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| ***POLICY AND PROCEDURE*** | |
| **SUBJECT/TITLE:** | Public Records Policy |
| **SCOPE:** | Administration |
| **CONTACT PERSON & DIVISION:** | Trish Factor MPH, MCHES, CHEP, Health Commissioner |
| **ORIGINAL DATE ADOPTED:** | August 11, 2015 |
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**PURPOSE**

A. This Public Records Policy is adopted by the Galion City Health Department in order to comply with the Ohio Public Records Act. Many of the records that the Galion City Health Department creates and maintains fall under the requirements of the act. Conversely, some records are strictly confidential and exempt from public record. This policy shall be interpreted liberally in favor of disclosure and exemptions shall be narrowly construed. Any denial of public records in response to a valid request will be accompanied by an explanation, which cites legal authority, as outlined in the Ohio Revised Code. If the request is in writing, the explanation must also be in writing. This policy provides general guidelines for compliance with the Ohio Public Records Act.

B. Once a member of the public has expressed an interest in inspecting or requesting copies, a public office has two basic duties under the Public Records Act: 1) to provide prompt inspection of public records, and 2) to provide copies within a reasonable period of time, if requested.  These two duties apply only to items that are “public records” as defined in Ohio law.

**POLICY**

It is the policy of the Galion City Health Department that openness leads to a better informed citizenry, which leads to better government and better public policy. It is the policy of the Galion City Health Department to strictly comply with the Ohio Public Records Act.

**BACKGROUND**

In the past vaccines were provided to health departments by the state, however health departments must now purchase vaccines for privately insured patients and charge fees accordingly.

**GLOSSARY OF TERMS**

The following definitions are relevant to this document.

**ORC-** Ohio Revised Code

**PROCEDURES & STANDARD OPERATING GUIDELINES**

1. **Public Records**
2. The Galion City Health Department, in accordance with the Ohio Revised Code (ORC 149.011) defines a “Record” as any item kept by a public office that meets all of the following:
3. Any document, device, or item stored on a fixed medium such as paper, electronic – including but not limited to E-mail, or other format;
4. That is created or received by, or sent under the jurisdiction of a public office;
5. That documents the organization, functions, policies, decisions, procedures, operations, or other activities of the office.
6. If any of these three (3) requirements is absent, the item is not a record and therefore is not a public record.
7. A public office is not required to create new records to respond to a public records request, even if it is only a matter of compiling information from existing records.
8. **Exemptions to Public Records Law**

A. The confidential nature of certain types of information or records precludes their release. Federal and state law provides numerous exceptions to the general rule that disclosure of public records is mandatory.

B. Records, whose release is found to be prohibited by either state or federal law, or not considered public records as defined by ORC 149.43(A)(1), are not subject to public inspection.

1. Appendix A contains a list of records that may not be subject to release per ORC 149.43(A)(1), Appendix B is a list of the most common express exemptions in Ohio law (also found at <http://orc.avv.com/title-1/sec-149/home.htm>).
2. **Public Records Requests**
3. All public records maintained by this office shall be promptly prepared and made available for inspection to any person during regular business hours. This office also shall make a copy of the current Record Retention Schedule of this public office.
4. Identification of Public Record. The requester must identify the records requested with sufficient clarity to allow this public office to identify, retrieve, and review the records. If a requester makes an ambiguous or overly broad request so that the exact public records cannot be reasonably identified, the request may be denied. If denied, the office will provide the requester with an opportunity to revise the request and will attempt to assist by informing the requester of the manner in which the Health Department keeps its records.
5. Format of Request. The request may be oral or in writing based on the requester’s choice. The office may seek a written request of the requester’s identity and intended use if the facts demonstrate it would enhance the ability to identify, locate, or deliver the public records sought by the requester but only after the office provides information to the requester that: 1) a written request is not mandatory; and 2) that the requester may decline to reveal their identity or intended use.

D. Choice of Medium. The requester may choose to have the record duplicated: 1) on paper; 2) in the same form as this public office keeps it (e.g., on computer disk), or 3) on any other medium if supported by the Health Department’s current operating system. The Galion City Health Department will not accept a requester’s media (jump drive, disc, tape, etc.) due to protecting the Health Department’s electronic system from potential harm that may be on the requester’s media. If the requesting party requests to physically inspect original copies of the Health Department’s public records, someone from this office shall remain available during the inspection to maintain security of the files, and to answer questions.

E. Response Time to Request. Public records shall be made promptly available for inspection during regular business hours. This office will provide copies if requested within a reasonable period of time based upon: a) the circumstances of this Health Department at the time of the request; b) the breadth of the request; the proximity of the location where the records are stored; and/or c) the necessity of legal evaluation prior to release. All requests for public records must either be satisfied or be acknowledged in writing by the Galion City Health Department within three business days following the Health Department’s receipt of the request. If a request is deemed significantly beyond “routine,” such as seeking a voluminous number of copies or requiring extensive research, the acknowledgment must include the following: a) an estimated number of business days it will take to satisfy the request; b) an estimated cost if copies are requested; and c) any items within the request that may be exempt from disclosure.

