



## Public Records

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***“The liberties of a people never were, nor ever will be, secure, when the transactions of their rulers may be concealed from them...To cover with the veil of secrecy the common routine of business, is an abomination in the eyes of every intelligent man.”***

**Patrick Henry**

# Ohio Public Records Law

- The finance office acts as stewards of public records and has the responsibility to maintain the public records in accordance with laws and regulations.
- The public records law is very complex
- All finance department officers and employees should be familiar with the Ohio public records act.



# Ohio Public Records



- Defined: O.R.C. 149.011 & 149.43 (A) (1)
  - A record held by a public office that is stored on a fixed medium, created, received or sent under the jurisdiction of a public office and that *serves to document* the organization, functions, policies, decisions , procedures, operations or other activities of the office.

# Ohio Public Records Law

- Two components:
  - “record”: (paper, tapes, emails, photos, films, video , etc.) that are “created, received or sent”
  - “Serve to document the activities of the public office”
    - Email sent requesting you come to a meeting: PUBLIC
    - Email reminder of your dentist appointment: NOT PUBLIC

# Ohio Public Records

- Obligation
  - To provide ***prompt*** inspection of public records
  - Upon request, provide copies within a ***reasonable*** period of time
  - To *any* person
    - UNLESS THE PUBLIC OFFICE CAN IDENTIFY AN EXEMPTION WHICH CLEARLY REQUIRES OR PERMITS WITHHOLDING A RECORD

# Public Records

- Exemptions
  - HIPAA
  - Confidential Law Enforcement Investigatory Records
    - Under conditions
  - Social security numbers
  - Student Records (identify students without consent)
  - Home addresses of public employees
    - State vs. Dispatch Printing Co.
    - Home addresses do not serve the underlying purpose of the Public Records Act
    - Disclosure would not help monitor the conduct of government.

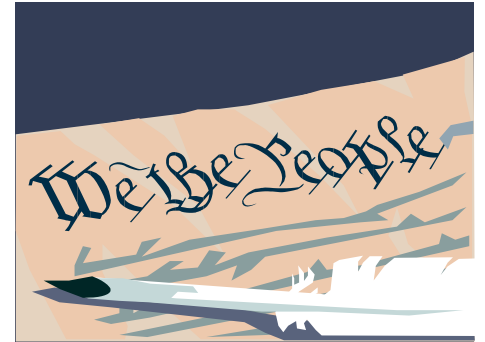


**“We have a VP of Records Management, but we don’t know who it is because nobody can locate the file.”**

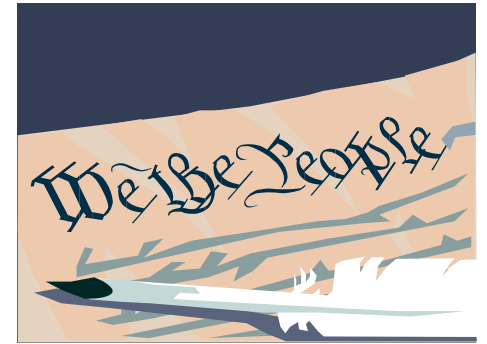


# Ohio Public Records Law

- House Bill 9
- Revised Public Records law
  - Enacted in 2007
  - Created records commissions for public libraries and special taxing districts
  - Required training for all elected officials or their designee provided by Attorney General.



# House Bill 9



- Charged the Attorney General with development of a model public records policy for public entities and to assist public entities with their own public records policies.
- Requires public entities to create a Public Records policy that addresses the agency's response to public records request
- Charged the AOS during audit to check compliance of public entity training and policy

# House Bill 9

- What HB 9 DID NOT DO:
  - Did NOT Change the definition of Public Records
  - Did NOT Change duty to maintain or produce records
- What HB 9 DID DO:
  - Create penalties for noncompliance
  - Create specific provisions for denying requests

# Ohio Public Records

- Can deny overly broad and ambiguous requests
  - Allow the requester to revise the request after explaining how records in the office are maintained and accessed by the public office.
- If denied, public office must provide:
  - Explanation of why it was denied and the legal authority under which it was denied (exceptions later).

