

STARK COUNTY BOARD OF ELECTIONS PUBLIC RECORDS POLICY POSTER

This poster is a summary of the Stark County Board of Elections Public Records Policy.

A full copy of Stark County Board of Elections Public Record’s Policy is available for review at the front counter.

The Stark County Board of Elections has created this poster that describes its public records policy and has posted the poster in a conspicuous place in the Stark County Board of Elections Office in compliance with Ohio Revised Code Section 149.43.

The Stark County Board of Elections Office has adopted a Public Records Policy in compliance with Ohio Revised Code Section 149.43 for responding to public records requests.

A copy of the Stark County Board of Elections and Stark County’s general current records retention schedules are also readily available to the public for inspection at the front counter of the Stark County Board of Elections Office.

Finally, a copy of the Ohio Attorney General’s current Ohio Sunshine Laws Update is readily available to the public for inspection at the front counter of the Stark County Board of Elections.

“Public records” are defined by Ohio Revised Code Section 149.43(A)(1) as “records kept by any public office…” Kept by a public office has been further defined as the type of item/record typically and actually retained by the office in the ordinary course of its business in order to carry out its duties and functions.

Ohio Revised Code Section 149.011(G) further defines “Records” to include any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in section 1306.01 of the Revised Code, 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.

Finally, pursuant to Ohio Revised Code Section 149.40, the definition of a public record can be further refined, as that statute requires records be created only when they “are necessary for the adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the …” office. Those records so generated are “public records”, unless they fall into a specific exclusion provided for in the Ohio Revised Code or court cases.

The Stark County Board of Elections employees are familiar with their duties under Ohio Revised Code Section 149.43. The vast majority of records generated and/or maintained by the Stark County Board of Elections Office fit within the definition of “public records” as set forth in Ohio Revised Code, and should be immediately available to the general public.

For more involved requests, detailed requests, or requests that may be exempt or require redaction, a requestor may be referred to a “Public Records Officer” within the Stark County Board of Elections Office. The Stark County Board of Elections has designated the following persons as “Public Records Officers”, who have attended training approved by the attorney general as provided in section 109.43 of the Revised Code:

- Director
- Deputy Director
- IT department staff

A person (person includes corporations, individuals, and other governmental agencies) requesting to inspect and/or copy the public records:

1. does **NOT** have to provide their name
2. does **NOT** have to provide a reason for inspecting and/or copying the public records
3. does **NOT** have to make the request in writing – the request can be in writing or verbal
4. may designate another person to inspect or retrieve the copies.
5. does **NOT** have to reveal a motive (motive is not relevant)
6. is **NOT** required to be an Ohio resident.

The Stark County Board of Elections shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the person seeking the copy. Nothing in this section requires a public office or person responsible for the public record to allow the person seeking a copy of the public record to make the copies of the public record.

If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records under this section such that the public office or the person responsible for the requested public record cannot reasonably identify what public records are being requested, the public office or the person responsible for the requested public record may deny the request but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office’s or person’s duties.

If a request is ultimately denied, in part or in whole, the Stark County Board of Elections shall provide the requester 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 requester in writing.

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(A) As used in this section:

(1) "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 Ohio kept by a nonprofit or for profit entity operating such alternative school pursuant to section 3313.533 of the Revised Code. "Public record" does not mean any of the following:

(a) Medical records;

(b) Records pertaining to probation and parole proceedings or to proceedings related to the imposition of community control sanctions and post-release control sanctions;

(c) Records pertaining to actions under section 2151.85 and division (C) of section 2919.121 of the Revised Code and to appeals of actions arising under those sections;

(d) Records pertaining to adoption proceedings, including the contents of an adoption file maintained by the department of health under section 3705.12 of the Revised Code;

(e) Information in a record contained in the putative father registry established by section 3107.062 of the Revised Code, regardless of whether the information is held by the department of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the department or a child support enforcement agency;

(f) Records listed in division (A) of section 3107.42 of the Revised Code or specified in division (A) of section 3107.52 of the Revised Code;

(g) Trial preparation records;

(h) Confidential law enforcement investigatory records;

(i) Records containing information that is confidential under section 2710.03 or 4112.05 of the Revised Code;

(j) DNA records stored in the DNA database pursuant to section 109.573 of the Revised Code;

(k) Inmate records released by the department of rehabilitation and correction to the department of youth services or a court of record pursuant to division (E) of section 5120.21 of the Revised Code;

(l) Records maintained by the department of youth services pertaining to children in its custody released by the department of youth services to the department of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;

(m) Intellectual property records;

(n) Donor profile records;

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(o) Records maintained by the department of job and family services pursuant to section 3121.894 of the Revised Code;

(p) Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT residential and familial information;

(q) In the case of a county hospital operated pursuant to Chapter 339. of the Revised Code or a municipal hospital operated pursuant to Chapter 749. of the Revised Code, information that constitutes a trade secret, as defined in section 1333.61 of the Revised Code;

(r) Information pertaining to the recreational activities of a person under the age of eighteen;

(s) Records provided to, statements made by review board members during meetings of, and all work products of a child fatality review board acting under sections 307.621 to 307.629 of the Revised Code, other than the report prepared pursuant to section 307.626 of the Revised Code;

