

WIOA Ohio Area 8 Local Workforce Development Board Policy

Subject: Public Records Policy

Effective Date: September 19, 2024

Attachments: Public Records Request Tracking Form

I. Purpose

To establish local policy and publish procedures regarding the release of public records. This office, in accordance with the Ohio Revised Code, defines records as including the following: Any document – paper, electronic (including, but not limited to, e-mail), or other format – that is created or received by, or comes under the jurisdiction of a public office that documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office. All records of the WIOA Ohio Area 8 Workforce Development Board are public unless they are specifically exempt from disclosure under the Ohio Revised Code.

II. Background

The Ohio Public Records Act imposes two primary obligations upon a “public office”:

1. Provide prompt inspection of public records, and
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”. Basically, any entity that performs a public service and is supported by public funds is a “public office” for purposes of the Public Records Act.

Ohio Revised Code section 149.43, Ohio’s basic Public Records Law, is to be interpreted liberally to facilitate broader public access to public records. While the law makes certain exceptions, these are to be strictly construed. If there is a doubt as to the applicability of an exception, it is usually resolved in the favor of disclosure.

Board will not be able to assist a requester in revising a request if to do so would violate Ohio law.

The requester does not have to put a records request or an inspection request in writing, and does not have to provide his or her identity or the intended use of the requested public record, unless specific requirements pursuant to Ohio law require a written request. However, a person making an oral request will be asked to voluntarily make the request in writing to better serve the requester. WIOA Ohio Area 8 Local Workforce Development Board cannot refuse to respond to an oral request for records or inspection request.

Public records are to be available for inspection during regular business hours, with the exception of published holidays. Public records must be made available for inspection promptly. Ohio Law does not define a fixed period of time by which a public records request must be completed. Copies of public records must be made available within a reasonable period of time. "Prompt" and "reasonable" take into account the volume of records requested; the proximity of the location where the records are stored; the circumstances of WIOA Ohio Area 8 Local Workforce Development Board at the time of the request and the necessity for any legal review of the records requested. Due to the expansive work done directly with job seeking and business customers, in many cases a records request will require a legal review to protect our customers' rights and confidentiality.

Upon receipt, each request will be evaluated for an estimated length of time required to gather the records. If the request is routine and the records are readily available the request may be satisfied immediately if feasible. Routine requests include, but are not limited to, meeting minutes, forms and applications, personnel rosters, etc. If a request is for fewer than 20 pages of copies and/or if the records are readily available in an electronic format that can be e-mailed or downloaded easily, these requests will be met as quickly as the equipment allows.

If a request is deemed significantly beyond "routine," such as seeking a voluminous number of copies or requiring extensive research, WIOA Ohio Area 8 Local Workforce Board will provide written acknowledgement that includes the following:

- An estimated number of business days it will take to satisfy the request.
- A determination of medium of response (e.g. e-mail, copies or computer disc/flash drive) and delivery (e.g. US mail or customer pick-up) and costs associated with delivery.
- Any items within the request that may be exempt from disclosure.

The law requires every public office to maintain its records in accordance with the statutory requirements or record retention schedules.

III. Personal Data Security

There are federal and state laws and regulations that make workforce participant information nonpublic, including but not limited to “personal information”.

Ohio Revised Code 1347.01 (E) states that “Personal information” means any information that describes anything about a person, or that indicates actions done by or to a person, or that indicates that a person possesses certain personal characteristics, and that contains, and can be retrieved from a system by, a name, identifying number, symbol, or other identifier assigned to a person.

Ohio Administrative Code 5101: 9-22-15 states that personal information includes names, addresses, social security numbers, phone numbers, and information about an individual’s social and economic status.

29 USC 2935(a)(4)(B) states that information maintained by WIA/WIOA-funded entities is not public if:

- (i) its disclosure would constitute a clearly unwarranted invasion of personal privacy; or
- (ii) it is trade secret, or commercial or financial information, that is obtained from a person and privileged or confidential. (WIA Section 185 – same as 29 USC 2935(A)(4)).

IV. Policy

It is the policy of WIOA Ohio Area 8 Local Workforce Development Board that, as required by Ohio law, records will be organized and maintained so that they are readily available for inspection and copying. Record retention schedules are updated regularly and available upon request.

