEGISLATURE CAN CHANGE RULES



MAKING NON-RECORDS RECORDS

Employee
birth dates

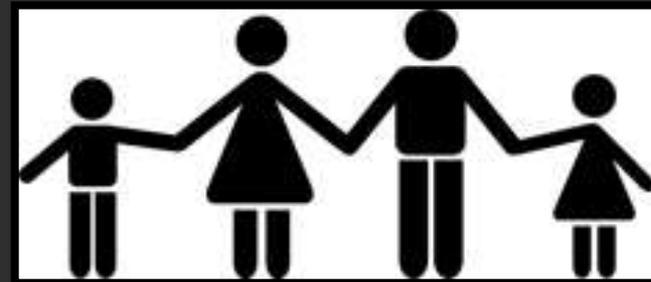


MORE ACCESS FOR CERTAIN REQUESTERS

Journalists



**Next of kin and Insurers
(coroners' records)**



INMATES



SOME OFFICES CAN CHARGE MORE



EXCEPTIONS ARE ONLY CREATED BY APPLICABLE STATE OR FEDERAL LAW

NOT by contract



MANDATORY EXCEPTIONS



**No choice but
to withhold**

EXAMPLES OF MANDATORY EXCEPTIONS

**Family Educational
Rights and Privacy
Act (FERPA)**



**Law Enforcement
Automated Data
System (LEADS)**

DISCRETIONARY



**May withhold, but
not required to**

NO EXCEPTION?

Juvenile records

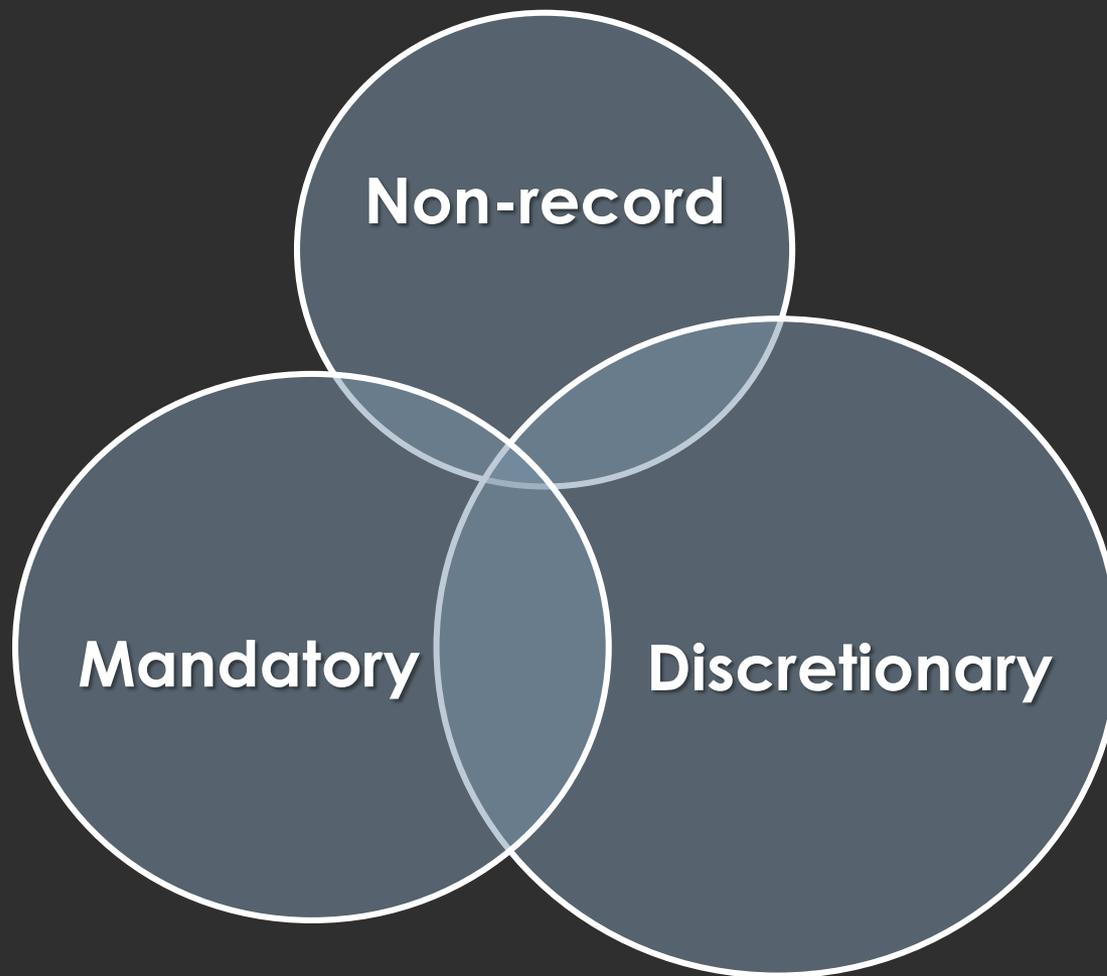
Government job application materials

A screenshot of an Ohio Civil Service Application form. The form is titled "Ohio Civil Service Application" and "For State and County Agencies". It contains various sections for personal information, education, and employment history, with checkboxes and input fields for each section.

