



Belmont- Harrison- Noble County Board Policy

ORC Reference: 149.43, 3313.533
Date Adopted: October 18, 2007
Last Review/Revision: January 16, 2014, September 2023

Public Records Request Policy #13

I. PURPOSE

- A. Pursuant to Section 149.43 of the Ohio Revised Code, the Belmont, Harrison, and Noble County Boards of Developmental Disabilities hereby adopts this public records policy. It is the policy of the County Board that openness leads to a better-informed citizenry, which leads to better government and better public policy. It is the policy of the County Board to adhere to the state's Public Records Act.

II. THE OHIO PUBLIC RECORDS ACT

- A. The Ohio Public Records Act is built on the United States' historical principle that the records of government are "the people's records." *Patterson v. Ayers*, 171 Ohio St. 369 (1960). The Public Records Act provides citizens with steps to take in order to request records from any public office in Ohio while protecting certain specific types of records from release. It also establishes a legal process to enforce compliance when a requester feels that a public office has failed to satisfy its public records obligations.

III. PUBLIC RECORD

- A. "Public record" means 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.

IV. COUNTY BOARD RESONSIBILITIES

- A. The county boards must organize and maintain its records so that it can meet its duty to respond to public records requests.
- B. The county board will available a copy of its records retention schedules on the county boards' websites.

V. RECORD REQUESTS

- A. A public record request can be made in any manner the requester chooses: by phone, in person, or in an e-mail or letter.

- B. The county board may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory, that the requester may decline to reveal the requester's identity or the intended use, and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the public office or person responsible for public records to identify, locate, or deliver the public records sought by the requester.
- C. The county board may ask a requester to make the request in writing, may ask for the requester's identity, and may inquire about the intended use of the information requested, but may do so only after disclosing to the requester that a written request is not mandatory, that the requester may decline to reveal the requester's identity or the intended use, and when a written request or disclosure of the identity or intended use would benefit the requester by enhancing the ability of the County Board to identify, locate, or deliver the public records sought by the requester.
- D. If it is not clear what records are being sought, the county board may deny a request but will provide the requester an opportunity to revise the request by informing the requester of the manner in which records are maintained by the county board and accessed in the ordinary course of the county board's business.
- E. Public records will be available for inspection during regular business hours, with the exception of published holidays. The county board's regular business hours are 8:00 a.m. to 4:00 p.m., although these hours may change from time to time.
- F. Public records will be made available for inspection promptly. Copies of public records will be made available within a reasonable period of time. "Prompt" and "reasonable" take into account, among other things, the volume of records requested; the proximity of the location where the records are stored; and the necessity for any legal review of the records requested.
- G. The county board may withhold specific records or specific portions of records that are covered by an exception to the Public Records Act but is required to give the requester an explanation for any part of a record withheld, including the supporting legal authority. In addition to denials based on an exception, a public office may deny a request in the extreme circumstance where compliance would unreasonably interfere with the discharge of the office's duties.
- H. A request can also be refused if the county board no longer keeps the records, if the request is for items that are not records of the office, if the requester does not revise an ambiguous or overly broad request, or if the requester refuses to pay the cost of copies.
- I. A denial of public records in response to a valid request will be accompanied by an explanation, including legal authority, as required by the Ohio Revised Code. If the request is in writing, the explanation must also be in writing.

VI. RELEASE OF PUBLIC RECORDS

- A. The county board will permit the requester to choose to have the public record duplicated upon paper or sent electronically, or upon any other medium upon the county board determines that it reasonably can be duplicated as an integral part of the normal operations of the county board for the public record.
- B. Those seeking public records will be charged only the actual cost of making copies.
- C. The charge for paper copies is ten cents per page.
- D. There is no charge for documents sent electronically. Requesters may ask for the paper documents be mailed. The requested must pay the actual cost of the postage and mailing supplies.
- E. "Actual cost" means the cost of depleted supplies, records storage media costs, actual mailing and 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.

VII. E-MAIL

- A. Email records are no different than any other record that is kept by a public office. These records should be kept according to their respective retention schedules, regardless of whether they exist on paper or as an email. The most important thing to remember is that each record should be evaluated for and identified by its content and not by the medium in which it exists. It may help this evaluation process to picture each email message as a paper record.
- B. Documents in electronic mail format are records as defined by the Ohio Revised Code when their content relates to the business of the county board. E-mail is to be treated in the same fashion as records in other formats and will follow the same retention schedules.
- C. Records in private e-mail accounts used to conduct public business are subject to disclosure, and all employees or representatives of the county board are instructed to retain their e-mails that relate to public business and to copy them to their business e-mail accounts and/or to the county board's records custodian.
- D. The records custodian will treat the e-mails from private accounts as records of the public office, will file them in the appropriate way, will retain them pursuant to established schedules, and will make them available for inspection and copying in accordance with the Public Records Act.
- E. A request for "all e-mail" is generally overly broad under the Public Records Act. A 2008 decision by the Ohio Supreme Court reemphasized that the Public Records Act "does not contemplate that an individual has the right to a complete duplication of voluminous files kept by government agencies." Rather, the requester must identify the records sought with sufficient clarity. *Glasgow v. Jones*, 119 Ohio St.3d 391, 2008-Ohio-4788.

- F. If a request for “all emails” includes sufficient additional information about the content of those emails to allow the county board to identify responsive records based on the manner in which its records are organized, the request is not overly broad. However, if the request is ambiguous or lacks enough detail for the county board to identify which records are being sought, it may well be overly broad. The county board will give the requester an opportunity to revise the request by explaining how the various records of the office are ordinarily maintained and accessed.

VIII. DISCLAIMER

- A. Notwithstanding the existence of this policy, the county boards hereby inform the public that it shall comply with the requirements of the Ohio Public Records Act, including, but not limited to, Section 149.43 of the Ohio Revised Code, and that the provisions of the Ohio Public Records Act and any amendments thereto, supersede and take precedence over this policy. The county board retains the right to amend this policy at any time in accordance with the Ohio Public Records Act.