



Public Records Request & Retention Policy

Original Effective Date: October 26, 2007	Review / Revision Date: January 26, 2017	Board of Health Resolution: 2017.01.012
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Maintenance Steward: Director of Administrative Services **History:** New Revised Archived

Organizational Scope:

Full Agency Administration Community Services Environmental Health Health Services

Frequency of Review:

Annually Biennially 5 Years As Needed Other:

Location:

G-Drive: G: → Users → Common → Policies & Procedures

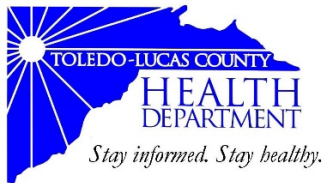
Website: www.lucascountyhealth.com/employee-login/

Hardcopy: TLCHD Policies & Procedures Manual, HR Office

Archived Version(s): G: → Users → Common → Policies & Procedures → Archived

Requisite Signatures

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| <input checked="" type="checkbox"/> <u>Donna Wooten MD</u>
Board of Health President | <u>3/23/2017</u>
Date |
| <input checked="" type="checkbox"/> <u>[Signature]</u>
Health Commissioner | <u>03-23-17</u>
Date |
| <input checked="" type="checkbox"/> _____
Director of Administrative Services | _____
Date |
| <input checked="" type="checkbox"/> <u>[Signature]</u>
Director of Environmental Health & Community Services | <u>3/23/17</u>
Date |
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Director of Health Promotion & Policy Integration | <u>3/23/2017</u>
Date |
| <input checked="" type="checkbox"/> <u>Kelly Burghalder-Alley</u>
Director of Health Services | <u>3/23/2017</u>
Date |
| <input checked="" type="checkbox"/> <u>[Signature]</u>
Director of Human Resources | <u>3-27-17</u>
Date |



Public Records Request & Retention Policy

I. Policy

It is the policy of the Toledo-Lucas County Health Department (TLCHD) to strictly adhere to all state, federal and local statutes governing the maintenance, retention, and release of all records within the public's domain. All exemptions to openness are to be construed in their narrowest sense, and any denial of public records in response to a valid request must be accompanied by an explanation, including legal authority, as outlined in the Ohio Revised Code.

II. Scope

This policy applies to all Health Department staff, Board of Health Members, and administrators charged with the maintenance, retention, or handling of the release of records through valid public records requests.

III. Purpose

The purpose of the *Public Records Policy* is to clearly communicate the legal responsibilities of the Health Department as defined through the Ohio Public Records Act, the Ohio Revised Code, and the Ohio Administrative Code, and to present the process for submitting records requests.

IV. Background

Pursuant to ORC 149.011, "records" are defined as (1) any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in section 1306.01 (ORC), (2) created or received by, or coming under the jurisdiction of, any public office of the state or its political subdivisions, (3) which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.

If a document or other item does not meet all three parts of the definition of a "record" above, then it is a non-record and is not subject to the Public Records Act, or Ohio's records retention requirements.

Refer to the Glossary in section (IX) for a list of term definitions.

V. Public Records

- A. All records considered to be public records under the scope of the Ohio Revised Code shall be handled in accordance with ORC statutes and the provisions of the Ohio Public Records Act.

- B. The Health Department shall, as required by Ohio Law, and to the extent practical, keep records organized and maintained so that they are readily available for inspection and copying.
- C. The Health Department shall designate a Records Steward to evaluate and comply with all records requests in accordance with the guidance in policy section (VI), and to the full extent required by law.
 - 1. The Records Steward shall be provided a copy of this policy and shall be required to acknowledge receipt of the copy of the *Public Records & Retention* policy.
- D. Both within the Public Records Act and in separate statutes throughout the Ohio Revised Code, the Ohio General Assembly has identified items and information that are either removed from the definition of public record or are otherwise required or permitted to be withheld. Exemptions to public records include, but are not limited to, the following:
 - 1. Medical Records;
 - 2. Trial preparation records;
 - 3. Records containing information that is confidential under ORC sections 2710.03 or 4112.05;
 - 4. Intellectual property records;
 - 5. Records the release of which is prohibited by state or federal law; and
 - 6. Requests subject to ORC 149.43 division (B)(8);
 - 7. Information, data and records collected for use and maintained by the Ohio Violent Death reporting System (pursuant to ORC 3701.9212);
 - 8. Information obtained or maintained under the partner notification system (pursuant to ORC 3701.243);
 - 9. Personal Identifying Information (PII) or Personal Health Information (PHI). See TLCHD's *HIPAA Policy* and *Personal Identifying Information Policy* for more information.
- E. The "Effect of Actual Use" dictates that an item received by TLCHD is not a record simply because the department *could* use the item to carry out its duties and responsibilities. If TLCHD *actually* uses the item, it may thereby document the department's activities and become a record.
 - 1. Personal, otherwise non-record correspondence that is actually used to document a decision to discipline a public employee qualifies as a "record."
 - 2. Email correspondence must meet all three parts of the definition of a record. If an email does not serve to document the activities of the office, then it does not meet the definition of a record.
 - 3. Personal, written notes generally do not constitute records. Employee notes have been found not to be public records if they are:
 - a. Kept as personal papers, not official records;