General Privacy



MULTIPLE/MIXED EXCEPTIONS



WAIVER?



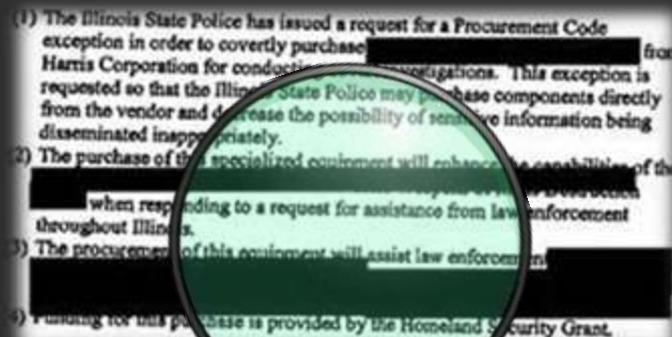
**Intentional
disclosure**

=

**Permanent
waiver**

WITHHOLDING/REDACTING

- **Notify where you've withheld**
- **Provide explanation and the legal authority!**

A magnifying glass with a black handle and a green-tinted lens is positioned over a document. The document contains several lines of text, some of which are redacted with black boxes. The text is numbered (1) through (4). The magnifying glass is focused on the second line of text, which is partially obscured by a redaction box.

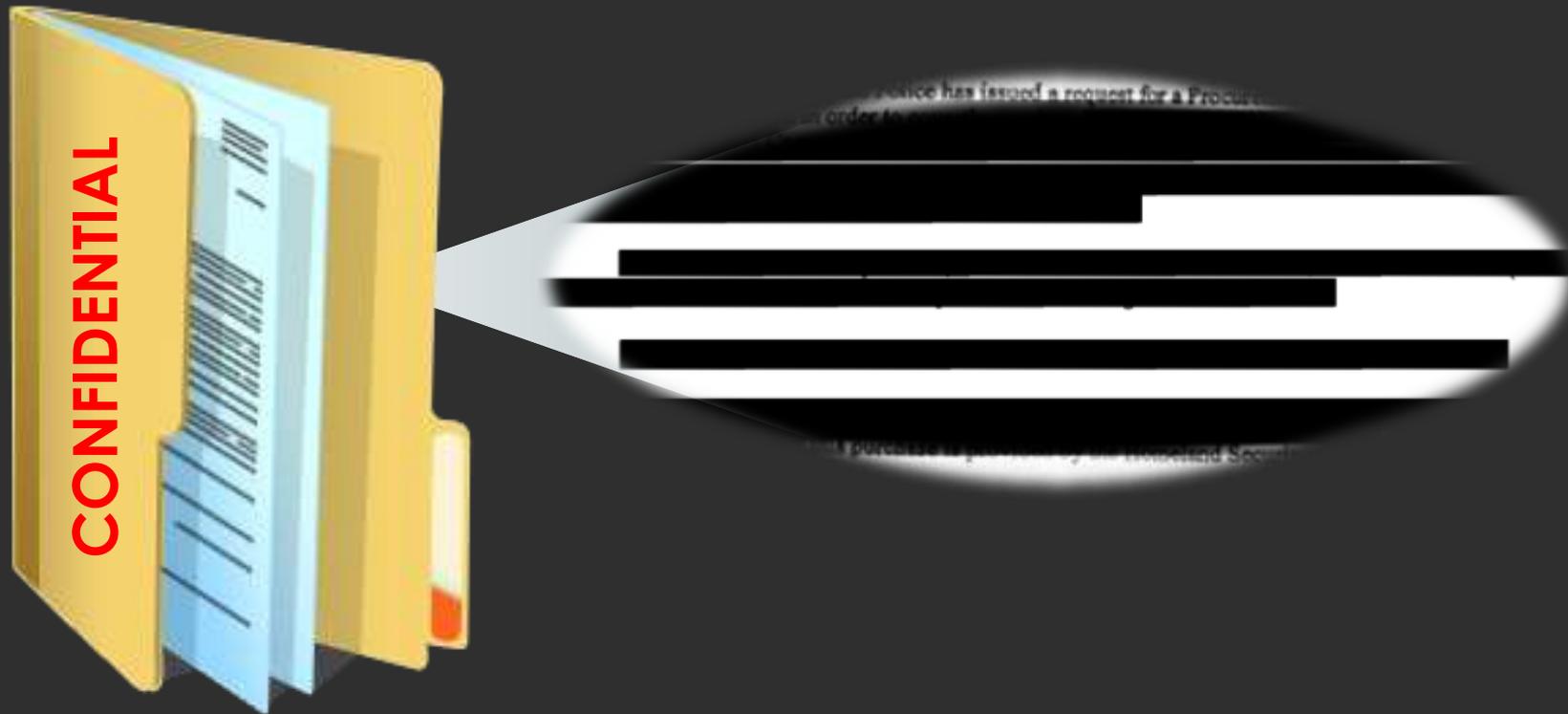
(1) The Illinois State Police has issued a request for a Procurement Code exception in order to covertly purchase [REDACTED] from Harris Corporation for conducting [REDACTED] investigations. This exception is requested so that the Illinois State Police may purchase components directly from the vendor and decrease the possibility of sensitive information being disseminated inappropriately.

