

**CHAMPAIGN COUNTY BOARD OF DEVELOPMENTAL DISABILITIES
SHELBY COUNTY BOARD OF DEVELOPMENTAL DISABILITIES**

**POLICY AND PROCEDURE MANUAL
Public Records Policy**

SCBDD
POLICY #65-07

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I. Purpose

- A. This Public Records Policy is adopted by Champaign/Shelby County (hereinafter referred to as Board) to ensure that Ohio's citizens are entitled to access the records of their government. This policy shall be interpreted liberally in favor of disclosure and exemptions shall be narrowly construed.
- B. The Public Records Act imposes two primary obligations upon public offices and, two corresponding rights upon the public:
 - 1. Prompt inspection of public records; and
 - 2. Copies of public records within a reasonable period of time.

II. Public Records

- A. Under Ohio law, the Board may only create records that are "necessary for the adequate and proper documentation of the organization, function, policies, decisions, procedures and essential transactions of the agency and for the protection of the legal and financial rights of the state and persons directly affected by the agency's activities."
- B. "Record" is defined as any item kept by the Board that meets all of the following:
 - 1. Is stored on a fixed medium, (such as paper, electronic – including but not limited to e-mail, and other formats);
 - 2. Is created or received by, or sent under the jurisdiction of the Board;
 - 3. Documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office.
- C. If any of these three requirements is absent, the item is not a record and therefore not a public record.

- D. A public office is not required to create new records to respond to a public records request, even if it is only a matter of compiling information from existing records.

III. Exemptions to Public Records Law

- A. The confidential nature of certain types of information or records precludes their release. Federal and state law provides numerous exceptions to the general rule that disclosure of public records is mandatory.
- B. Records, whose release is found to be prohibited by either state or federal law, or not considered public records as defined by ORC 149.43(A)(1), are not subject to public inspection.
 - 1. Appendix A contains a list of records that may not be subject to release per ORC 149.43(A)(1), Appendix B is a list of the most common express exemptions in Ohio law, and Appendix C is a non-exhaustive list of express exemptions found throughout the Ohio Revised Code.
 - 2. A copy of Appendix A, B and C of the Public Records Policy are available on the Board website at www.champaigndd.org or www.shelbydd.org.

IV. Public Records Requests

- A. All public records maintained by the Board shall be promptly prepared and made available for inspection to any person during regular business hours. This office also shall make a copy of the current record retention schedule of the Board.
- B. Identification of Public Record. The requester must identify the records requested with sufficient clarity to allow the Board to identify, retrieve, and review the records. If a requester makes an ambiguous or overly broad request so that the exact public records cannot be reasonably identified, the request may be denied. If denied, the Board will provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained and accessed in the ordinary course of business.

- C. Format of Request. The request may be oral or in writing based on the requester's choice. The Board may seek a written request of the requester's identity and intended use if the facts demonstrate it would enhance the ability to identify, locate, or deliver the public records sought by the requester but only after the Board provides information to the requester on the following:
1. Disclose that a written request is not mandatory;
 2. Disclose that the requester may decline to reveal their identity or intended use.
- D. Choice of Medium. The requester may choose to have the record duplicated:
1. On paper,
 2. In the same form as the Board keeps it (e.g., on computer disk), or
 3. On any medium upon which the Board determines the record can "reasonably be duplicated as an integral part of normal operations of the public office."
- E. Response Time to Request. Public records shall be made promptly available for inspection during regular business hours. The Board will provide copies if requested within a reasonable period of time based upon:
- a. The circumstances of the Board at the time of the request;
 - b. The breadth of the request; and or,
 - c. The necessity of legal evaluation prior to release.
- F. Prohibition Against Requesters Right to Make Copies Themselves. To protect the integrity of the original document, a person requesting the copies of public records shall not make their own copies of the requested records by any means.
1. A representative of the Board shall be present when a public record is being reviewed.

G. Limit to Number of Requests by Mail. The office may limit the number of record requests by a person to be transmitted by the United States mail to 10 per month, unless the person certified in writing of their intent not to use or forward the requested records or the information contained in them, for commercial purposes. "Commercial" shall be narrowly construed and does not include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit education research.

H. Requests by Incarcerated Persons. An incarcerated person may receive public records, but only if the records concern a criminal investigation and the request meets the following:

1. The record must be "public records" which are not subject to an exemption from disclosure;
2. The judge who imposed the sentence of incarceration, or that judge's successor, finds the information sought in the public record is necessary to support a justifiable claim of the person.