- b. Kept for the employee's own convenience; and
 - c. Other employees did not use or have access to the notes.
4. Draft documents that meet the three-part definition of a record are subject to the Public Records Act and records retention laws.
5. In accordance with Ohio's Public Records Act, TLCHD is not required to search any database for information or to compile or summarize database information in the creation of new records. Only in cases where a pre-existing computer program can perform the search and produce the compilation or summary described by the inquirer shall the output be considered to already "exist" as a record for the purposes of the Public Records Act.
- F. TLCHD has no duty to furnish records that are not in its possession or control. This includes records that are no longer kept by that office and have been properly disposed of in accordance with the records retention provisions in this policy. See section (VII) for more information.

VI. Public Records Requests

A. Requesting Records

1. Information Requests

- a. At a minimum, inquiring persons (hereafter "inquirers") must identify the records requested with sufficient clarity to allow TLCHD to identify, retrieve, review, and prepare the information requested. Requests may be made in any manner the inquirer chooses: by phone, in person, through email, or by letter.
 - i. If a request is made orally by phone or in person, TLCHD staff shall attempt to capture the following information to aid the Records Steward in fulfilling the inquirer's request:
 - 1. What public records are being requested;
 - 2. How the public records are to be delivered upon procurement;
 - 3. How to contact the inquirer if additional information is necessary to fulfill the records request;
 - 4. The inquirer's identity or intended use of the information requested, subject to policy section (VI)(A)(1)(c).
- b. Written requests are not mandatory.
 - i. TLCHD asks that all records requests, even those made in person during normal business hours, be written requests as granted under ORC 149.43 division (B)(5).

- c. Inquirers are under no obligation to reveal their identity or the intended use of the information requested.
 - i. TLCHD may ask for an inquirer's identity or intended use of the requested information if the Records Steward feels this information will benefit the inquirer by enhancing TLCHD's ability to identify, locate, or deliver the public records requested.
 - ii. Unless specifically authorized by applicable laws, TLCHD will not limit or condition the availability of public records by requiring disclosure of the inquirer's identity or the intended use of the requested public record. Such a requirement constitutes a denial of the request.
2. TLCHD recommends the use of the **Records Request Form** available on our website at the following link:
 - a. <http://www.lucascountyhealth.com/public-records-requests/>

B. Request Processing

1. Upon receipt of a valid records request, all public records responsive to the request shall be promptly prepared and made available for inspection to any inquirer, and at all reasonable times during regular business hours.
2. The designated Records Steward shall make copies of the requested public record available at cost and within a reasonable period of time.
 - a. "At Cost" refers to the expense to produce and/or deliver requested records to the inquirer. This includes the cost of all materials (paper, ink, toner etc.) and postage or other applicable delivery fees.
 - i. TLCHD reserves the right to require all applicable costs to be paid in advance by the inquirer before the requested records are released to the inquirer.
 1. Records reviewed on-site and during normal business hours shall be free from charge if no copies are requested. TLCHD shall make reasonable accommodations for the review of records in person.
 2. Email Copies: Free
 3. Paper Copies: 10 cents per page
 4. Burn to CD: Actual Cost of CD
 5. Standard Mail: Actual Cost of postage & supplies
 6. Priority Mail: Actual Cost of postage & supplies
 7. Next Day Air: Actual Cost of postage & supplies

