

PARTA PUBLIC RECORDS MANAGEMENT POLICY

SECTION I. PURPOSE

The purpose of this policy is to ensure *PARTA*'s compliance with Ohio's Public Records Act, found in Chapter 149 of the Ohio Revised Code, and effective September 29, 2007, in House Bill No. 9, which amends certain sections of Chapter 149. Additionally, there are hundreds of references within the Ohio Revised Code that affect the release of specific types of information or records that a public agency might maintain.

Records management is an integral part of information management. Sound records management protects an organization from litigation and ensures regulations compliance. It provides a "collective memory" that can be used to improve business practices. The process of records management involves maintenance issues relating to the many media types in which records are created and stored.

Every work day, information is created or obtained from many sources, using many different types of technologies. Paper, electronic, voice and video recording represent examples of storage media types for information.

These issues become more complex when balanced against the internal and external requirements faced by public agencies concerning information or knowledge management. A sound records management program will contribute in many ways to the operation and public perception of *PARTA*. An effective records management system ensures that time and money is not wasted maintaining unnecessary records, while at the same time preserving the rights and heritage of Ohioans.

SECTION II. SCOPE AND DEFINITIONS

A. Generally. The Ohio Public Records Act imposes two primary obligations upon public offices:

1. Provide prompt inspection of public records
2. Provide copies of public records within a reasonable period of time

A public office is a state agency, public institution, political subdivision or any other organized body, office, agency, institution or entity established by the laws of this state for the exercise of any function of government.

These obligations, in turn, provide the public with two primary rights:

1. The right to prompt inspection of public records
2. The right to copies within a reasonable period of time

However, these obligations and rights only apply to "public records" as defined by the Act. A public record is any record maintained by a public agency, that is not exempt from public disclosure as defined in Section 149.43, that:

1. Contains information stored on a fixed medium (such as paper, computer, video, photographs, etc.);
2. Is created, received, or sent under the jurisdiction of a public office; and
3. Documents the organization, functions, policies, decisions, procedures, operations or other activities of the office.

B. As Applied to PARTA.

1. Policy. The General Manager shall recommend to the Board of Trustees adoption of a public records policy to comply with the Ohio Public Records Act, and shall ensure that a poster that describes its public records policy is posted conspicuously in PARTA's offices. The General Manager shall ensure that the public records policy is included in established manuals or handbooks of general policies and procedures for all employees of PARTA, and may post the public records policy on PARTA's website.
2. Records Commission. The Board of Trustees, or a committee established at the discretion of the President of the Board of Trustees, shall serve as the Records Commission responsible for approving record retention schedules and requests to dispose of public records. The Board Attorney shall advise the Board in matters pertaining to its obligations under the Ohio Public Records Act.
3. Retention Schedules. Each department of PARTA shall maintain a list of record types or series kept by the department, and provide a means for storing and retrieving public records in accordance with the established retention schedule for each record series. Each department shall describe the records maintained by the department and each record's retention period on a Form RC-2, Schedule of Records Retention and Disposition (Appendix A), and make such schedule available to the public.
4. Disposal of Records. When it is determined that one-time disposal of obsolete public records is warranted, the department shall prepare a Form RC-1, Application for One-Time Disposal of Obsolete Records (Appendix B), and after receiving authorization from the Board or committee designated to perform record commission duties, the department shall forward the completed Form RC-1 to the Ohio Historical Society and Auditor of State to request permission to dispose of the obsolete records. Such records shall not be disposed of until permission has been granted through the Ohio Historical Society and Auditor of State.

When disposal of public records is warranted on a periodic basis based on an established retention schedule prepared in advance for that record series, PARTA shall prepare a Form RC-3, Certificate of Records Disposal (Appendix C), and shall forward the completed Form RC-3 to the Ohio Historical Society as notification that PARTA intends to dispose of the records described on the form. PARTA shall forward the form a minimum of fifteen (15) business days before the proposed disposal date.

5. Designation of Responsibility and Training. The General Manager shall designate a records manager to oversee PARTA's public records management program. The records manager shall receive a copy of PARTA's public records policy and acknowledge receipt of the policy in writing, and shall attend training approved by the attorney general as provided in section 109.43 of the Revised Code.

In addition, each department of PARTA shall designate a person or persons as records custodian to maintain the records of that department. The General Manager shall cause each designated records custodian to receive a copy of PARTA's public records policy and acknowledge receipt of the policy in writing.

The Board Attorney shall advise staff responsible for records management in matters pertaining to denial of requests for public records and other matters requiring legal authority.

SECTION III. AVAILABILITY OF PUBLIC RECORDS

An individual has two basic rights, and in turn, a public office has two primary corresponding obligations under the Public Records Act:

1. Upon request, prompt inspection of public records
 2. Upon request, copies of public records within a reasonable amount of time.
- A. Prompt Inspection. Prompt inspection means without delay and with reasonable speed, but this standard must be judged within the context of the circumstances in each individual case. This standard also contemplates the opportunity for legal review, and access at reasonable times during regular business hours.

