Union County Public Records Policy

A. Union County will prepare and make available for inspection and/or copying "public records," as defined in ORC 149.43, upon the request of any member of the general public.

1. Public records inspection, release, and retention are subject to Union County's public records policy and will be processed accordingly.

2. Questions of whether or not a record is a public record as defined in ORC section 149.43 should be determined by the county prosecutor.

3. Self-help to records prohibited:

   a. Employees may not copy or remove any record or writing, even those regarded as “public records”, without first obtaining advanced written permission from their appointing authority, or without going through the process for obtaining public records outlined in section B. This does not prohibit work related activity.

   b. No employee may copy or use any agency writing, document, or record in any grievance, appeal, or legal action without having first obtained the written permission of the appointing authority or making a valid public records request. This particular policy does not apply to matters obtained through formal “discovery” under the Rules of Civil Procedure.

   c. In order to ensure confidentiality of certain issues and promote open communication between employees and management, no employee shall tape record any meeting, hearing, or appeal involving the county or representative of the county without the advanced written permission of the appointing authority. This policy is not intended to prohibit protected activity.

4. Penalty for breach of this policy: Any employee who is discovered to have violated any of the above enumerated policies will be subject to removal. Any former employee who is discovered to have obtained an unauthorized document or produced any unauthorized tape recording will be barred from reemployment by the county and may be subject to civil or criminal penalties.

B. Union County and its employees must follow Ohio law on responding to public records requests.

1. Providing access to public records for the public is part of the obligations and duties of each department. It should be given as much priority as possible.

2. Each department must make this policy readily available to any member of the public requesting to review it. Copies of this policy, like other public records, will be provided promptly upon request.

3. Public record requests can be made by any member of the public during regular business hours of the department.

4. Each department must post a poster describing its public records policy in a conspicuous place available to the public in its office and each of its branch offices.

5. Each department head will designate at least one (1) person in that department to be the custodian of the records for that department. All employees handling public records requests must sign a written acknowledgment that he or she has been given a copy of this policy. The department head will ensure that employees handling public records are well informed of the public records law and ensure that each employee completes training as required by law as necessary to ensure that the employees are kept well-informed of department obligations under the law.

6. All department records, public or non-public, must be maintained pursuant to a Records Retention Schedule (RC-2) that has been approved by the county records commission, the Ohio Historical Society, and the state auditor. Each department head will create only those records required by Ohio law to be kept, and those that are necessary for adequate documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the department and for the protection of the legal and financial rights of the county and persons directly affected by the department's activities.

7. All records are the property of the department and must not be removed, destroyed, mutilated, transferred, or otherwise disposed of, in whole or in part, except as provided by law or under the rules adopted by the county records commission. Violations of the section of the policy may subject the county and its employees to a civil lawsuit. Each proven violation is subject to a $1000 fine.

8. Elected officials are required to attend or designate someone to attend three (3) hours of certified public records training for each term that the official serves in office. Under Ohio law certified training at this time means that it has been approved by the Attorney General's office and that it has been approved for CLE credits by the Ohio Supreme Court.

C. **Procedure for inspection and release:** Each department will prepare, make available, and copy at cost, the public records of that department upon the request of any member of the public, as follows:

1. Anyone wanting to inspect or obtain copies of records maintained by the department must reasonably identify the records they wish to inspect or have copied.

   a. When a request is made, employees are not permitted to request a person's identification making the written request for public records or the reason for the request unless that information is necessary to fulfill the request or unless it will assist in responding to the request. WHEN THE INFORMATION IS REQUESTED TO HELP IN IDENTIFYING, LOCATING, OR DELIVERING THE RESPONSE, THE EMPLOYEE MUST INFORM THE PERSON THAT THE INFORMATION IS NOT REQUIRED.

   b. When a request is not reasonably clear, the county employees must explain how the records are accessed in the ordinary course of business so that the person may revise the request. The employee may also assist the person to formulate the request so that it reasonably identifies the records.

   c. If the employee knows that the records requested are held by another county department, the employee should direct that person to the department responsible for those records.

   d. Redaction: (obscuring of information on a copy of a record to be provided pursuant to a public record requests because it is exempt from the public records law) redaction is considered a violation of a public records request unless the information is exempt from disclosure under the law. The person providing the public record to the requester should confer with the county prosecuting attorney's office regarding what to redact, if anything.

      (1) Redaction is not to be done to the department original, but is done to a copy of that record in preparation for a response to a public record request.

      (2) All redactions should either be clearly visible to the requesting person or the person should be informed of what type of information was redacted.

      (3) Legal authority for a redaction must be provided. If the request was made in writing, the reason in legal authority must be given in writing. The legal authority must be accurate, and can be supplemented in the future if necessary.

2. To protect the records from potential damage, no person is to be permitted to make their own copies of the records requested. Employees wanting copies of public

records are subject to the same policy as any other citizen. The employee should make his or her requests to another employee while not on working time. Employee self-help to records is grounds for discipline up to and including termination.

3. Providing access to public records for the public is part of the obligations and duties of each department. It should be given as much priority as possible. Responses to public records requests should be provided promptly based upon all the facts and circumstances of the request.