(2) The purchase of this specialized equipment will enhance the capabilities of the [REDACTED] when responding to a request for assistance from law enforcement throughout Illinois.

(3) The procurement of this equipment will assist law enforcement [REDACTED]

(4) Funding for this purchase is provided by the Homeland Security Grant.

PROTECTED INFORMATION MAY BE WITHHELD



WITHHOLD IN GOOD FAITH

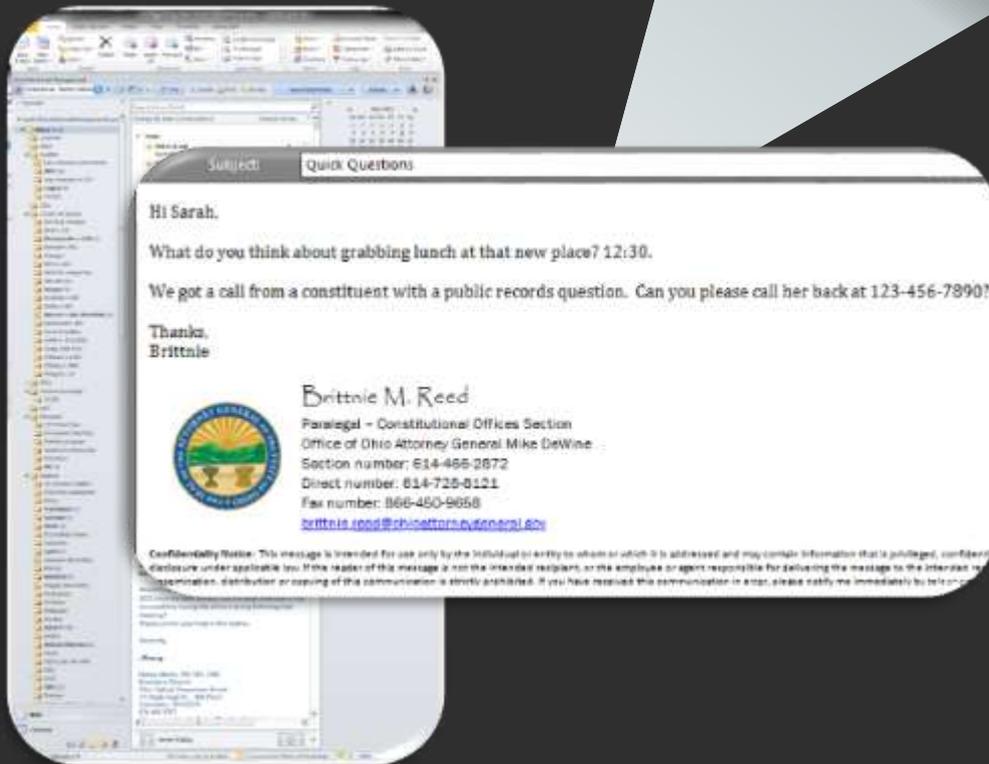


EXAMPLE

Hi Sarah,

[REDACTED]

We got a call from a constituent with a public records question. Can you please call her back at 123-456-7890?



Redact?

Release?



MIKE DeWINE

OHIO ATTORNEY GENERAL

Constitutional Offices Section
Office (614) 466-2872
Fax: (614) 728-7592

30 East Broad Street, 16th Floor
Columbus, Ohio 43215
www.OhioAttorneyGeneral.gov

February 24, 2016

Jane Smith
123 Main St.
Columbus, Ohio 43215
jms5@jms5.com

Re: Public Records Request # 16-001

On behalf of Ohio Attorney General Mike DeWine, I am writing in response to your public records request letter dated February 10, 2016, which our office received on February 12, 2016. A copy of your letter is attached for reference.

Please find attached the records responsive to your request. Note that we have redacted or withheld information that is not a record of our office, pursuant to *State ex rel. Dispatch Printing Co. v. Johnson*, 106 Ohio St.3d 160, 2005-Ohio-4384, 833 N.E.2d 274 and *State ex rel. Fant v. Enright*, 66 Ohio St.3d 186, 610 N.E.2d 997 (1993).

If you have any questions or concerns regarding this request, please feel free to contact the Public Records Unit at 614-466-2872.