(t) Records provided to and statements made by the executive director of a public children services agency or a prosecuting attorney acting pursuant to section 5153.171 of the Revised Code other than the information released under that section;

(u) Test materials, examinations, or evaluation tools used in an examination for licensure as a nursing home administrator that the board of examiners of nursing home administrators administers under section 4751.04 of the Revised Code or contracts under that section with a private or government entity to administer;

(v) Records the release of which is prohibited by state or federal law;

(w) Proprietary information of or relating to any person that is submitted to or compiled by the Ohio venture capital authority created under section 150.01 of the Revised Code;

(x) Information reported and evaluations conducted pursuant to section 3701.072 of the Revised Code;

(y) Financial statements and data any person submits for any purpose to the Ohio housing finance agency or the controlling board in connection with applying for, receiving, or accounting for financial assistance from the agency, and information that identifies any individual who benefits directly or indirectly from financial assistance from the agency.

(2) "Confidential law enforcement investigatory record" means any record that pertains to a law enforcement matter of a criminal, quasi-criminal, civil, or administrative nature, but only to the extent that the release of the record would create a high probability of disclosure of any of the following:

(a) The identity of a suspect who has not been charged with the offense to which the record pertains, or of an information source or witness to whom confidentiality has been reasonably promised;

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(b) Information provided by an information source or witness to whom confidentiality has been reasonably promised, which information would reasonably tend to disclose the source's or witness's identity;

(c) Specific confidential investigatory techniques or procedures or specific investigatory work product;

(d) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.

(3) "Medical record" means 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.

(4) "Trial preparation record" means any record that contains information that is specifically compiled in reasonable anticipation of, or in defense of, a civil or criminal action or proceeding, including the independent thought processes and personal trial preparation of an attorney.

(5) "Intellectual property record" means 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.

(6) "Donor profile record" means all records about donors or potential donors to a public institution of higher education except the names and reported addresses of the actual donors and the date, amount, and conditions of the actual donation.

(7) "Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT residential and familial information" means any information that discloses any of the following about a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT:

(a) The address of the actual personal residence of a peace officer, parole officer, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT, except for the state or political subdivision in which the peace officer, parole officer, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT resides;

(b) Information compiled from referral to or participation in an employee assistance program;

(c) The social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of, or any medical information pertaining to, a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT;

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(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT by the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, or EMT's employer;

(e) The identity and amount of any charitable or employment benefit deduction made by the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, or EMT's employer from the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, or EMT's compensation unless the amount of the deduction is required by state or federal law;

(f) The name, the residential address, the name of the employer, the address of the employer, the social security number, the residential telephone number, any bank account, debit card, charge card, or credit card number, or the emergency telephone number of the spouse, a former spouse, or any child of a peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT;

(g) A photograph of a peace officer who holds a position or has an assignment that may include undercover or plain clothes positions or assignments as determined by the peace officer's appointing authority.

As used in divisions (A)(7) and (B)(9) of this section, "peace officer" has the same meaning as in section 109.71 of the Revised Code and also includes the superintendent and troopers of the state highway patrol; it does not include the sheriff of a county or a supervisory employee who, in the absence of the sheriff, is authorized to stand in for, exercise the authority of, and perform the duties of the sheriff.

As used in divisions (A)(7) and (B)(5) of this section, "correctional employee" means any employee of the department of rehabilitation and correction who in the course of performing the employee's job duties has or has had contact with inmates and persons under supervision.

As used in divisions (A)(7) and (B)(5) of this section, "youth services employee" means any employee of the department of youth services who in the course of performing the employee's job duties has or has had contact with children committed to the custody of the department of youth services.

As used in divisions (A)(7) and (B)(9) of this section, "firefighter" means any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.

As used in divisions (A)(7) and (B)(9) of this section, "EMT" means EMTs-basic, EMTs-I, and paramedics that provide emergency medical services for a public emergency medical service organization. "Emergency medical service organization," "EMT-basic," "EMT-I," and "paramedic" have the same meanings as in section 4765.01 of the Revised Code.

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(8) "Information pertaining to the recreational activities of a person under the age of eighteen" means information that is kept in the ordinary course of business by a public office, that pertains to the recreational activities of a person under the age of eighteen years, and that discloses any of the following:

(a) The address or telephone number of a person under the age of eighteen or the address or telephone number of that person's parent, guardian, custodian, or emergency contact person;

(b) The social security number, birth date, or photographic image of a person under the age of eighteen;

(c) Any medical record, history, or information pertaining to a person under the age of eighteen;

(d) Any additional information sought or required about a person under the age of eighteen for the purpose of allowing that person to participate in any recreational activity conducted or sponsored by a public office or to use or obtain admission privileges to any recreational facility owned or operated by a public office.

(9) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(10) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.

(11) "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.

(12) "Designee" and "elected official" have the same meanings as in section 109.43 of the Revised Code.

(B)(1) Upon request and subject to division (B)(8) of this section, all public records responsive to the request shall be promptly prepared and made available for inspection to any person at all reasonable times during regular business hours. Subject to division (B)(8) of this section, upon request, a public office or person responsible for public records shall make copies of the requested public record available at cost and within a reasonable period of time. If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the public office or the person responsible for the public record 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, the public office or the person responsible for the public record shall notify the requester 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.

