



MIAMI VALLEY FIRE DISTRICT

PUBLIC RECORDS AND RECORDS

RETENTION POLICY

PUBLIC RECORDS

Statement of Policy

To ensure that the District is in compliance with the requirements of the State of Ohio Revised Code (O.R.C. § 149.43 and related sections) as it pertains to Public Records, this policy has been developed. This policy references the general requirements of the Public Records Act and establishes procedures to be followed when a public records request is made.

A. PURPOSE

Miami Valley Fire District, Montgomery County, Ohio, acknowledges that it maintains many records that are used in the administration and operation of the District. In accordance with state law, and the District Records Commission, the District has adopted Schedules of Records Retention and Disposition that identify these records. These schedules identify records that are stored on a fixed medium that are created, received, or sent under the jurisdiction of the District and document the organization, functions, policies, decisions, procedures, operations, or other activities of the District.

B. SCOPE

The Fire District has a designated Employee who serves as the custodian of all records maintained by the District.

The period of time for which the District stores or maintains records was determined by assessing the administrative, legal, fiscal, and/or historical value of the records to the District, efficient business practices, and by reviewing the suggested retention periods developed by the Local Government Records Program for the Ohio Historical Society.

C. DEFINITIONS

1. “Records.” The District uses the definition of “records” contained in Ohio Rev. Code § 149.011(G).
2. “Public Record.” The District uses the definition of “public records” contained in Ohio Rev. Code § 149.43(A)(1).
3. “Redaction.” The District uses the definition of “redaction” contained in Ohio Rev. Code § 149.43(A)(11).
4. “Medical record.” The District uses the definition of “medical record” contained in Ohio Rev. Code § 149.43(A)(3).
5. “Trial preparation record.” The District uses the definition of “trial preparation record” contained in Ohio Rev. Code § 149.43(A) (4).

D. FEES

1. The District, in accordance with Ohio Rev. Code § 149.43(B)(6), may require that the requester pay in advance the cost involved in providing the copy of the public record, and has established the following fees for providing copies or reproductions of public records maintained by the District:
 - a) For photocopies of either letter or legal size documents, the fees shall be as follows:
 - (i) For the first through the twenty-fifth photocopy, there will be no charge.
 - (ii) For twenty-six or more photocopies, there is a fee of five (5) cents per photocopy calculated from the first photocopy.
 - (iii) Two-sided photocopies shall be charged at a rate of five (5) cents per sheet.
 - (iv) For videotapes, CDs, DVDs, cassette tapes, or for any other type of media, the fee shall be the replacement cost of the blank media or the reproduction (copying) cost. Reproduction costs may only be charged if a commercial or professional service is contracted to provide the copy. If the District creates the copy, a reproduction fee may not be charged.
 - (v) Established costs/fees under this policy will be clearly posted and visible to the public.
 - b) There may be instances when the District can provide copies made in-house without disrupting its normal functions, but only over an extended period of time. In that instance, the District may offer the requester the options of: (1) having the documents produced through a faster method by employing temporary personnel and equipment; (2) using an external private contractor; or (3) having the documents produced in-house by this public office's normal staff and equipment in a less efficient and more time-consuming manner. Should the requester select option one or two, the requester must pay the costs incurred by the District for such service.

E. AVAILABILITY

1. All public records maintained by the District shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours, with the exception of published holidays.
 - a) "Prompt" and "reasonable" take into account the volume of records requested, the proximity of the location where the records are stored, and the necessity for any legal review of the requested records.
 - b) District records are organized and maintained so that they are readily available for inspection and copying.

- c) Record retention schedules will be updated regularly and are readily available to the public at the Administration office.
 - d) No record shall be removed, changed, modified, or destroyed except by a District Employee in the performance of his official duties and as authorized under state or federal law.
2. Individuals requesting access to inspect public records and/or to receive copies of public records are not required to reveal their identity or the reason for their request.
- a) The requester must at least identify the records requested with sufficient clarity to allow the District to identify, retrieve, and review the records.
 - (i) The District may ask the requester to voluntarily complete a written request explaining or identifying the records he wishes to inspect and/or receive copies of, particularly if it would enhance the ability of the District to identify, locate, or deliver the requested public records. The District will first advise the requester that a written request is not mandatory.
 - b) In no event shall an individual be denied access to inspect and/or obtain copies of public records based on a refusal to identify himself or to complete a written request.
3. The District does not limit the number of public records that it will make available to a single person, and does not limit the number of public records that it will make available during a fixed period time.
4. The District will evaluate records requests for an estimated length of time to gather records.
- a) The District will either satisfy record requests in a reasonable time, or will acknowledge records requests in writing within three business days following the receipt of the request.
 - b) Routine requests for records will be satisfied as soon as practicable (e.g., meeting minutes, budgets, and salary information can be more quickly produced than records that require research, compilation, and redaction).
 - c) Requests beyond “routine,” including requests for a voluminous number of copies or requiring extensive research, will be acknowledged as soon as practicable with the following information:
 - (i) the estimated number of business days it will take to satisfy the request;
 - (ii) an estimated cost if copies are requested; and
 - (iii) an explanation of any items within the request that may be exempt from disclosure.