Brittnie M. Reed
Paralegal - Public Records Unit

Attachments

cc: Renata Y. Staff, Associate Assistant Attorney General, Public Records Unit

REDACTING VS. WITHHOLDING

<http://www.ohiochannel.org/MediaLibrary/Media.aspx?fileId=146519>

A white oval button with a subtle drop shadow, containing the word "Redact" in bold red text.

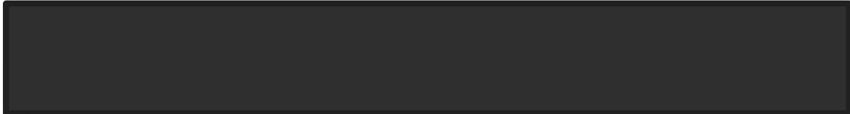
Redact

A white oval button with a subtle drop shadow, containing the word "Withhold" in bold red text.

Withhold

QUIZ

all applicable public records laws.



INK

DATE OF BIRTH - Year Not Required

Ohio Civil Service Application for State and County Agencies
ICS-414 (REVISED FORM)
The state of Ohio is an Equal Opportunity Employer and provides...

POSITION: INVESTIGATOR AGENCY: AGO

Please submit one application per position or examination to the address indicated on the job posting or examination announcement. Copies are acceptable. Applications lacking sufficient information will not be processed. Please ensure your application is received or postmarked by the closing date, as required by the hiring agency. Please be sure to complete the entire application. Also note that, once submitted to a governmental agency, this completed form will be subject to all applicable public records laws.

PLEASE TYPE OR PRINT IN INK *SSN 123-45-6789

NAME: (Last, First, Middle) <u>BUCKEYE, BARRY B.</u>	DATE OF BIRTH - Year Not Required Month <u>JUNE</u> Day <u>12</u>
ADDRESS: (Street, City, State, ZIP Code) <u>1971 BROWNS BLVD.</u>	COUNTY: <u>SUMMIT</u>
HOME PHONE: <u>(330) 555-6707</u> ALTERNATE PHONE: <u>(330) 555-1925</u>	E-MAIL ADDRESS: <u>REDSEAL@GMAIL.COM</u>
DRIVER'S LICENSE: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No STATE: <u>OH</u> CLASS: <u>CDL</u>	LEGAL RIGHT TO WORK IN THE U.S.: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
PREFERENCES	
PREFERRED SALARY:	ARE YOU WILLING TO RELOCATE? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Maybe
WHAT TYPE OF JOB ARE YOU LOOKING FOR? <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Temporary	TYPES OF WORK YOU WILL ACCEPT: <input checked="" type="checkbox"/> Full-Time <input type="checkbox"/> Part-Time
SHIFTS YOU WILL ACCEPT: <input checked="" type="checkbox"/> Day <input checked="" type="checkbox"/> Evening <input type="checkbox"/> Night <input type="checkbox"/> Rotating <input checked="" type="checkbox"/> Weekends <input checked="" type="checkbox"/> On Call (as needed)	
EDUCATION	
HIGH SCHOOL NAME:	LOCATION: (City, State)



Redact?

State ex rel. Beacon
Journal Publ'g Co. v. City
of Akron,
70 Ohio St.3d 605

QUIZ

ADDRESS: (Street, City, State, ZIP Code) 1971 BROWNS BLVD.

POSITION: INVESTIGATOR	AGENCY: AFO	POSITION NUMBER:
-------------------------------	--------------------	-------------------------

Please submit one application per position or examination to the address indicated on the job posting or examination announcement. Copies are acceptable. Applications lacking sufficient information will not be processed. Please ensure your application is received or postmarked by the closing date, as required by the hiring agency. Please be sure to complete the entire application. Also note that, once submitted to a governmental agency, this completed form will be subject to all applicable public records laws.

PLEASE TYPE OR PRINT IN INK *SSN 123-45-6789

NAME: (Last, First, Middle) BUCKEYE, BARRY B.	DATE OF BIRTH - Year Not Required Month JUNE Day 12	
ADDRESS: (Street, City, State, ZIP Code) 1971 BROWNS BLVD.	COUNTY: SUMMIT	
HOME PHONE: (330) 555-6707	ALTERNATE PHONE: (330) 555-1925	E-MAIL ADDRESS: REDSKULE@GMAIL.COM
DRIVER'S LICENSE: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	STATE: OH CLASS: CDL	LEGAL RIGHT TO WORK IN THE U.S.: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

PREFERENCES

PREFERRED SALARY:	ARE YOU WILLING TO RELOCATE? <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Maybe
WHAT TYPE OF JOB ARE YOU LOOKING FOR? <input checked="" type="checkbox"/> Regular <input type="checkbox"/> Temporary	TYPES OF WORK YOU WILL ACCEPT: <input checked="" type="checkbox"/> Full-Time <input type="checkbox"/> Part-Time
SHIFTS YOU WILL ACCEPT: <input checked="" type="checkbox"/> Day <input checked="" type="checkbox"/> Evening <input type="checkbox"/> Night <input type="checkbox"/> Rotating <input checked="" type="checkbox"/> Weekends <input checked="" type="checkbox"/> On Call (as needed)	

EDUCATION

HIGH SCHOOL NAME:	LOCATION: (City, State)
--------------------------	--------------------------------

POSITION: INVESTIGATOR



Redact?

