

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)

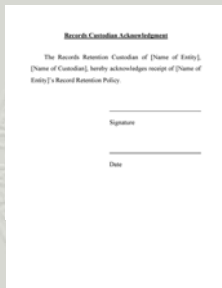
Example Retention Schedule

The image shows two pages of a retention schedule document. The left page is titled 'GENERAL RECORDS' and lists various record types such as 'Administrative Records', 'Personnel Records', and 'Financial Records'. The right page is titled 'SPECIAL RECORDS' and lists 'Law Enforcement Records' and 'Public Safety Records'. Each record type is associated with a specific retention period, such as '3 years' or 'indefinite'.

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



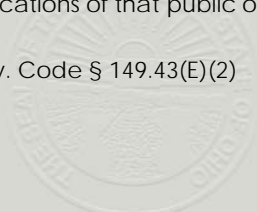
The image shows a sample form titled "Records Custodian Acknowledgment". The text on the form reads: "The Records Retention Custodian of [Name of Entity], [Name of Custodian] hereby acknowledges receipt of [Name of Entity]'s Record Retention Policy." Below this text are two horizontal lines for a signature and one for a 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)

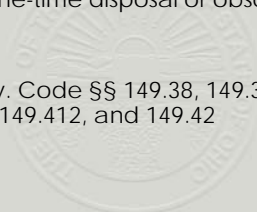


Example Public Records Poster



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

ARTICLE V
Rules for Notification of Meetings
to the Public and News Media

Section 5.1. *Public Meetings and Purposes.* Meetings of the Board and of any duly appointed committee of the Board at which meeting a majority of the members of the committee are present shall be held, and notice thereof given, in accordance with Sections 121.22, Revised Code, and this Article V. The purposes of the rules contained in this Article V are: (a) to establish a reasonable method for any person to determine the time and place of all Regular Meetings and the time, place and purpose of all Special Meetings, (b) to make provisions for giving advance notice of Special Meetings to the news media that have requested notification, and (c) to make provisions for persons to request and obtain reasonable advance notification of all Meetings at which any specific type of public business is to be discussed. The rules contained in this Article V are in addition to any applicable legal requirements as to notices to Members of the Board or to others in connection with specific meetings or specific subject matters.

Section 5.2. *Notice of Regular and Organizational Meetings.*

(a) The Secretary of the Board shall publish a statement of the time and place of Regular Meetings for each calendar year not later than the second day preceding the day of the first meeting of each calendar year (other than the

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)

Sunshine Law Star Rating System (StaRS)

StaRS Levels:	
★	Open and Transparent Government - Meets all Sunshine Law requirements.
★★	Achievement in Open and Transparent Government - Implemented 1-2 best practices.
★★★	Outstanding Achievement in Open and Transparent Government - Implemented 3-4 best practices.
★★★★★	Highest Achievement in Open and Transparent Government - Implemented 5 or more best practices.
Non-Compliant	Non-Compliant - Sunshine Law requirements are not fully achieved.

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

(NAME OF AGENCY/DEPARTMENT/SUBDIVISION) LOG OF PUBLIC RECORDS REQUESTS (PERIOD OF TIME COVERED BY LOG)									
DATE RECEIVED	DATE OF RESPONSE	NAME OF REQUESTING PERSON OR ENTITY	DESCRIPTION OF RECORDS REQUESTED	COPY OF RELEASED RECORDS		EXEMPTION REDACTION		LEGAL AUTHORITY FOR EXEMPTION REDACTION	NAME OF PERSON FULFILLING REQUEST
				YES	NO	YES	NO		
1									
2									
3									
4									
5									
6									
7									
8									
9									
10									

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.

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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>

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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.

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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 bar with links for Residents, Businesses, Visitors, Elected Officials, Departments, and Quick Links. Below this is a table of upcoming meetings:

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	

Below the table, there is a section for 'PUBLIC RECORDS REQUESTS' with a heading 'Columbus Public Health adheres to all Ohio Public Records Laws.' and a 'Making a Request' section. There are also 'Important Links' for Public Records Request Portal, Open Access, and Other Records.

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



How to Testify During COVID-19

Public Notice: Effective April 16, 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 consistent with 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.

Notifying of the City Council Meeting
For further notice, Councilman City Council meetings will be held in a teleconference and will continue according to Article II, with the standard practice and procedure of conducting legislative will be followed, interested parties testify in front of the hearing are allowed as follows:

City residents wishing to submit testimony in front of an in-person or an online hearing are strongly advised to submit their testimony in writing to the City Clerk. Written testimony must be received by 5:00 pm on the day of the meeting. Testimony should be emailed to cityclerk@columbusi.gov

Testimony can also be mailed to: Columbus City Council, Attn: City Clerk, 600 North Broad Street, Columbus, Ohio, 43215. Please include contact information (name, phone number, and the representative's name) that you wish to address.

All public meetings to occur during Council meetings will include a live online option. City Clerk will be available on the Council website at www.columbusi.gov and on the Council website at www.columbusi.gov to take from 5:00 pm on the day of the Council meeting to request attendance at the meeting. The Clerk will provide the 100% meeting information allowing those parties to attend the meeting electronically. Those submitting testimony must join the 100% meeting no later than 5:00 pm on the day of the Council meeting.

In accordance with public meeting access processes, residents may still attend the meeting in person at the real-time hearing location to testify in person should the hearing be held in person. For the regular meeting and 5:00 pm for the Council meeting, however, in consideration of the State of Ohio 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 social distancing guidelines will be to protect public health.

Residents submitting testimony, and that the records in Columbus 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:
100% LIVE
Password: 12345

or
Columbus Live

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

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

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