4. The county is not required to create a public record. If, however, the computers used by the department in question are capable of printing a "report" through its current software that satisfies a public records request, then the "report" is a record that is considered to exist already under Ohio Public Records law.

D. **Format of response:** The person making the request is allowed to request the records be produced in:

1. Paper format.

2. The same way that the department keeps it.

3. Any other medium that the department determines it reasonably can be copied as an integral part of the normal operations of the department.

E. **Transmission of records:**

1. At the request of a person seeking public records, the department will transmit a response to a public records request via mail or other delivery service reasonably available to the office, but only upon prior payment of the actual costs of such delivery.

2. Mail requests are strictly limited to 10 per month unless the person making the request certifies in writing that he or she is not intending to use or forward the information on to be used for commercial purposes.

3. Records delivered in a digital format are strictly limited to 10 per month if a county office chooses to provide some or all of its public records on a web site that is fully accessible to and searchable by members of the public at all times, other than during acts of God outside the public office's control or during system maintenance, and that charges no fee to search, access, download, or otherwise receive records provided on the web site unless the requested records are not provided on the web site and unless the person making the request certifies in writing that he or she is not intending to use or forward the information on to be used for commercial purposes.

4. Commercial purposes do not include:

a. Reporting or gathering news.

b. Reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government.

c. Nonprofit educational research.

F. **Waiver of policy:** The department head may waive any or all provisions under this policy if a request to inspect or obtain copies is made:

1. By another government agency or its representative.

2. In complying with a court order.

3. In complying with the requirements of state laws or regulations.

4. As otherwise allowed by law.

G. **Retention schedule for electronic mail and other records:**

1. A department Records Retention Schedule (RC-2) is required by Ohio law. Each department is responsible for maintaining its records and maintaining an updated records retention schedule. Retention periods for records should be determined by evaluating the historical, administrative, legal, and fiscal (hereinafter "HALF") value of the records being scheduled. Care should be taken to title and description of each type of department record on a retention schedule. As the types of records are identified, the types of records should be added to the department retention schedule.

2. Because of the constant changes in technology, even the most current forms of electronic records preservations may be insufficient for long-term reliability. The retention schedule should be set based upon "HALF" value of the records. If the department cannot realistically maintain that record in electronic form for that period of time, that record should be maintained in paper or other appropriate format for the remainder of the retention period. Departments that maintain records in electronic format should have a detailed written documentation that supports the basis for its belief that technology and funding will remain sufficiently stable to satisfy the requirements of the retention period and public record law, and if possible have a written plan for how the electronic information will migrate to a different technological system when necessary.

3. Whenever feasible, continually updated documents should be scheduled as such and the annual copy should be printed and retained for the appropriate retention, under "HALF."

4 Particular care should be taken to ensure that electronic records are scheduled for destruction and destroyed pursuant to schedule. While this is also true of other formats of records, because of software and technology changes, the expense involved in attempting to comply with a public records request for an electronic copy that could have been destroyed, but was not, could be substantial.

5. E-mail and voicemail. Because the costs of preserving electronic mail of enduring administrative value is cost-prohibitive, any e-mail records with enduring administrative values should be printed and retained in paper format in the appropriate paper file. Care should be taken to ensure that electronic mail and other documents are appropriately scheduled on the records retention schedule. In extraordinary circumstances, when the agency, in its opinion, believes a voicemail has enduring value, the agency should have it transcribed verbatim and record it in the form of an affidavit by the employee, and it should be appropriately notarized as to its accuracy. E-mails from and to private e-mail accounts involving the conduct of public business are public record. Each employee is responsible for ensuring that these types of the e-mails are preserved according to the e-mail retention policy.

6. The Electronic Mail Retention Schedule can be found in Section 7.17 of this Manual.

H. **Public record exceptions:** The law allows some records not to be, and in some cases prohibits, certain records from being released to the public. Determining the status of certain records can be difficult. The following is the list of more common exceptions to the public records law:

1. Medical records.

2. Probation and parole records.

3. Adoption proceedings.

4. Information in the putative father registry.

5. Trial preparation records.

6. Confidential law enforcement investigatory records.

7. Mediation communication.

8. Records involving the collection of a disbursement of child support.

9. Peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT residential and familial information.

10. Information pertaining to the recreational activities of a person under the age of 18.

11. Most records of the child fatality review board.

12. All records prohibited from release by state or federal law.

13. Social Security number.

There are many other exceptions. Employees uncertain of the status of the record that has been requested should consult with the Union County Prosecutor's office. When calling, the employee should specify whether there is a current public records request involving that record.

I. **Cost of copies of public records:** By law, departments may only charge actual costs for copies of public records. "Actual costs" means the cost of depleted supplies; records storage, media costs; actual mailing, alternative delivery costs, or other transmitting costs; and any direct equipment operating and maintenance costs, including actual costs paid to private contractors for copying services. It does not include labor costs for the public employee to respond. Costs of copies for bulk commercial extraction will be provided as allowed by law.

J. **Discipline:** Employees violating this policy may be subject to discipline, up to and including termination.

K. **Changes and amendments:** This policy is subject to change without notice.