Also consider protections for certain covered professionals, R.C. 149.43(A)(7)

PREPARATION

- **Training**
- **Lists**
- **Records
Retention
Schedules**
- **Resources**

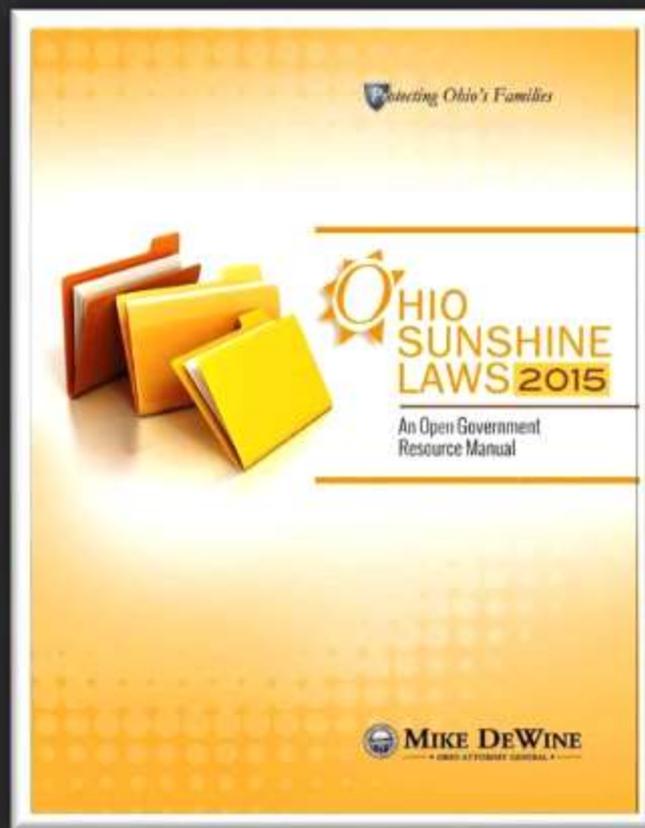


CONSULT YOUR LEGAL COUNSEL



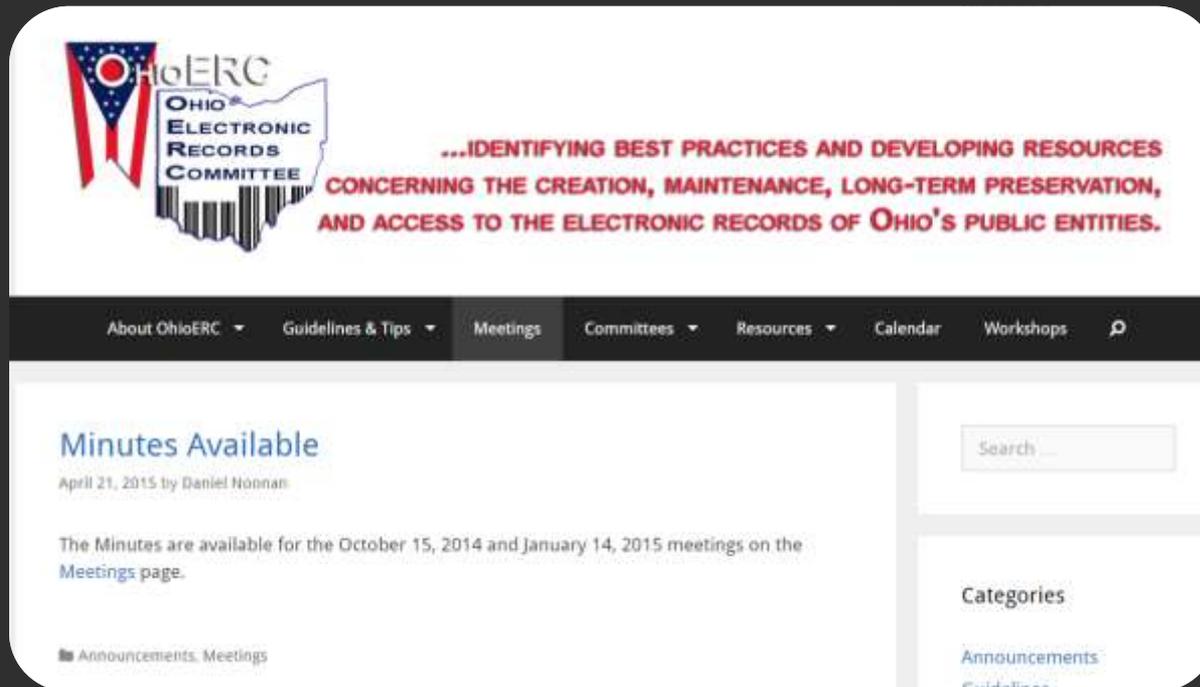
OHIO SUNSHINE LAWS MANUAL

www.OhioAttorneyGeneral.gov/YellowBook



OHIO ELECTRONIC RECORDS COMMITTEE

www.OhioERC.org



The screenshot displays the Ohio Electronic Records Committee (OhioERC) website. At the top left is the logo, which features a stylized map of Ohio with a barcode at the bottom and the text 'OhioERC OHIO ELECTRONIC RECORDS COMMITTEE'. To the right of the logo is the mission statement: **...IDENTIFYING BEST PRACTICES AND DEVELOPING RESOURCES CONCERNING THE CREATION, MAINTENANCE, LONG-TERM PRESERVATION, AND ACCESS TO THE ELECTRONIC RECORDS OF OHIO'S PUBLIC ENTITIES.**

Below the header is a dark navigation bar with the following menu items: [About OhioERC](#), [Guidelines & Tips](#), [Meetings](#), [Committees](#), [Resources](#), [Calendar](#), and [Workshops](#). A search icon is also present.

The main content area features a post titled **Minutes Available**, dated **April 21, 2015** by **Daniel Noonan**. The text of the post states: **The Minutes are available for the October 15, 2014 and January 14, 2015 meetings on the Meetings page.**

Below the post text is a tag: **Announcements, Meetings**. On the right side of the page, there is a search box labeled **Search** and a **Categories** section with links for **Announcements** and **Guidelines**.

DO MORE THAN IS REQUIRED



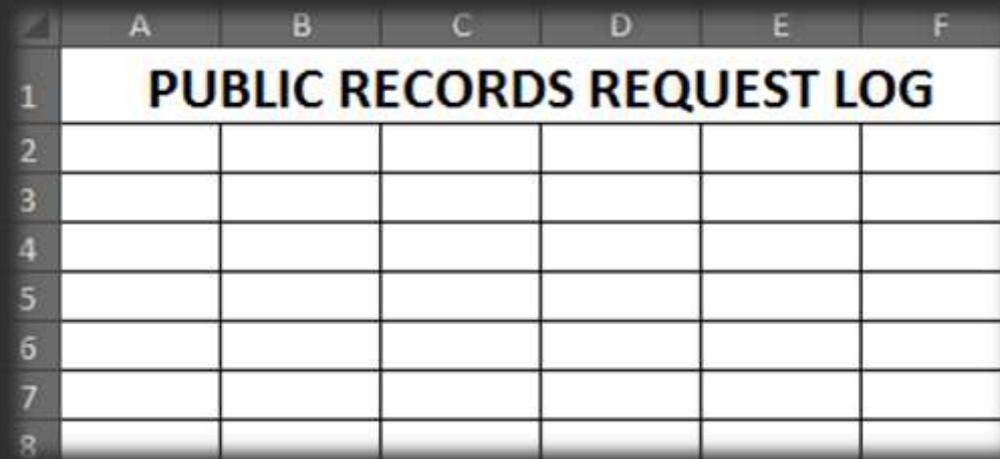
NEGOTIATE TO A WIN-WIN SOLUTION



DOCUMENTING REQUESTS

Benefits:

- Defending litigation
- Duplicative requests



	A	B	C	D	E	F
1	PUBLIC RECORDS REQUEST LOG					
2						
3						
4						
5						
6						
7						
8						

WHAT TO DOCUMENT:

1. The request itself