V. Denial of Public Record Requests

A. If a request is denied, in part or in whole, the Board shall provide the requester with a written explanation, including legal authority, setting forth why the request was denied.

B. Denial of an Ambiguous or Overly Broad Request of Public Record. A request may be denied if it is ambiguous or overly broad. Prior to denying a request, the Board will inform the requester of the manner in which records are maintained in the ordinary course of business and provide an opportunity to revise the request.

C. Denial of a Public Record Not Maintained by Champaign/Shelby County. If the Board receives a request for a record that it does not maintain or the record which is no longer maintained, it shall notify the requester in writing that one of the following applies:

1. The records have never been maintained by the Board and if possible direct the requester to the proper office;
2. The records that are no longer maintained or have been disposed or transferred pursuant to applicable Schedules of Records Retention and Deposition (RC-2);

3. The record that has been disposed of pursuant to an Application of the One-Time Records Disposal (RC-1);
 4. The record is not a record used or maintained by this public office, and is under no obligation to create records to meet public record requests.
- D. Denial of a Public Record Maintained by Champaign/Shelby County. This public office may deny a records request if the release is prohibited by state or federal law.
1. If the record request is denied in its entirety because of a statutory exclusion this office may check the appropriate box on Form PR-1.
 2. If only part of the record is not subject to release, this office will
 - a. Redact, i.e. black-out or otherwise remove, such information and release the non-exempted information;
 - b. Check the appropriate box on Form PR-1 and cite the exemption from Appendix A, B, or C with the corresponding redaction.
 - a) Requests that include redactions shall be made on a copy of the original record to preserve the authenticity and accuracy of the original document.
 3. The office shall consult the Prosecutor if unsure of whether or not a part of the record requested is exempt from disclosure.
 4. This public office may rely on additional reasons or legal authority in defending an action commenced pursuant to ORC 149.43.
- E. Request for Personnel Records. Strictly personal information unrelated to the employee's performance of public business such as Social Security number, home address, home phone number, information regarding spouse and children's names and ages, medical records, payroll deductions, or additional voluntary retirement contributions, should be redacted prior to viewing by anyone other than the employee or their written designee.

VI. Costs for Public Records

- A. A requester must pay for the actual cost of reproduction which does not include employee time. If the nature of the request reasonably requires a copy by an outside contractor, the requester must pay said cost to this office to produce the copy.
- B. Payment in Advance. The Board may require a requester to pay in advance the cost to provide the copy of the public record, as requested.
 - 1. Photocopies of letter or legal sized documents is five cents (\$.05) per page/photocopy, unless legally permitted otherwise and posted.
 - 2. Video tapes, cassette tape, computer disks, or other media shall be the cost of the media to this office or reproduction cost (copying costs if outside vendor is necessary.)
 - 3. Mailing costs by U.S. mail or other method of delivery.
 - 4. Costs incurred for other supplies (envelope, etc.) used in the mailing, delivery, or transmission.

VII. Email / Cellular Telephones

- A. Documents in electronic format are public records as defined in Section II – Public Records and are subject to public records requests and applicable retention schedules.
- B. Records in private cellular telephone accounts used to conduct public business may be subject to disclosure and must be retained as records of the Board, according to established schedules, and made available for inspection and copying in accordance with the Public Records Act.

VIII. Failure to Respond to a Public Records Request

- A. If a requester feels they have been improperly denied public records due to the inability to inspect or to receive a copy of a record, this office shall advise the requester of their following options:
 - 1. Contact this public office's senior representative;
 - 2. Request a meeting to be called with the County Prosecutor.
 - 3. If the requester is not satisfied after exercising options 1 and 2, the Ohio Revised Code provides a legal means for addressing the complaint.

IX. Retention of Public Records

A. In compliance with the Ohio Historical Society the following forms will be utilized for the retention and disposal of public records:

- One-Time Disposal of Obsolete Records (RC-1)
- Records Retention Schedule (RC-2)
- Certificate of Records Disposal (RC-3)

For the purposes of this policy, reference the Shelby Record Retention Listing, which itemizes records by department and the period of retention, identified as Appendix D.

For the purposes of this policy, an electronic record can replace a paper record and, as such, recognizes the electronic format as the public record.

This policy supersedes previous policies and/or language embedded in other Board policies that may make reference to a public record and how it is maintained, retained or destroyed.

Date – Board Approved – CCBDD

Laura Zureich, Superintendent

Date – Board Approved - SCBDD