(2) To facilitate broader access to public records, a public office or the person responsible for public records shall organize and maintain public records in a manner that they can be made available for inspection or copying in accordance with division (B) of this section. A public office also shall have available a copy of its current records retention schedule at a

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location readily available to the public. If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records under this section such that the public office or the person responsible for the requested public record cannot reasonably identify what public records are being requested, the public office or the person responsible for the requested public record may deny the request but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's or person's duties.

(3) If a request is ultimately denied, in part or in whole, the public office or the person responsible for the requested public record shall provide the requester 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 requester in writing. The explanation shall not preclude the public office or the person responsible for the requested public record from relying upon additional reasons or legal authority in defending an action commenced under division (C) of this section.

(4) Unless specifically required or authorized by state or federal law or in accordance with division (B) of this section, no public office or person responsible for public records may limit or condition the availability of public records by requiring disclosure of the requester's identity or the intended use of the requested public record. Any requirement that the requester disclose the requestor's identity or the intended use of the requested public record constitutes a denial of the request.

(5) A public office or person responsible for public records 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 and 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.

(6) If any person chooses to obtain a copy of a public record in accordance with division (B) of this section, the public office or person responsible for the public record may require that person to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the person seeking the copy under this division. The public office or the person responsible for the public record shall permit that person to choose to have the public record duplicated upon paper, upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium upon which the public office or person responsible for the public record determines that it reasonably can be duplicated as an integral part of the normal operations of the public office or person responsible for the public record. When the person seeking the copy makes a choice under this division, the public office or person responsible for the public record shall provide a copy of it in accordance with the choice made by the person seeking the copy. Nothing in this section requires a public office or person responsible for the public record to allow the person seeking a copy of the public record to make the copies of the public record.

(7) Upon a request made in accordance with division (B) of this section and subject to division (B)(6) of this section, a public office or person responsible for public records 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 of time after receiving the

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request for the copy. The public office or person responsible for the public record may require the person making the request to pay in advance the cost of postage if the copy is transmitted by United States mail or the cost of delivery if the copy is transmitted other than by United States mail, and to pay in advance the costs incurred for other supplies used in the mailing, delivery, or transmission.

Any public office may adopt a policy and procedures that it will follow in transmitting, within a reasonable period of time after receiving a request, copies of public records by United States mail or by any other means of delivery or transmission pursuant to this division. A public office that adopts a policy and procedures under this division shall comply with them in performing its duties under this division.

In any policy and procedures adopted under this division, a public office may limit the number of records requested by a person that the office will transmit by United States mail to ten per month, unless the person certifies to the office in writing that the person does not intend to use or forward the requested records, or the information contained in them, for commercial purposes. For purposes of this division, "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 educational research.

(8) A public office or person responsible for public records is not required to permit a person who is incarcerated pursuant to a criminal conviction or a juvenile adjudication to inspect or to obtain a copy of any public record concerning a criminal investigation or prosecution or concerning what would be a criminal investigation or prosecution if the subject of the investigation or prosecution were an adult, unless the request to inspect or to obtain a copy of the record is for the purpose of acquiring information that is subject to release as a public record under this section and the judge who imposed the sentence or made the adjudication with respect to the person, or the judge's successor in office, finds that the information sought in the public record is necessary to support what appears to be a justiciable claim of the person.

(9) Upon written request made and signed by a journalist on or after December 16, 1999, a public office, or person responsible for public records, having custody of the records of the agency employing a specified peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT shall disclose to the journalist the address of the actual personal residence of the peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT and, if the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, or EMT's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the peace officer's, parole officer's, prosecuting attorney's, assistant prosecuting attorney's, correctional employee's, youth services employee's, firefighter's, or EMT's spouse, former spouse, or child. The request shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest.

As used in this division, "journalist" means a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.

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(C)(1) If a person allegedly is aggrieved by the failure of a public office or the person responsible for public records to promptly prepare a public record and to make it available to the person for inspection in accordance with division (B) of this section or by any other failure of a public office or the person responsible for public records to comply with an obligation in accordance with division (B) of this section, the person allegedly aggrieved may commence a mandamus action to obtain a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, that awards court costs and reasonable attorney's fees to the person that instituted the mandamus action, and, if applicable, that includes an order fixing statutory damages under division (C)(1) of this section. The mandamus action may be commenced in the court of common pleas of the county in which division (B) of this section allegedly was not complied with, in the supreme court pursuant to its original jurisdiction under Section 2 of Article IV, Ohio Constitution, or in the court of appeals for the appellate district in which division (B) of this section allegedly was not complied with pursuant to its original jurisdiction under Section 3 of Article IV, Ohio Constitution.

If a requestor transmits a written request by hand delivery or certified mail to inspect or receive copies of any public record in a manner that fairly describes the public record or class of public records to the public office or person responsible for the requested public records, except as otherwise provided in this section, the requestor shall be entitled to recover the amount of statutory damages set forth in this division if a court determines that the public office or the person responsible for public records failed to comply with an obligation in accordance with division (B) of this section.