- d) The District has not established a fixed period of time before it will respond to a request for inspection or copying of public records.
5. This Policy does not allow a person seeking a copy of a public record to make the copies of the public record.
6. If a requester makes an ambiguous or overly broad request or has difficulty making a request for copies or inspection of public records and the District cannot reasonably identify what public records are being requested, the District may deny the request, but will provide the requester an opportunity to revise the request by informing him the manner in which the District records are maintained and accessed.
7. Requests for the inspection and/or copies of public records shall be directed to the office, department, or function that maintains the record. The Fire Chief, or the Fire Chief's designee, under the authority and direction of the Board, has designated an Employee within every department, office, or function under their direction to act as the custodian of records for their assigned unit. The District has established general Schedules for Record Retention and Disposition for its offices, departments, or functions to assist in the organization of records for production.
8. The regular business hours for the offices, departments, and functions for the District are 8:00 a.m. to 4:00 p.m., Monday through Friday, except holidays.
9. Authorized District Employees shall comply with the following procedures upon receiving a valid public record request:
 - a) District Employees shall promptly process requests for public records.
 - b) Public record requests for one to twenty-five pages will be mailed to the requester, if so requested, and no payment shall be required of the requester.
 - c) Public record requests that exceed twenty-five pages require advance payment from the requester.
 - d) Requesters will be charged the cost of postage and other supplies used in the mailing for all requests that exceed twenty-five copies.
10. Requests for records that are not maintained, or records that are prohibited from release pursuant to state or federal law, are processed in the following manner:
 - a) If the District receives a request for a record that it does not maintain or the request is for a record which is no longer maintained, the requester shall be so notified in writing that one of the following applies:
 - (i) the request involves records that have never been maintained by the District; or
 - (ii) the request involves records that are no longer maintained or have been disposed of or transferred pursuant to applicable District Schedules of Record Retention and Disposition; or

- (iii) the request involves a record that has been disposed of pursuant to an Application of the One-Time Records Disposal.
- b) If the record that is requested is prohibited from release due to applicable state or federal law, the responsible District Employee shall respond to the requester, citing the applicable state or federal law.
- c) If the record that is requested is not a record used or maintained by the District, the requester will be notified that in accordance with Ohio Public Records law, the District is under no obligation to create records to meet public record requests.
- d) The District will not provide records that do not exist at the time of the response to Public Records request, or records that are acquired after a response to a request is complete.

11. Media Types/Distribution of Records

- a) If a person requests a copy of a public record, the District shall permit the requester to have the public record duplicated on paper or upon the same medium upon which the District maintains the public record, or upon any other medium on which the District determines the record can reasonably be duplicated.
- b) The request shall be acted upon and a copy of the public record prepared within a reasonable period of time. Fees shall apply in accordance with section IV of this policy.
- c) Upon a request made in accordance with the Public Record Law and subject to the provisions of choosing a duplicating system, the District shall transmit a copy of a public record to any person by United States mail or by any other means of delivery, or transmission within a reasonable period time after receiving the request for the copy. The District may require advance payment for the cost of postage or the cost of transmission and for other supplies used in the mailing, delivery, or transmission.

12. Grievances

- a) If a person allegedly is aggrieved due to the inability to inspect a public record or due to the inability to receive a copy of the public record, the person will be advised:
 - (i) to contact the Fire Chief; or
 - (ii) that Ohio Rev. Code § 149.43(C)(1) provides a legal means for addressing their complaint in these disputes.

F. PERSONNEL AND PERSONAL INFORMATION

- 1. The Human Resources Director, under the authority and direction of the Board, manages the personnel management function for the District.

2. To better facilitate requests for inspection or information and/or copies of records involving current or past Employees of the District, inquiries for personnel files and personal information shall be directed to the office of the Fire Chief.
 - a) To better facilitate, manage, and administer this process, the District has adopted a Schedule of Records Retention and Disposition for Personnel Records.
 - b) To the extent practicable, current and past Employees will generally be notified if a request has been made to inspect or obtain a copy of their employment-related records. Current and past Employees have the right to be present during the inspection and, if they so request, to receive a duplicate copy of any record requested at no charge.