- b. A reasonable period of time refers to the time required to gather, review, redact, or otherwise prepare the requested records. An inquirer must take into account the volume of records requested and any necessity for legal review of the records requested.
 - i. If the records are not immediately accessible for review by the inquirer, TLCHD will make effort to provide:
 - 1. The estimated number of business days to satisfy the request;
 - 2. An estimated cost if copies are requested;
 - 3. Any items within the request that may be exempt from disclosure.
 - ii. Pursuant to ORC 149.43 (E)(1), TLCHD reserves the right to establish a period of fixed time, less than eight (8) hours, before responding to a request for inspection or copying of public records.
 - iii. Even if a records request is made in person, time must be given to allow the completion of these tasks. Public Records Requests cannot give any public agency a deadline for completion.
 - c. The Records Steward shall permit the inquirer to choose the copy medium, including on paper; in the same medium as TLCHD retains the record; or on any medium upon which TLCHD determines that it can be reasonably duplicated as an integral part of the normal operations of the Health Department.
 - i. A copy of the requested record shall be provided in accordance with the choice made by the inquirer.
 - d. TLCHD is under no obligation to create a record that contains the information requested, if it does not already exist.
- 3. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the Records Steward shall make available all of the information within the public record that is not exempt.
 - a. The Records Steward shall notify the inquirer of any redaction or ensure the redaction is plainly visible. Any redaction shall be deemed a denial of a request to inspect or copy the redacted information, except if federal or state law authorizes or requires TLCHD to make the redaction.
 - 4. If any valid records request is ultimately denied, in part or in whole, the Records Steward shall provide the inquirer with an explanation, including the legal authority, setting forth why the request was denied.

- a. If the initial request was provided in writing, so shall the explanation be provided in writing to the inquirer.
 - b. TLCHD reserves the right, pursuant to ORC 149.43 (B)(7)(c)(i) to limit the number of records requested by an inquirer that the office will physically deliver by U.S. mail or other delivery service to ten (10) per month, unless the inquirer certifies to the office in writing that the inquirer does not intend to use or forward the requested records, or the information contained in them, for commercial purposes.
 - i. "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.
5. If an inquirer allegedly is aggrieved by the failure of TLCHD to promptly prepare a public record and to make it available to the inquirer for inspection pursuant to applicable laws, or by any other failure of TLCHD to comply with an obligation pursuant to applicable laws, the inquirer allegedly aggrieved may do only one of the following, and not both:
- a. File a complaint with the clerk of the court of claims or the clerk of the court of common pleas;
 - b. Commence a mandamus action in accordance with ORC 149.43 section (C)(1)(b).

C. Redaction of Information Request

1. Pursuant to Ohio Revised Code 149.45(C)(1), an individual may request that TLCHD redact specific types of personal information of that individual from any record made available to the general public on the internet.
 - a. Individuals should complete the **Request to Redact Personal Information** form provided by the Ohio Attorney General and available on TLCHD's website at:
 - i. <http://www.lucascountyhealth.com/public-records-requests/>
 - b. Individuals must provide:
 - i. The specific personal information to be redacted
 - ii. The location of the personal information.
 - c. Upon receiving a request for redaction, TLCHD shall act within five (5) business days to either redact the requested information or provide a verbal or written explanation as to why a requested redaction is not practicable.

D. Security & Infrastructure Records

1. Pursuant to ORC 149.433, TLCHD is exempt from sharing any records that contain information directly used for the protection or maintenance of the security of the Health Department against attack, interference, sabotage or terrorism.
2. Records kept by TLCHD that are infrastructure records of a private entity may be exempted from release or disclosure for a period of 25 years after their creation if accompanied by an expresses statement, and if they are retained by the Health Department for that length of time.
3. Notwithstanding any other section of the Revised Code, disclosure by TLCHD of a security or infrastructure record that is necessary for construction, renovation, or remodeling work on TLCHD premises does not constitute public disclosure and does not result in that record becoming a public record for the purposes of section 149.43 of the Revised Code.