The amount of statutory damages shall be fixed at one hundred dollars for each business day during which the public office or person responsible for the requested public records failed to comply with an obligation in accordance with division (B) of this section, beginning with the day on which the requester files a mandamus action to recover statutory damages, up to a maximum of one thousand dollars. The award of statutory damages shall not be construed as a penalty, but as compensation for injury arising from lost use of the requested information. The existence of this injury shall be conclusively presumed. The award of statutory damages shall be in addition to all other remedies authorized by this section.

The court may reduce an award of statutory damages or not award statutory damages if the court determines both of the following:

(a) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(b) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

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(2)(a) If the court issues a writ of mandamus that orders the public office or the person responsible for the public record to comply with division (B) of this section and determines that the circumstances described in division (C)(1) of this section exist, the court shall determine and award to the relator all court costs.

(b) If the court renders a judgment that orders the public office or the person responsible for the public record to comply with division (B) of this section, the court may award reasonable attorney's fees subject to reduction as described in division (C)(2)(c) of this section. The court shall award reasonable attorney's fees, subject to reduction as described in division (C)(2)(c) of this section when either of the following applies:

(i) The public office or the person responsible for the public records failed to respond affirmatively or negatively to the public records request in accordance with the time allowed under division (B) of this section.

(ii) The public office or the person responsible for the public records promised to permit the relator to inspect or receive copies of the public records requested within a specified period of time but failed to fulfill that promise within that specified period of time.

(c) Court costs and reasonable attorney's fees awarded under this section shall be construed as remedial and not punitive. Reasonable attorney's fees shall include reasonable fees incurred to produce proof of the reasonableness and amount of the fees and to otherwise litigate entitlement to the fees. The court may reduce an award of attorney's fees to the relator or not award attorney's fees to the relator if the court determines both of the following:

(i) That, based on the ordinary application of statutory law and case law as it existed at the time of the conduct or threatened conduct of the public office or person responsible for the requested public records that allegedly constitutes a failure to comply with an obligation in accordance with division (B) of this section and that was the basis of the mandamus action, a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records did not constitute a failure to comply with an obligation in accordance with division (B) of this section;

(ii) That a well-informed public office or person responsible for the requested public records reasonably would believe that the conduct or threatened conduct of the public office or person responsible for the requested public records as described in division (C)(2)(c)(i) of this section would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(D) Chapter 1347. of the Revised Code does not limit the provisions of this section.

(E)(1) To ensure that all employees of public offices are appropriately educated about a public office's obligations under division (B) of this section, all elected officials or their appropriate designees shall attend training approved by the attorney general as provided in section 109.43 of the Revised Code. In addition, all public offices shall adopt a public records policy in compliance with this section for responding to public records requests. In adopting a public records policy under this division, a public office may obtain guidance from the model public records policy developed and provided to the public office by the attorney general under section 109.43 of the Revised Code. Except as otherwise provided in this section, the policy may not limit the number of public records that the public office

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will make available to a single person, may not limit the number of public records that it will make available during a fixed period of time, and may not establish a fixed period of time before it will respond to a request for inspection or copying of public records, unless that period is less than eight hours.

(2) The public office shall distribute the public records policy adopted by the public office under division (E)(1) of this section to the employee of the public office who is the records custodian or records manager or otherwise has custody of the records of that office. The public office shall require that employee to acknowledge receipt of the copy of the public records policy. The public office shall create a poster that describes its public records policy and shall post the poster in a conspicuous place in the public office and in all locations where the public office has branch offices. The public office may post its public records policy on the internet web site of the public office if the public office maintains an internet web site. A public office that has established a manual or handbook of its general policies and procedures for all employees of the public office shall include the public records policy of the public office in the manual or handbook.

(F)(1) The bureau of motor vehicles may adopt rules pursuant to Chapter 119. of the Revised Code to reasonably limit the number of bulk commercial special extraction requests made by a person for the same records or for updated records during a calendar year. The rules may include provisions for charges to be made for bulk commercial special extraction requests for the actual cost of the bureau, plus special extraction costs, plus ten per cent. The bureau may charge for expenses for redacting information, the release of which is prohibited by law.

(2) As used in division (F)(1) of this section:

(a) "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.

(b) "Bulk commercial special extraction request" means a request for copies of a record for information in a format other than the format already available, or information that cannot be extracted without examination of all items in a records series, class of records, or data base by a person who intends to use or forward the copies for surveys, marketing, solicitation, or resale for commercial purposes. "Bulk commercial special extraction request" does not include a request by a person who gives assurance to the bureau that the person making the request does not intend to use or forward the requested copies for surveys, marketing, solicitation, or resale for commercial purposes.

(c) "Commercial" means profit-seeking production, buying, or selling of any good, service, or other product.

(d) "Special extraction costs" means the cost of the time spent by the lowest paid employee competent to perform the task, the actual amount paid to outside private contractors employed by the bureau, or the actual cost incurred to create computer programs to make the special extraction. "Special extraction costs" include any charges paid to a public agency for computer or records services.

(3) For purposes of divisions (F)(1) and (2) of this section, "surveys, marketing, solicitation, or resale for commercial purposes" shall be narrowly construed and does not

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include reporting or gathering news, reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government, or nonprofit educational research.