# Ohio Public Records

- Penalties
- Civil penalties
  - \$100 for each business day that the public office or person responsible for requested record failed to comply
  - Attorney's fees and court costs

# Public Records

- Public office does not have to create records, but records contained within electronic databases must be made available upon public request
  - Request for payroll report cannot be denied because the report is not printed and on your desk!

# Public Records

- Redact information that is not public:
  - Know what is public and what is not
  - Redaction must be plainly visible or advise requester of the redaction
  - W-2 is a public record in Ohio
    - Social Security number is NOT
  - Personnel file is public record
    - Health insurance information is not.

# Public Records

- Public can inspect all public records.
  - Copy charge cannot be greater than actual cost of copy.  
Cannot include labor
  - Cannot charge for inspection of records
- Cannot require that requests be in writing or requestor's name or why they want the records (but you can write down the information requested)
- Can ask the request to be specific.



# Public Records Retention

- ORC 149 dictates the establishment of Records Commissions
  - Establish and oversee the records retention schedule
  - Designates members
    - City: Chief Executive officer (or appointed representative), chief fiscal officer, the chief legal officer and a citizen appointed by the chief executive
  - Designates required meetings.

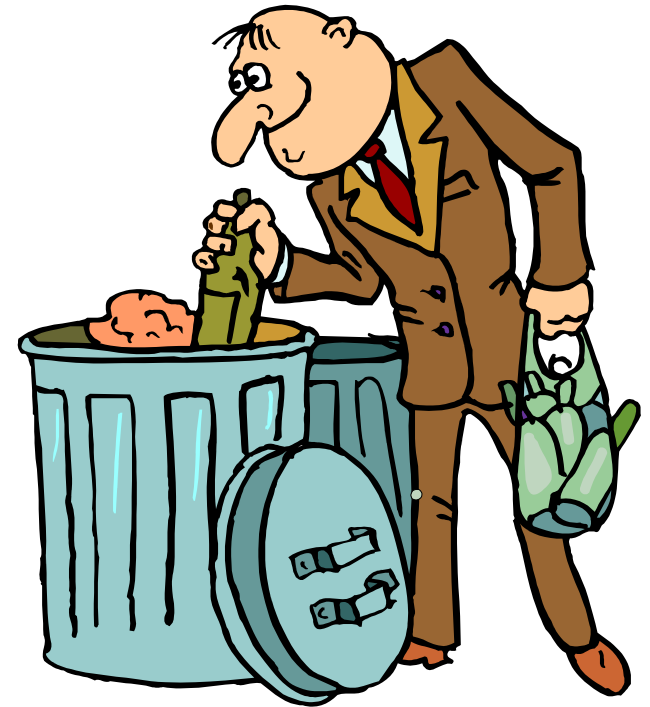
# Records Commission

- Meet (at least) every 6 months
  - County ORC 149.38
  - Municipal Corp. ORC 149.39
- Meet (at least) every year
  - School District ORC 149.41
  - Township ORC 149.42.



# Records Retention

- Establish Retention Schedule
- Submit to AOS & Historical Society
- Prior to Disposal, Inform Ohio Historical Society
  - O.H.S. has 60-day period to request records prior to disposal
  - May have continuing historical value



# Records Retention Assistance

- Ohio Historical Society
- Website:

<https://www.ohiohistory.org/research/local-government-records-program/>

# Records Retention

- Electronic records
  - VERY IMPORTANT!!
  - Public Records
  - Need retention schedule
  - Need to adhere to schedule
  - GET RID OF WHAT YOU DON'T NEED



# Quiz

- You may charge the public for the inspection of records
- The Auditor of State may deny my public records disposal request because of the historical significance of the records.
- Personnel files are public records



# OHIO GFOA

## Questions?



Government Finance Officers Association