2. Acknowledgement of request
3. Communication with requester
4. All steps taken
5. Records provided
 - AOS Bulletin 2011-006

OTHER PRACTICAL TIPS



- **Contact legal counsel *early***
- **Negotiate if appropriate**

POTENTIAL LIABILITIES

- **Mandamus or Court of Claims proceeding**
- **Order to produce records**
- **Statutory damages**
- **Attorney fees**



REQUIREMENTS FOR STATUTORY DAMAGES

1. Certified mail or hand delivery

AND

2. Lost use of records

ATTORNEY FEES

- **Available if...**
 - Public office acted in bad faith in providing records after mandamus lawsuit filed
- **Not Available if...**
 - Any well-informed person would have reasonably believed at the time that the conduct of your office was not violating the letter or spirit of the PRA

RECORDS CREATION

“Shall make” only necessary records



ORGANIZE AND MAINTAIN

Copyright 2004 by Randy Glasbergen.
www.glasbergen.com



**“I am not disorganized — I know *exactly* where everything is!
The newer stuff is on top and the older stuff is on the bottom.”**

RECORDS RETENTION APPROVAL

Local Records Commission



Ohio History Connection
(State Archives)



Auditor of State

CONTENTS OF RETENTION SCHEDULES

Series Title

**Series
Description**

**Retention
Period**

**Retention
Format**

**Disposal
Method**

FACTORS DETERMINING RETENTION PERIOD

**Administrative
Purpose**

**Fiscal
Tracking**

Legal Value

**Historical
Value**

RESOURCES



Ohio History Connection State Archives

Department of Administrative Services General Schedules

A screenshot of the Department of Administrative Services General Schedules website. The page title is 'General Schedules'. It features a table with multiple columns, including 'Classification', 'Description', and 'Retention Period'. The table lists various administrative records and their corresponding retention periods. The text is small and difficult to read, but the structure is clear.