VII. Records Retention

A. Retention Schedule

1. Records of a public office may be destroyed, but only if they are destroyed in compliance with a properly approved records retention schedule (ORC 149.351; 121.11).
 - a. TLCHD shall develop, maintain, and update as appropriate a Records Retention (RC-2) Schedule in compliance with Ohio's Public Records Act and Ohio Revised Code.
 - b. The RC-2 schedule shall be submitted to the Lucas County Records Commission (LCRC) for approval pursuant to ORC 149.38 & 149.381.
 - i. The LCRC must approve an application for one-time disposal or an updated schedule, before it can be forwarded to the State Archives at the Ohio History Connection for review and identification of records with historical value pursuant to ORC 149.40.
2. TLCHD's **Record Retention (RC-2) Schedule** can be found on the website at the following address:
 - a. <http://www.lucascountyhealth.com/public-records-requests/>

B. Record Disposition

1. Pursuant to ORC 149.351, all records are the property of the public office concerned and shall not be removed, destroyed, mutilated, transferred, or otherwise damaged or disposed of, in whole or in part, except as provided by law or under the rules adopted by the records commissions provided for under ORC section 149.38.

2. Records are destroyed or archived in accordance with the RC-2 Schedule.
 - a. After records have satisfied their approved retention periods, the disposition of those records must be documented.
 - b. TLCHD shall file a Certificate of Records Disposal (RC-3) with the State Archives at the Ohio History Connection at least fifteen (15) business days prior to the destruction of public records in order to allow the State Archives to select records of enduring historical value.

VIII. Maintenance

A. Review

1. The *Public Records Policy* is to be reviewed every 5 years to ensure compliance with legal, agency, and accreditation standards.
2. The *Public Records Policy* will also be reviewed in the event there are updated legal statutes including, but limited to, the Ohio's Public Records Act.

B. Revision

1. All changes made to this policy are to be noted on the **Record of Change**. Substantial changes will require renewed signatures from all applicable parties. This includes changes to the intent, scope, procedures, or policy statement.
2. Changes in style, format, grammar or minor error correction will not require renewed signatures but must be indicated on the Record of Change.

IX. Glossary

- A. **Archive:** includes any public record that is transferred to the state archives or other designated archival institutions because of the historical information contained on it.
- B. **Database:** an organized collection of related data.
- C. **Electronic Record:** a record created, generated, sent, communicated, received, or stored by electronic means.
- D. **Express Statement:** written statement substantially similar to the following: "This information is voluntarily submitted to a public office in expectation of protection from disclosure as provided by section 149.433 of the Revised Code.

- E. **Infrastructure Record**: any record that discloses the configuration of critical systems including, but not limited to, communication, computer, electrical, mechanical, ventilation, water, and plumbing systems, security codes, or the infrastructure or structural configuration of a building.
- F. **Intellectual Property Records**: a record, other than a financial or administrative record, that is produced or collected by or for faculty or staff of a state institution of higher learning in the conduct of, or as a result of, study or research on an educational, commercial, scientific, artistic, technical, or scholarly issue, regardless of whether the study or research was sponsored by the institution alone or in conjunction with a governmental body or private concern, and that has not been publicly released, published, or patented.
- G. **Mandamus**: a writ, issued in the name of the state to an inferior tribunal, a corporation, board, or person, commanding the performance of an act which the law specially enjoins as a duty resulting from an office, trust, or station.
- H. **Medical Record**: any document or combination of documents, except births, deaths, and the fact of admission to or discharge from a hospital, that pertains to the medical history, diagnosis, prognosis, or medical condition of a patient and that is generated and maintained in the process of medical treatment.
- I. **Public Office**: includes any state agency, public institution, political subdivision, or other organized body, office, agency, institution, or entity established by the laws of this state for the exercise of any function of government.
- J. **Public Official**: includes all officers, employees, or duly authorized representatives or agents of a public office.
- K. **Public Record**: records kept by any public office, including, but not limited to, state, county, city, village, township, and school district units, and records pertaining to the delivery of educational services by an alternative school in this state kept by the nonprofit or for-profit entity operating the alternative school pursuant to section 3313.533 of the Revised Code.
- L. **Records**: any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in section 1306.01 (ORC), created or received by, or coming under the jurisdiction of, any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office.
- M. **Redaction**: obscuring or deleting any information that is exempt from the duty to permit public inspection or copying from an item that otherwise meets the definition of a "record" in ORC section 149.011.
- N. **Regular Business Hours**: the regular business hours for the Toledo-Lucas County Health Department are Monday through Friday, 8:00 am through 4:45 pm, excluding posted federal

holidays and posted notice of office closure for any reason including, but not limited to, public health emergencies, inclement weather, or other valid reasons.