Upon request, PARTA will provide prompt inspection of public records during administrative office hours. The General Manager shall cause the administrative office hours to be posted in the administration building reception area and on PARTA's website, and shall describe regular business hours and holidays on which the office is closed. Requests to inspect public records will not be subject to an inspection fee.

- B. Copies Provided in Reasonable Time. With respect to copies, if requested, the copies will be made available by ordinary U.S. mail. Additionally, copies will be made available on paper, on the same medium that the record is kept, or any other medium specified, so long as that medium is available as an integral part of PARTA's normal business operations.
- C. Fees. The fee to obtain copies of public records is limited to the actual cost of producing the copy, unless the cost is otherwise set by statute. Fees shall be established with Board approval and posted in the administration building reception area and on PARTA's website.

When records are stored, produced, organized or compiled in an enhanced or "value-added" format, the copying charge will be the actual cost of copying the records in the format that they exist. Employee time for copying the public record will not be calculated into the charge for a public record.

PARTA will not permit a requester to make his or her own copies of public records, and has no duty to provide copies of public records free of charge to a requester who indicates an inability or unwillingness to pay for them.

PARTA may require payment in advance of providing copies of requested public records, and may require prepayment of postage and the cost of mailing supplies, in addition to the cost of copies.

- D. Request for Public Record. A person may request access to the public record orally or in writing, and must identify the records requested with sufficient clarity so that PARTA can identify, retrieve and review the records. Although there is no required form, PARTA encourages individuals to make requests in writing by using a form provided by PARTA to help explain or identify the records requested. The form will include notice to the requester that a written request is not mandatory and that the requester may decline to reveal the requestor's identity, or the intended use, and when a written request of disclosure of the identity or intended use would benefit the requestor by enhancing the ability of the public office or the person responsible for public records, to identify, locate, or deliver the public records sought by the requestor.

Any person, including corporations, individuals, and other governmental agencies may request public records. The requester may be of any age and is not required to be an Ohio citizen. However, public records requests from a person who is incarcerated pursuant to a criminal conviction or juvenile adjudication normally require permission from the judge or court that sentenced the requestor before public records will be released. Any person making the records request may designate someone else to inspect or retrieve the copies. Any person may obtain public records without having to state the reason.

The requester may choose the medium upon which they would like a record to be duplicated, such as on paper; in the same form as PARTA maintains it; or on any medium upon which PARTA determines the record can reasonably be duplicated as an integral part of the normal operations. However, PARTA is not required to make records available via the internet, facsimile, e-mail or express mail, and does not have a duty to provide records that are acquired after a request for records is complete. In addition, PARTA is not required to create records that do not exist. PARTA may limit the number of records requested by a person that will be sent through the mail to ten (10) per month unless the requestor certifies in writing that he does not intend to use or forward the record for commercial purposes.

- E. Denial of Public Records. A public record is any record maintained by a public agency, that is not exempt from public disclosure as defined in Revised Code Section 149.43, that contains information stored on a fixed medium (such as paper, computer, video, photographs, etc.); is created, received, or sent under the jurisdiction of a public office; and documents the organization, functions, policies, decisions, procedures, operations or other activities of the office.

1. Access to public records may be denied for the following reasons:
 - a. The requested item does not exist;
 - b. The requested item is not a public record;
 - c. The requested item is subject to a mandatory or a discretionary exemption to the Public Records Act. Public offices generally hold three types of records:
 - Records that are not subject to any exemption which must be released. These are "public records" as defined under the Public Records Act;

- Records, the release of which is prohibited by state or federal law, which must not be released, even if the public office would like to do so. These are mandatory exemption records, also called “catch-all” exemptions. Catch-All exemption applies if any provision of Ohio or federal law prohibits public disclosure of a certain type of record, a public office must not release it in response to a public records request. A state statute or rule, or a federal statute or regulation may designate the records of certain government offices or particular types of records confidential. Such a designation means those records are not subject to the provisions of the Public Records Act.
 - Public records that are subject to an exemption, which may be released if the public office chooses to waive the exemption. These are discretionarily exempt records. Exemptions to the Public Records Act are to be narrowly construed. If a record does not clearly fit into one of these exemptions, then a public office must disclose the record.
2. Access to public records may be delayed or denied for the following reasons:
- a. If a requestor makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records, PARTA will provide the requestor with reasonable assistance to facilitate their request, including an opportunity to revise the request after explaining how the records in the office are maintained. This assistance may result in a delay in responding to the public records request.
 - b. In the event PARTA receives a public record request that is determined to be overly broad or ambiguous in that it fails to reasonably identify any public records maintained by PARTA, and after PARTA has made reasonable efforts to assist the requestor in gaining access or copies of the public records, PARTA may deny the request. In the event PARTA denies access due to an overly broad or ambiguous request, the PARTA shall notify the requestor of the denial with an explanation, including legal authority setting forth why the request was denied. If the initial request was provided in writing, the explanation also shall be provided to the requestor in writing.
3. Redaction. Redaction means 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 section 149.011 of the Revised Code. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, PARTA shall make available all of the information within the public record that is not exempt. When making that public record available for public inspection or copying that public record, PARTA shall notify the requestor of any redaction or make the redaction plainly visible. A 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 a public office to make the redaction.