Effective Date: 02-12-2004; 04-27-2005; 07-01-2005; 10-29-2005; 03-30-2007; 09-29-2007

2.07 PUBLIC RECORDS POLICY

It is the policy and intention of the Stark County Board of Elections to fully comply with the provisions of Ohio Revised Code that provide the ability for the general public to review and/or obtain copies of public records maintained by the Stark County Board of Elections. As public servants, we hold the public records in trust for the public. As public servants, we also must be diligent so we do not inadvertently release “records” which do not fit the definition of “public records, fall under one of the exceptions set forth in Ohio Revised Code, or fall under the purview of federally protected information. To balance these competing interests, the following policy is established.

- A. A copy of this policy and the Ohio Public Records Act (Ohio Revised Code Section 149.43) will be distributed, and updated when necessary. Those provisions of Ohio Revised Code Section 149.43 that are of particular importance to this Office and its employees will be reinforced within this policy. The policy and Ohio Revised Code Section 149.43 are to be kept in the employee’s copy of the Stark County Board of Elections Employee Handbook.
- B. **“Public records” are defined by Ohio Revised Code Section 149.43(A)(1) as “records kept by any public office...”** Kept by a public office has been further defined as the type of item/record typically and actually retained by the office in the ordinary course of its business in order to carry out its duties and functions.

Ohio Revised Code Section 149.011(G) further defines “Records” to include any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in section 1306.01 of the Revised Code, 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.

Finally, pursuant to Ohio Revised Code Section 149.40, the definition of a public record can be further refined, as that statute requires records be created only when they “are necessary for the adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the ...” office. Those records so generated are “public records”, unless they fall into a specific exclusion.

- C. **Exclusion as a public record:** the following is a **partial list** of records that are or may be generated and/or kept by the Stark County Board of Elections (not all exclusions are listed; just those germane to this office) that are excluded from the definition of public records and are not to be released (viewed or copied) by/for the general public.
 - 1. Medical Records as defined by ORC Section 149.43(A)(1)(a) and by federal regulations.
 - 2. Trial preparation records as defined by ORC Section 149.43(A)(1)(a).
 - 3. Confidential Law enforcement investigatory records as defined by ORC Section 149.43(A)(1)(a).
 - 4. Mediation records as set forth in Ohio Revised Code Section 2710.03.

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5. Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT residential and familial information. (See statute for specifics)
6. Records maintained by the pursuant to ORC section 3121.894 (ORC Section 3121.894 states in relevant part that the department of job and family services “shall enter information into a new hire directory...”
7. Records the release of which is prohibited by state or federal law.
8. In limited circumstances, employee home addresses may not be public records.
9. Employee social security numbers.
10. Security and Infrastructure records.

D. **Inspection of public records:** Requests to inspect public records should be responded to **promptly**. Promptly means without delay and with reasonable speed given the facts and circumstances of the request. Prompt inspection does contemplate time for legal review where appropriate.

1. Persons may not be charged to inspect public records.
2. Requests must be made/accommodated during normal business hours.
3. If there is a question regarding whether the records requested to be viewed are public records and/or it meets the definition of detailed request set forth herein, refer the request to a designated “Public Records Officer”. They will follow up promptly.
4. An employee of the Board of Elections must be present/accompany the person inspecting public record(s) during inspection to insure that original records are not taken or altered.

E. **Copies of public records:** Copies of public records must be provided **in a reasonable amount of time**. Reasonable means a period of time that is judged within the context of the facts and circumstances for each individual request.

1. The person requesting copies may choose to have the public record duplicated upon:
 - a. on paper
 - b. upon the same medium upon which the public record(s) is(are) kept
 - c. upon another medium upon which the Stark County Board of Elections can reasonably duplicate the public record(s) as an integral part of normal operations.
2. When the person seeking the copy makes a choice under this provision, the Stark County Board of Elections shall provide a copy of it in accordance with the choice made by the person seeking the copy.

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3. The charge for copies is:
 - a. \$.10 per page.
 - b. \$1.00 per DVD or CD disk
 - c. there will be no charge for electronic transmission of records
4. For any public records request that the cost involved in providing the copy of the public record, in accordance with the choice made by the person seeking the copy, is estimated to exceed \$5.00, including mailing fees if applicable, the person requesting copies shall pay in advance the estimated cost of copying/reproducing the public records.
5. The employee time in assembling and/or copying the public records shall not be charged.
6. Nothing requires the Stark County Board of Elections to allow the person seeking a copy of the public record to make the copies of the public record themselves.
7. U.S Mail: (Subject to the restrictions listed immediately above)
 - A. Upon a request made in accordance with this policy, the Stark County Board of Elections 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 of time after receiving the request for the copy.
 - B. In keeping with number 7 above, the Stark County Board of Elections shall require the person making the request to pay in advance the cost of postage if the copy is transmitted by United States mail or the cost of delivery if the copy is transmitted other than by United States mail, and to pay in advance the costs incurred for other supplies used in the mailing, delivery, or transmission.
- F. **Exempt Records:** If a public record contains information that is exempt from the duty to permit public inspection or to copy the public record, the Stark County Board of Elections shall make available all of the information within the public record that is not exempt. (redact exempt information) (see also section M of this policy regarding denied requests)
- G. **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.
 1. When making that public record available for public inspection or copying that public record, the Stark County Board of Elections shall notify the requester of any redaction or make the redaction plainly visible.
 2. To make the redaction plainly visible, black out the redacted information on a copy, then recopy to assure that the redacted information cannot be viewed.
 3. **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

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the redaction. Therefore, **if information is redacted you must also follow section M of this policy regarding denied requests.**

- H. **“Public Records Officers”:** The Stark County Board of Elections designates the Director, Deputy Director and the IT department staff as “Public Records Officers” within the Stark County Board of Elections.