F. Prohibition against Requesters’ Right to Make Copies. To protect the integrity of the original document, persons requesting the copies of public records shall not make their own copies of the requested records by any means.

G. Requests by Incarcerated Persons. An incarcerated person may receive public records, but only if the records concern a criminal investigation and the request meets the following: 1) the record must be “public records” which are not subject to an exemption from disclosure; 2) the judge who imposed the sentence of incarceration, or that judge’s successor, finds the information sought in the public record is necessary to support a justifiable claim of the person.

1. **Denial of Public Record Requests**

A. If a request is denied, in part or in whole, the The Galion City Health Department shall provide the requester with a written explanation, including legal authority, setting forth why the request was denied. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the rest released. If there are redactions, each redaction must be accompanied by a supporting explanation, including legal authority.

B. Denial of a Public Record Not Maintained by The Galion City Health Department. If the Health Department receives a request for a record that it does not maintain or the record which is no longer maintained, it shall notify the requester in writing acknowledging the following as it applies:

1. The records have never been maintained by this office and if possible direct the requester to the proper office;
2. The records that are no longer maintained or have been disposed or transferred pursuant to applicable Schedules of Records Retention and Disposition (RC-2);
3. The record that has been disposed of pursuant to an Application of the One-Time Records Disposal (RC-1);
4. The record is not a record used or maintained by this public office, and is under no obligation to create records to meet public record requests.

C. Request for Personnel Records. Strictly personal information unrelated to the employee’s performance of public business such as Social Security number, home address, home phone number, information regarding spouse and children’s names and ages, medical records, payroll deductions, or additional voluntary retirement contributions, should be redacted prior to viewing by anyone other than the employee or a written designee.

1. **Costs for Public Records**

A. The Galion City Health Department will require the requester to pay for the actual cost of reproduction of a public record which does not include employee time. The requester is to pay in advance of receipt of copies of a public record, the actual cost of the copies.

1. Photocopies of letter or legal sized documents are five cents ($0.05) per page per photocopy.
2. The charge for media (compact disks, floppy disks, etc.) shall be the cost of the media to this office or reproduction cost (copying costs if an outside vendor is necessary.)
3. Mailing costs by U.S. mail or other method of delivery costs including the costs of supplies used for the delivery of transmission of the public records.
4. **Email**
5. Documents in electronic mail format are public records as defined in Section I – Public Records. Email is subject to public records requests and applicable retention schedules.

B. Records in private email accounts used to conduct public business on public property may be subject to disclosure and must be retained as records of this public office, according to the Records Retention Schedule, and made available for inspection and copying in accordance with the Ohio Public Records Act.

1. **Failure to Respond to a Public Records Request**
2. The Galion City Health Department recognizes the legal and non-legal consequences of failure to properly respond to a public records request.

1. If a requester feels they have been improperly denied public records due to the inability to inspect or to receive a copy of a record, this office shall advise the requester of their following options: 1) Contact a senior representative of the Galion City Health Department to discuss and/or request a meeting; 2) If the requester is not satisfied after discussing with a senior representative, the Ohio Revised Code provides a legal means for addressing their complaint.

**CITATIONS**

See footnotes.

**CONTRIBUTORS**

The following staff contributed to the authorship of this document:

1. Trish Factor

**APPENDICES**

Appendix A: The Express Exemption (records that may not be subject to release per ORC 149.43 (A)(1) [Attached]

Appendix B: The “Catch-All” Exemption (most common express exemptions in Ohio Law) [Attached]

**REFERENCE FORMS**

Galion City Health Department Records Retention Schedule

**SIGNATURES**

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*Trish Factor, MPH, MCHES, CHEP Date*

*Health Commissioner*

**APPENDIX A**

**The Express Exemption**

*In accordance with Ohio Revised Code §149.43, “Public record” does not mean any of the following:*

**(a) Medical records**;

“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, the process of medical treatment.

**(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 District 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 District of job and family services or, pursuant to section 3111.69 of the Revised Code, the office of child support in the District 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;**

“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.

**(h) Confidential law enforcement investigatory records;**

“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:1) 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; 2) 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; 3) Specific confidential investigatory techniques or procedures or specific investigatory work product; or 4) Information that would endanger the life or physical safety of law enforcement personnel, a crime victim, a witness, or a confidential information source.

**(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 District of rehabilitation and correction to the District 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 District of youth services pertaining to children in its custody released by the District of youth services to the District of rehabilitation and correction pursuant to section 5139.05 of the Revised Code;**

**(m) Intellectual property records;**

“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.