SECTION IV. Electronic Mail

A. Definition.

Electronic mail, or “e-mail” messages are electronic documents created and sent or received by a computer system. This definition applies equally to the contents of the communication, the transactional information, and any attachments associated with such communication. Thus, e-mail messages are similar to other forms of communicated messages, such as correspondence, memoranda, and circular letters.

E-mail messages that document the organization, functions, policies, decisions, procedures, operations or other activities of *PARTA* that meet the criteria of the definition of a record as found in ORC 149.43 may be considered public records. Like any record format, an e-mail message is considered a public record unless it falls under one of the exceptions listed in ORC 149.43.

B. Retention and Scheduling Requirements.

E-mail itself is not considered a record series or category. It is a means of transmission of messages or information. Like paper or microfilm, e-mail is the medium by which this type of record is transmitted. As such, the retention or disposition of e-mail messages is related to the information the messages contain or the purpose they serve. The content, transactional information, and any attachments associated with the message are considered a record (if they meet the ORC criteria), and therefore, will be scheduled, retained and disposed of as such. Alternatively, any e-mail not received or created in the course of business is not an official record, and may be deleted immediately. *PARTA* will evaluate the content of e-mail messages to determine the length of time the message must be retained in accordance with the categories outlined below.

1. Non-Records.

E-mail messages that do not meet the criteria of the Ohio Revised Code definition of a record may be deleted at any time, unless they become part of some official record as a result of special circumstances.

Non-record messages include personal correspondence not received or created in the course of business; publications, promotional material from vendors, and similar materials that are "publicly available" to anyone, unless specifically incorporated into other official records. This includes listserv messages (unless posted by an employee in his/her official capacity), unsolicited promotional material ("spam"), and any other material not received or created in the course of business.

Non-record messages may be deleted immediately, or maintained in a "Non-Record" mail box and deleted later.

2. Official Records.

a. Transitory Message Retention

Transitory messages do not set policy, establish procedures, certify a transaction or become a receipt. Transitory messages are retained until no longer of administrative value, and then may be destroyed.

Transitory messages include telephone messages, drafts and other limited communications which serve to convey information of temporary importance in lieu of oral communication. The informal tone of transitory messages may be compared to a communication that could also take place during a telephone conversation or in an office hallway. For instance, an e-mail message notifying employees of an upcoming meeting would only have value until the meeting has been attended or the employee receiving the message has marked the date and time in his/her calendar.

b. Intermediate Message Retention.

E-mail messages that have more significant administrative, legal and/or fiscal value but are not scheduled as transient or permanent are considered intermediate messages. After evaluating the content of the message, the department will categorize an intermediate message under the department's appropriate record series and schedule it for retention and disposal accordingly.

Intermediate messages include general internal or external correspondence that is informative but does not attempt to influence policy; routine correspondence such as referral letters, requests for routine information typically answered by standard form letters; and periodic reports that document the status of on-going projects or issues.

c. Permanent Message Retention.

E-mail messages that have significant administrative, legal and/or fiscal value and are scheduled as permanent also will be scheduled for retention under the department's appropriate record series, then appraised for historical value. However, *PARTA* does not intend to utilize electronic formats for long-term retention of records unless the records also are maintained in a readable format.

Permanent messages include executive correspondence that deals with significant aspects of the administration concerning *PARTA* policies, program, fiscal and personnel matters. A message scheduled as permanent should be printed and retained as a paper document, or transferred to another approved format and retained in accordance with the department's appropriate record series.

C. Guidelines for E-Mail Management.

General. To be an effective method for records management, electronic information systems must be reliable. *PARTA* will strive to make its systems reliable by ensuring that:

- e-mail systems used to create, receive and maintain e-mail messages have full, complete, and up-to-date systems documentation;
- e-mail systems follow all recommendations for system security;
- complete system backups are regularly and consistently performed;
- e-mail systems retain all data and audit trails necessary to prove its reliability as part of the normal course of business;
- the record copy of a message is identified and maintained appropriately;
- backup procedures are coordinated with disposition actions so that no copies of records are maintained after the retention period for the records has expired; and
- e-mail systems are accessible and usable for the length of the retention period.

Maintaining a Record Copy. The creator of the e-mail message is responsible for maintaining the record copy of the message per the retention schedule. A message transmitted to multiple recipients need not be maintained by each recipient beyond his/her need for this information when record copy responsibility rests with the creator of the message.

Distribution Lists. When e-mail is sent to a “distribution list,” or a specified list of recipients, the creator of the e-mail message must keep a copy of the members of that list (by name, if not identifiable through the recipient’s e-mail address) for as long as the message itself is required to be retained.