The “Public Records Officers” shall receive advanced training in the public records law, including training provided, required, and/or approved by the attorney general in accordance with Ohio Revised Code Section 143.49.

The “Public Records Officers” shall be the persons who contact the Stark County Prosecutor’s Office if there is a question regarding classification or release of records.

For detailed requests for public records, those requesting public records should be initially referred to the Director or Deputy Director. In the event that the Director or the Deputy Director is not available, then the request should be forwarded to the IT department staff. The person requesting the records should be sent to one (1) of these individuals and informed that their request will be dealt with promptly and expediently as possible.

- I. **Routine requests for public records:** The vast majority of records generated and/or maintained by the Stark County Board of Elections fit within the definition of “public records” as set forth in Ohio Revised Code, and should be immediately available to the general public. Routine requests for public records are defined as records that are readily available and maintained by individual departments, voter information, walking lists, campaign finance reports and maps. A general rule to follow is that any record that would be available by visiting the Stark County Board of Elections website is a routine public records request that should be fulfilled immediately. The only issue that would take responding to a routine record request to a detailed record request level is volume....if responding to a records request would interfere with the discharge of the employee’s duties (i.e. take more than 15 minutes to respond), then in fairness to the general public that we serve (and do not wish to keep waiting an indeterminate amount of time) such a request should be deferred to a later time (the person requesting should be told) or referred to a “public records officer” within the Stark County Board of Elections. If there are no other members of the general public waiting, and it does not disrupt the work-flow in the department, the employee can use their judgment to attempt to copy a volume of records.
- J. **Detailed requests for public records:** Requests for information that meet the following criteria are hereby defined as detailed requests:
- a. not routinely provided to the public, and/or
 - b. not available on the Stark County Board of Elections website, and/or
 - c. requests for public records that are of sufficient volume that complying with the request would interfere with the discharge of the employee’s duties (i.e. take more than 15

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- minutes to respond) and thereby disrupt the Office's service to other members of the general public, and/or
- d. requests for public records that are not available immediately due to off-site location, and/or
 - e. requests that need legal review of the request for public records, and/or for requests that require redaction of information which is exempt from inspection and/or copying, and/or
 - f. requests that may need legal determination

Stark County Board of Elections employees should inform the person requesting the information that their request is being referred to one (1) of the "Public Records Officers", contact one (1) of the "Public Records Officers" designated by the Stark County Board of Elections, and allow one (1) of the "Public Records Officers" to meet with the requestor at that time.

"Public Records Officer" shall then:

1. Meet with the requestor and explain the reason for the need to have time to respond to the request.
2. Inform the requestor of the estimated time the requestor can expect to inspect and/or obtain copies of the requested public records. The amount of time must adhere to both reasonable and prompt with respect to the nature of the request.
3. If possible, follow up in writing.
4. Locate and/or gather the requested public records.
5. If a legal analysis is needed, concurrently obtain a review by the Stark County Prosecutor's Office while assembling the records. **If the Stark Prosecutor's Office determines that the request is not for public records, inform the requestor (in writing if possible) of the determination and reason.**
6. Redact the public records if necessary.
7. Copy and/or make available the requested public records.

K. Information About the Requestor that Cannot Be Solicited:

The person (person includes corporations, individuals, and other governmental agencies) requesting to inspect and/or copy the public records:

1. does **NOT** have to provide their name
2. does **NOT** have to provide a reason for inspecting and/or copying the public records
3. does **NOT** have to make the request in writing – the request can be in writing or verbal
4. may designate another person to inspect or retrieve the copies.
5. does **NOT** have to reveal a motive (motive is not relevant)
6. is **NOT** required to be an Ohio resident.

Note 1: Unless specifically required or authorized by state or federal law or in accordance with division (B) of Ohio Revised Code Section 149.43, no public office or person responsible for public records may limit or condition the availability of public records by requiring disclosure of the requester's identity or the intended use of the requested public

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record. **Any requirement that the requester disclose the requestor's identity or the intended use of the requested public record constitutes a denial of the request.**

Note 2: A public office or person responsible for public records 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
- and 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.

L. Particularity of a Public Records Request (Ambiguous or Overbroad Requests)

The request to inspect and/or copy public records must be specific and describe the public records sought in enough detail and clarity so that the records can be identified, retrieved, and/or inspected.

So long as the request identifies with enough particularity the public record(s) being sought, the request should be immediately processed and/or forwarded to the appropriate section of the Board of Elections that has custody of the records as set forth above in routine requests or detailed requests.

In the event that the request fails to identify the public records sought in enough detail and clarity so that the records can be identified, retrieved, and/or inspected, the request may be denied and the requestor may be asked to restate their request.

If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records under this section such that the public office or the person responsible for the requested public record cannot reasonably identify what public records are being requested, the public office or the person responsible for the requested public record may deny the request but shall provide the requester with an opportunity to revise the request by informing the requester of the manner in which records are maintained by the public office and accessed in the ordinary course of the public office's or person's duties.