G. EXEMPTED AND/OR RESTRICTED INFORMATION

1. In accordance with state and federal law, Social Security Numbers are exempt from the Public Records Act. Public records containing Social Security Numbers will have that information redacted prior to their release.
2. If a request is made to inspect and/or obtain a copy of a record maintained by the District whose release may be prohibited or exempted by either state or federal law, the request will be forwarded to the District's legal counsel for review. The person submitting the request will be advised that their request is being reviewed by legal counsel to ensure that protected and/or exempted information is not improperly released by the District.
3. Records that are exempted by either state or federal law shall not be subject to public inspection. The following represents a partial list of records that may be maintained by the District, but that will not be inspected or copied:
 - a) Medical records--Ohio Rev. Code § 149.43(A)(1)(a);
 - b) Trial preparation records--Ohio Rev. Code § 149.43(A)(1)(g);
 - c) Security and infrastructure records--Ohio Rev. Code § 149.433;
 - d) Home addresses of District Employees, unless the Employee is subject to a residency requirement--State ex. rel. Dispatch Printing Co. v. Johnson, 106 Ohio St. 3d 160, 833 N.E.2d 274 (2005);
 - e) E-mails or other records that do not document the organization, functions, policies, decisions, procedures, operations, or other activities--State ex rel. Wilson-Simmons v. Lake Cty. Sheriff's Dept., 82 Ohio St. 3d 37 (1998);
 - f) Attorney-client privileged records--State ex rel. Taxpayers Coalition v. City of Lakewood, 86 Ohio St. 3d 385 (1999); State ex rel. Nix v. Cleveland, 83 Ohio St. 3d 379 (1998); State ex rel. Alley v. Couchois, 1995 Ohio App. LEXIS 4094 (2d Dist. Sept. 20, 1995); and

- g) Information related to and maintained in accordance with the Americans with Disabilities Act (ADA), the Family and Medical Leave Act (FMLA) and the Health Information Portability and Accountability Act (HIPAA). Those statutes require that qualifying personal medical information be kept separate from regular personnel information, and maintained in a secured area. Such information may be released only to:
- (i) supervisors and managers in order to provide information regarding work restrictions;
 - (ii) first aid or safety personnel if the disability would require treatment or procedures related to the disability;
 - (iii) government officials investigating compliance with ADA, FMLA and HIPAA provisions;
 - (iv) with respect to Bureau of Workers' Compensation injury funds or in compliance with workers' compensation laws; or
 - (v) insurance companies that require medical examinations to provide health or life insurance for the Employee.

H. REDACTING EXEMPTED RECORDS/PROCEDURE

1. A redaction is a denial of a public records request unless state or federal law authorizes or requires the redaction. Therefore, the District will notify the requester of any redaction or will make the redaction plainly visible. Remaining public information will be provided.
2. When a redaction is made to a requested public record, the District will provide the requester with an explanation, including legal authority, setting forth why the information was redacted. If the initial request was provided in writing, the explanation also shall be provided to the requester in writing.

I. PROCEDURE FOR RELEASING REDACTED RECORDS

1. After reviewing the requested record and determining that it contains non-releasable information, the releasing Employee shall make a copy of all pages containing the excluded information.
2. The releasing Employee shall then place the date, initials, and the name of the requester (if provided) on the reproduced page.
3. The releasing Employee shall then color over the restricted information on the reproduced copy with a black marking pen, or white out in a neat manner.
4. The releasing Employee shall then reproduce a copy of the page with the redactions; the resulting copy shall be the page that is released to the requester.

5. The first reproduction page, with the original redactions made by the Employee, is the work sheet. It shall be attached to the original record, and maintained in accordance with the retention period established for the original document.
6. If a request is made for an electronic record, and the record contains protected information, the record will be printed, and exempt information redacted according to the policy of redaction of records listed in this policy. Protected information will not be redacted electronically.

J. AMERICAN WITH DISABILITIES ACT (ADA) COMPLIANCE

The District and its Employees will facilitate requests made by all persons, regardless of handicap or disability. Employees authorized to release public records will make all reasonable accommodations to ensure that public access is not denied based on a handicap or disability.

K. POSTING

This Policy will be posted at Fire Headquarters and in all locations where the District has offices. This Policy may also be posted on the District website. The District will incorporate this policy into all handbooks or policy manuals furnished by the District to its Employees.

L. TRAINING

All elected officials' designees will attend the public records training approved by the Ohio Attorney General.