A large number of records created, organized and maintained by WIOA Ohio Area 8 Local Workforce Development Board are exempt from disclosure under the Ohio Public Records Act and due to Personal Data Security. Ohio Revised Code section 149.43 (A) contains the following specific exceptions:

1. Medical records;
2. Records pertaining to probation and parole proceedings;
3. Records of unmarried minors seeking abortion and defined as confidential under ORC 2151.85 and ORC 2919.121;
4. Records pertaining to adoption proceedings, including adoption files maintained by the Department of Health under ORC section 3705.12;

5. Information contained in the putative father registry established by ORC section 3705.12;
 6. Records pertaining to adoption proceedings that are confidential under ORC section 3107.42 or 3107.52;
 7. Trial preparation records;
 8. Confidential law enforcement investigatory records;
 9. Records pertaining to mediation communications under ORC section 2317.023 or investigations of the Ohio Civil Rights Commission under ORC section 4112.05;
 10. DNA records stored in the DNA database under ORC section 109.573
 11. Inmates records released by the Department of Rehabilitation and Correction to the Department of Youth Services under division (E) of ORC section 5120.21;
 12. Records maintained by the Department of Youth Services pertaining to children released to the Department of Rehabilitation and corrections under ORC section 5139.05;
 13. Intellectual property records;
 14. Donor profile records;
 15. Records maintained by the Department of Job and Family Services under ORC section 5101.312;
 16. Peace officer residential and familial information;
 17. Information maintained by a county hospital that constitutes a trade secret as defined in ORC section 1333.61;
 18. Information pertaining to the recreational activities of a person under the age of eighteen;
 19. Records the release of which is prohibited by state or federal law.
- Request of records for commercial (vendor) use will be limited to ten (10) records per month, unless a request is certified to be for non-commercial purposes.

V. Procedures for Public Records Requests

Each request for public records will be evaluated for a response using the following guidelines:

Although Ohio law does not provide for specific language to be used in making a request, the requester must at least identify the records requested with sufficient clarity to allow the public office to identify, retrieve, and review the records. If it is not clear what records are being sought, WIOA Ohio Area 8 Local Workforce Development Board should attempt to contact the requester for clarification, and should assist the requestor in revising the request by informing the requestor of the manner in which the office keeps its records. WIOA Ohio Area 8 Local Workforce

Once a request for records has been responded to there is no continuing duty upon WIOA Ohio Area 8 Local Workforce Development Board to update the request with records created after the request has been met.

Any denial of public records requested must include an explanation, including legal authority. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the remaining portions of the records released. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority and the redaction must be conspicuously marked.

If a record contains both exempt and public information the exempt information must be redacted. Once a response (withhold, redact and/or release) to a request has been made the WIOA Ohio Area 8 Local Workforce Development Board may file a declaratory judgement action to determine the correctness of its actions.

VI. Costs for Public Records

A requester of public records will be charged only the actual cost of making copies.

No cost will be assessed for the inspection of records on the premises. WIOA Ohio Area 8 Local Workforce Development Board has no duty to provide copies of records to a requester who has an inability to pay or is unwilling to pay.

Additionally, if WIOA Ohio Area 8 Local Workforce Development Board uses an outside contractor to respond to a request the actual cost to do so will be the responsibility of the requester. Ohio law does not require WIOA Ohio Area 8 Local Workforce Development Board to relinquish custody and control of its records to accommodate the requesters preferred method of copying.

- The charge for paper copies is 10 cents per page. Prepayment of copying costs is required.
- The charge for downloaded computer files to a flash drive is \$10 per flash drive.
- There is no charge for documents e-mailed.
- Requesters may ask that documents be mailed to them. Requesters will be charged the actual cost of the postage and mailing supplies, which must be prepaid.

VII. E-mail

Documents in electronic mail format are records as defined by the Ohio Revised Code when their content relates to the business of the office. E-mail is to be treated in the same fashion as records in other formats and should follow the same retention schedules.

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- Records in e-mail accounts used to conduct public business are subject to disclosure, and all employees or representatives of this office are instructed to retain their e-mails that relate to public business.

VIII. Failure to Respond to a Public Records Request

WIOA Ohio Area 8 Local Workforce Development Board recognizes the legal and non-legal consequences of failure to properly respond to a public records request. In addition to the distrust in government that failure to comply may cause, WIOA Ohio Area 8 Local Workforce Development Board's failure to comply with a request may result in a court ordering WIOA Ohio Area 8 Local Workforce Development Board to comply with the law and to pay the requester attorney's fees and damages.

BOARD ACTION ITEM

Date: September 19, 2024

Motion made by: _____

Motion seconded by: _____

Vote _____ aye _____ nay _____ abstain _____ motion carries _____ motion denied