M. **Denied Requests:** If a request is ultimately denied, in part or in whole, the public office or the person responsible for the requested public record shall provide the requester with an explanation that :

- sets forth why the request was denied, and

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- includes legal authority.

If the initial request was provided in writing, the explanation also shall be provided to the requester in writing.

Note: The explanation will not preclude the Stark County Board of Elections from relying upon additional reasons or legal authority in defending their action to deny access.

- N. **Maintenance of Public Records:** To facilitate broader access to public records, the Stark County Board of Elections shall organize and maintain public records in a manner that they can be made available for inspection or copying in accordance with this policy.

To properly apply this provision requires familiarity with 2.08 PUBLIC RECORDS RETENTION & DISPOSAL POLICY as well.

- O. **Existence of records.** The Stark County Board of Elections **is not required/obligated to create new records** or perform new analysis of existing information to respond to a public records request.

Note: An electronic record will be deemed to exist so long as a computer is already programmed to produce the record through simple sorting, filtering, and querying.

- P. **Alteration of Public Records:** When an individual (including employees) are inspecting public records, they shall not alter the public record in any way, including adding notations or “post-it notes” to the original public record.

- Q. **Retention Schedule(s):** A copy of the Stark County Board of Elections and Stark County’s general current records retention schedule(s) shall be available at the following locations readily available to the public:

1. front counter of the main office
2. the Stark County Board of Elections website www.boe.co.stark.oh.us

- R. **Journalist’s Requests:** In addition to normal access to public records, upon written request made and signed by a journalist on or after December 16, 1999, a public office, or person responsible for public records, having custody of the records of the agency employing a specified peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT shall disclose to the journalist the address of the actual personal residence of the peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT and, if the peace officer’s, parole officer’s, prosecuting attorney’s, assistant prosecuting attorney’s, correctional employee’s, youth services employee’s, firefighter’s, or EMT’s spouse, former spouse, or child is employed by a public office, the name and address of the employer of the peace officer’s, parole officer’s, prosecuting attorney’s, assistant prosecuting attorney’s, correctional employee’s, youth services employee’s, firefighter’s, or EMT’s spouse, former spouse, or child. The request

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shall include the journalist's name and title and the name and address of the journalist's employer and shall state that disclosure of the information sought would be in the public interest.

Journalist is defined as a person engaged in, connected with, or employed by any news medium, including a newspaper, magazine, press association, news agency, or wire service, a radio or television station, or a similar medium, for the purpose of gathering, processing, transmitting, compiling, editing, or disseminating information for the general public.

- S. **E-mails:** E-mails that fit the definition of "public records" are "public records". As such, e-mails that are necessary for the adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the Stark County Board of Elections are public records and should be treated as such.
1. Remember that e-mails that are public records fall into the same retention and destruction schedule as paper or other records.
 2. Do not delete an e-mail unless
 - a. You have already printed off a paper copy
 - b. You are not the person in the Stark County Board of Elections with the responsibility to retain it. That is, another person who generated the e-mail or received it is responsible for retaining it.
 - c. It is not a "public record". E-mails that do **NOT** document the organization, functions, policies, decisions, procedures, and essential transactions of the Stark County Board of Elections are not public records, and do not have to be maintained. See section 4 (d) and (e) of this provision that follows.
 3. E-mails are stored on a central system at IT. In a catastrophic event, IT may only be able to restore data to your e-mail folders **up to one (1) week prior**. This means that your e-mail is susceptible to **loss** for up to a week. Any e-mails that you absolutely have to maintain should be printed off on paper and filed.
 4. For E-mails that meet the definition of "public records", there are three (3) levels of retention:
 - a. Transient Retention. E-mails such as meeting notices that can be compared to "communication that might take place during a telephone conversation or conversation in an office hallway" are transient, and retention should be until the E-mail is no longer of administrative value, then destroy.
 - b. Intermediate Retention. Intermediate correspondence, six (6) months
General correspondence, one (1) year
Monthly and weekly reports, one (1) year
Minutes of staff meetings, two (2) years

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Any e-mail that falls into the Intermediate retention category should be printed off for retention, and then may be deleted.

- c. Permanent retention. Executive correspondence
 Departmental policies
 Departmental procedures

Any e-mail that falls into the permanent retention category shall be printed off for retention immediately, and then may be deleted.

- d. Personal correspondence (including but not limited to “let’s do lunch” or “can I get a ride home”) are not public records and can/should be deleted.
- e. Broadcast e-mail from outside sources, such as spam or listserve messages are not public records and can/should be deleted.

When in doubt, print off and retain an e-mail and/or ask guidance from one of the “Public Records Officers”

2.08 PUBLIC RECORDS RETENTION & DISPOSAL POLICY

It is the policy and intention of the Stark County Board of Elections to fully comply with the provisions of Ohio Revised Code and the rules and regulations adopted by the Stark County Records Commission that provide for the retention and disposal of public records generated and/or kept by the Stark County Board of Elections. As public servants, we hold the public records in trust for the public.