HAVE RETENTION SCHEDULES READILY AVAILABLE



DISPOSE OF RECORDS PROPERLY

As provided for by:

- Law
- Records retention schedules



LIABILITIES FOR IMPROPER DISPOSAL

Potential Consequences:

- Civil lawsuit
- Court of Claims proceeding
- Forfeiture of \$1,000 per violation
- Attorney fees



“PERSON AGGRIEVED”

<http://www.ohiochannel.org/MediaLibrary/Media.aspx?fileId=130353>



~~GOTCHA!~~

R.C. 149.351

Not “aggrieved” if
request was contrived
to create liability

OPEN MEETINGS ACT OVERVIEW



WHO IS SUBJECT AND WHEN?

Applies to “public bodies” when:

- 1 there is a prearranged gathering of
- 2 a majority of the members of a public body
- 3 conducting or discussing public business



“PUBLIC BODIES”

Includes committees and sub-committees



“MEETING”

P rearranged



**Discussion of
Public Business**



Majority of Members

RETREATS, WORK SESSIONS, ETC.?



MEETING MUST BE USED FOR DISCUSSION AND DELIBERATION OF “OFFICIAL BUSINESS”

NOT NECESSARILY FOR ...



Information gathering



Presentations



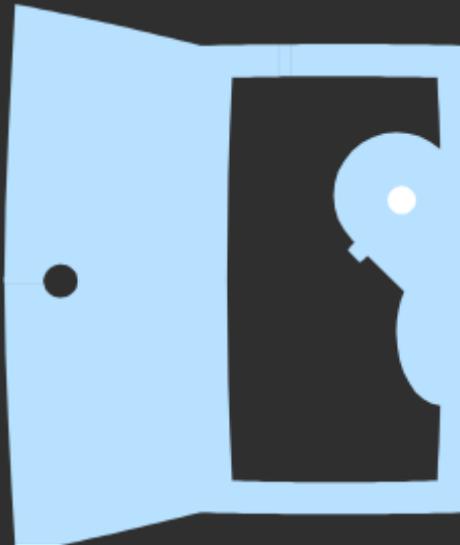
Isolated conversations
between employees

MEETING OBLIGATIONS

1. Notice



2. Openness



3. Minutes



NOTICE RULE REQUIREMENTS

1. Be consistent

AND

2. Actually reach the public

OBLIGATION 1: NOTICE

Public bodies establish their own notice rules



NOTICE REQUIREMENTS DEPEND ON TYPE OF MEETING

Two Types of Meetings:

Regular

Prescheduled
Intervals

Special

Anything other
than Regular

NOTICE: REGULAR MEETINGS

Regular	
Time	Place

NOTICE: SPECIAL MEETINGS

Special

Time

Place

Purpose

SPECIAL MEETINGS: MEDIA

**At least 24 hours
notice to all media
outlets that have
requested it**



EMERGENCY MEETINGS

Immediate Notice Required



- Type of special meeting
- Must include media with notice

NOTICE TO PUBLIC OF PLANNED DISCUSSION OF PARTICULAR TOPIC

1. Public body must have a method to sign up for such notice
2. May require payment of reasonable fee



OBLIGATION 2: OPENNESS



OPENNESS

Vote and take official actions in public



OPENNESS

No round-robin meetings



No voting by secret ballot



OPENNESS

Forum requirements:

1. Public
2. In area public body serves
3. Large enough



RECORDING AND SPEAKING?

Cannot ban non-disruptive recording



Do not have to allow public participation



QUIZ

Township trustees hold a regular meeting, where all the members attend, and provide the proper notice to the public. But the doors to the meeting room are accidentally locked while the meeting is ongoing.



Open?



Not open?



Proper notice was given



Minutes were taken



Openness denied to latecomers

**Potential OMA
violation**



OBLIGATION 3: MINUTES

Requirements:

1. Promptly prepared
2. Filed
3. Maintained
4. Open to public



REQUIRED CONTENT

- **Not verbatim transcript, but ...**
- **Must allow public (including those who did not attend) to understand decisions of the public body**



EXECUTIVE SESSION



PROPER PROCEDURE

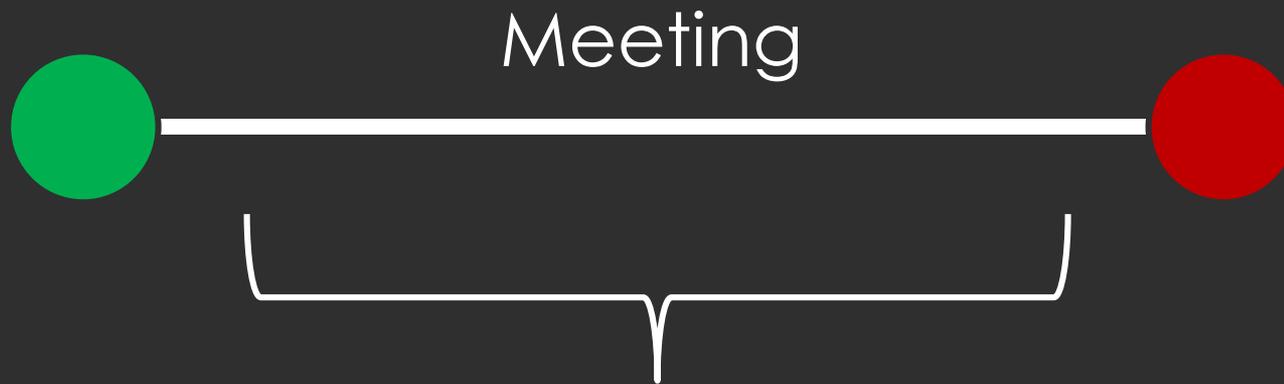
Motion

Identify particular
purpose and matter

Second

Roll Call Vote

Do not **BEGIN** or **END** a meeting
in executive session



Insert executive session here!

NINE ACCEPTABLE EXECUTIVE SESSION TOPICS

1. Certain personnel matters (must be specific)
2. Purchase or sale of property
3. Pending or imminent court action
4. Collective bargaining matters
5. Matters required to be kept confidential
6. Security matters
7. Hospital trade secrets
8. Confidential business information of an applicant for economic development assistance
9. Veterans Service Commission applications

QUIZ

Township trustees want to go into executive session to discuss a general OMA issue. Chair moves to adjourn with the board's attorney to "discuss some legal matters with the attorney for the trustees." Roll call vote.



Appropriate?



Not appropriate?



Started in open session



Roll call vote to enter executive session



Pending or imminent legal action

**Potential OMA
violation**



WHO CAN BE PRESENT?

1. Members

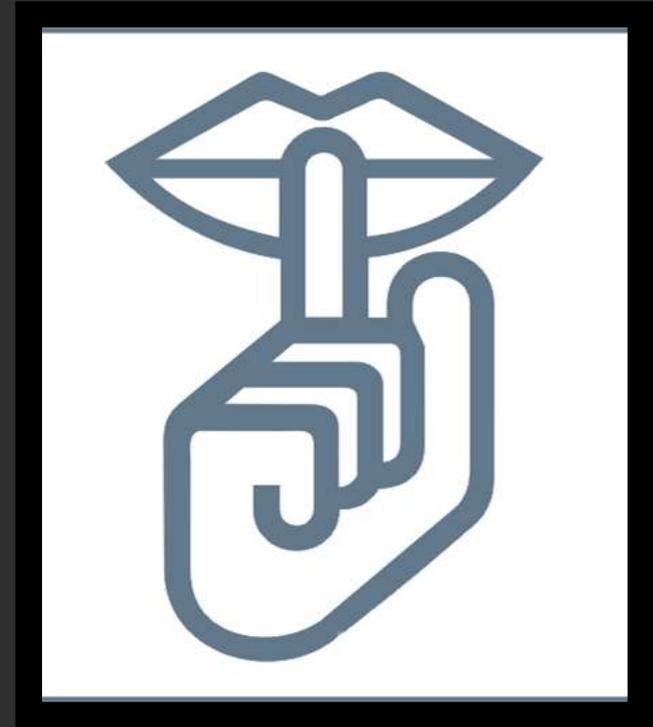
- But cannot exclude minority!



2. Anyone else the members invite

CONFIDENTIALITY?

- **No confidentiality provisions created in OMA**
- **Other laws, like Ethics Law, may require confidentiality (but only of the members!)**



WHAT NOT TO DO IN EXECUTIVE SESSION



Vote

**Make Any
Decisions**



**WRONG
WAY**

**Discuss Other
Matters**

VIRTUAL PARTICIPATION?



**Not unless *specifically* authorized
by law...**

WHO ENFORCES THE OMA?

- **“Any person” by filing a lawsuit**
- **No public entity enforces the OMA**



POTENTIAL LIABILITIES

1. Fine
2. Attorney fees
3. Invalidation of action(s) taken
4. Removal from office



QUESTIONS?



ANSWERS

Ohio Attorney General's Sunshine Laws Webpage

www.OhioAttorneyGeneral.gov/Sunshine

Ohio Sunshine Laws Manual

www.OhioAttorneyGeneral.gov/YellowBook

Ohio Attorney General Mike DeWine

Public Records Unit

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