A. **Stark County Records Commission.** The Stark County Records Commission is composed of the President of the Board of Commissioners (who serves as the chairperson), the Prosecuting Attorney, the Auditor, the Recorder, and the Clerk of the Court of Common Pleas.
(Ohio Revised Code Section 149.38(A))

B. **Rules for Retention and Disposal of Public Records.** The Stark County Records Commission provides the rules for retention and disposal of records of the county, reviews applications for one-time records disposal, and reviews schedules for records retention and disposal submitted by the county offices.
(Ohio Revised Code Section 149.38(B))

C. **Schedule of Records Retention and Disposal.** A schedule of records retention and disposal is a listing of records generated and/or kept by the Board of Elections and the corresponding period that the record must be kept before it may be disposed of which has been approved by the Stark County Records Commission.

There are two (2) approved Records Retention and Disposal Schedules that apply to the Stark County Board of Elections Office: a General Retention Schedule for all County Departments and Agencies available on the Records Center website, and an approved list for records specific to the Stark County Board of Elections front counter and website.

D. **Public Records Not Listed on a Retention and Disposal Schedule.** Any records that are generated and/or kept by the Stark County Board of Elections that are not listed on a retention and destruction schedule must be retained until a one-time records disposal is submitted to and approved by the Stark County Records Commission or until the records are placed on a records retention and disposal schedule which has been approved by the Stark County Records Commission.

E. **“Public records” are defined by Ohio Revised Code Section 149.43(A)(1) as “records kept by any public office...”** Kept by a public office has been further defined as the type of item/record typically and actually retained by the office in the ordinary course of its business in order to carry out its duties and functions.

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Ohio Revised Code Section 149.011(G) further defines “Records” to include any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in section 1306.01 of the Revised Code, 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.

Finally, pursuant to Ohio Revised Code Section 149.40, the definition of a public record can be further refined, as that statute requires records be created only when they “are necessary for the adequate and proper documentation of the organization, functions, policies, decisions, procedures and essential transactions of the ...” office. Those records so generated are “public records”, unless they fall into a specific exclusion.

F. **Exclusion as a public record:** the following is a list of records that are or may be generated and/or kept by the Stark County Board of Elections (not all exclusions are listed; just those germane to this office) that are excluded from the definition of public records and are not to be released (viewed or copied) by/for the general public.

1. Medical Records as defined by ORC Section 149.43(A)(1)(a) and by federal regulations.
2. Trial preparation records as defined by ORC Section 149.43(A)(1)(a).
3. Confidential Law enforcement investigatory records as defined by ORC Section 149.43(A)(1)(a).
4. Mediation records as set forth in Ohio Revised Code Section 2710.03.
5. Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT residential and familial information. (See statute for specifics)
6. Records maintained by the pursuant to ORC section 3121.894 (ORC section 3121.894 states in relevant part that the department of job and family services “shall enter information into a new hire directory...”)
7. Records the release of which is prohibited by state or federal law.
8. In limited circumstances, employee home addresses may not be public records.
9. Employee social security numbers.
10. Security and Infrastructure records.

G. **Disposal or Destruction of Public Records.** When a public record is able to be disposed of pursuant to a schedule of retention and destruction adopted by the Stark County Records Commission, they (it) shall be submitted to the Records Center Director, to be submitted by him to the Stark County Records Commission for disposal according to the rules and procedures established by the Stark County Records Commission.

2.08 PUBLIC RECORDS RETENTION & DISPOSAL POLICY

NO PUBLIC RECORDS MY BE DESTROYED WITHOUT GOING THROUGH THE APPROPRIATE DISPOSAL PROCESS ESTABLISHED BY THE STARK COUNTY RECORDS COMMISSION and/or AN ESTABLISHED *RECORDS RETENTION AND DESTRUCTION SCHEDULE* and/or THE STARK COUNTY BOARD OF ELECTIONS PUBLIC RECORDS POLICY.

H. Maintenance of Public Records Generated and/or Maintained by the Stark County Board of Elections Office

To facilitate broader access to public records, a public office or the person responsible for public records shall organize and maintain public records in a manner that they can be made available for inspection or copying in accordance with division (B) of this section. It is the responsibility of each Department Head to accomplish this task.

- I. **“Public Records Custodial Officers”**: The Stark County Board of Elections designates the Director and Deputy Director as the “Public Records Custodial Officers” within the Stark County Board of Elections. For any internal office questions regarding retention and/or disposal of public records generated by and/or maintained by the Stark County Board of Elections, employees should contact the Director or Deputy Director. In the event that the Director or Deputy Director is not available, then the question should be forwarded to the members of IT staff.

“Public Records Custodial Officer” shall:

1. Meet with the employees and answer their question(s), if they know the answer.
2. If they do not know the answer, consult with the Director of the Stark County Records Center.
3. Coordinate creation of new *Retention and Destruction Schedules* for public records generated and/or maintained by the Stark County Board of Elections.
4. Monitor current *Retention and Destruction Schedules* for public records generated and/or maintained by the Stark County Board of Elections.
5. Coordinate revisions to existing *Retention and Destruction Schedules* for public records generated and/or maintained by the Stark County Board of Elections.
6. Coordinate either one time disposals and/or the disposal and destruction of public records in accordance with existing records *Retention and Destruction Schedules* for public records generated and/or maintained by the Stark County Board of Elections.