**(n) Donor profile records;**

“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.

**(o) Records maintained by the District 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;**

“Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT residential and familial information” (hereto after referred to the protected class employee) means any information that discloses any of the following about such a protected class employee:

(1) The address of the actual personal residence of a protected class employee, except for the state or political subdivision in which the protected class employee 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 protected class employee;

(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a protected class employee’s employer;

(e) The identity and amount of any charitable or employment benefit deduction made by the protected class employee’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 protected class employee;

(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.

\*\* Please Note\*\* The applicability of this exemption is being reviewed by the Attorney General’s office.

Further, there is a journalist mechanism by which a journalist can request such information. 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.

**(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;**

“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:

(1) 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;

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

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

(4) 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.

**(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.**

**APPENDIX B**

**The “Catch-All” Exemption**

If any provision of Ohio or federal law prohibits public disclosure of a certain type of record, a public office must not release it in response to a public records request. A state statute or rule, or a federal statute or regulation may designate the records of certain government offices or particular types of records confidential. Such a designation means those records are not subject to the provisions of the Public Records Act.

Here is a list of some common “catch-all” exemptions:

a. **Attorney-client privileged information.[[1]](#footnote-1)**

b. **Medical board investigative records.[[2]](#footnote-2)**

c. **Child abuse reports.[[3]](#footnote-3)**

d. **Student education records** (maintained by public schools, colleges, universities and at private institutions receiving public funding.[[4]](#footnote-4) However, student “directory information”[[5]](#footnote-5) is public information unless the student’s parent, guardian or custodian of a minor has requested the information not be released without the parent’s prior consent.)

e. **Records of a Certified Public Accountant or public accountant** in the performance of an audit of a public office or private entity.[[6]](#footnote-6)

f. **Ohio Ethics Commission proceedings** on a complaint or charge and certain information provided to the commission is not public record,[[7]](#footnote-7) (but letters requesting an opinion of the commission are public record.)[[8]](#footnote-8)

g. **Taxpayer records** (maintained by the Ohio District of Taxation[[9]](#footnote-9) as well as those maintained by municipal corporations).[[10]](#footnote-10)

h. **Estate tax returns** (held by the probate court, the District of Taxation, a county auditor, a county treasurer, the attorney general, or others listed in Ohio Rev. Code Chapter 5731).[[11]](#footnote-11)

i. **Federal tax returns** and return information filed under the jurisdiction of the Internal Revenue Service.[[12]](#footnote-12)

j. **Criminal background information and other law enforcement information on the LEADS/CCH/NCIC computer database**.[[13]](#footnote-13)

k. **Records that have been sealed pursuant to statutorily authorized court order**.[[14]](#footnote-14)

l. **A trade secret** deriving independent value from the fact that it is not generally known and has been the subject of reasonable efforts to maintain its confidentiality.[[15]](#footnote-15) (A detailed analysis is needed.)[[16]](#footnote-16)

m. **“Judicial Mental Process” Privilege created by Ohio case law**.[[17]](#footnote-17)

n. **Peace officers’ home addresses** (during the pendency of a criminal case in which the officer is a witness or arresting officer).[[18]](#footnote-18)

o. **Personal and medical records of the mentally retarded and developmentally disabled**.[[19]](#footnote-19)

p. **Attorney General investigation files relating to consumer protection or charitable trust investigations**.[[20]](#footnote-20)

q. **Mediation communications**.[[21]](#footnote-21)

r. **Employees’ and their family members’ records and documents relating to medical certifications, recertifications or medical histories that have been created for purposes of the Family Medical Leave Act (FMLA)** (are confidential medical records and shall be maintained in separate files/records from normal personnel files.[[22]](#footnote-22) Should the Americans with Disabilities Act (ADA) also be applicable, then those records shall be maintained consistent with ADA confidentially requirements.)[[23]](#footnote-23)

1. State ex rel. Nix v. Cleveland (1998), 83 Ohio St.3d 379, 1998 Ohio 290, 700 N.E.2d 1; Allright Parking of Cleveland, Inc. v. Cleveland (1992), 63 Ohio St.3d 772, 591 N.E.2d 708; etc. [↑](#footnote-ref-1)
2. Ohio Rev. Code Ann. §4731.22(F)(5). State ex rel. Wallace v. State Medical Board of Ohio (2000), 89 Ohio St.3d 431, 732 N.E.2d 960

   (Medical Board’s investigative records are not public records). [↑](#footnote-ref-2)
3. Ohio Rev. Code Ann. §2151.421(H). But, see, State ex rel. Strothers v. Wertheim (1997), 80 Ohio St.3d 155, 1997 Ohio 349, 684 N.E.2d 1239

   (Ohio Rev. Code Ann. §2151.421(H) is directed to the children services boards or the Districts of human services, not to a county ombudsman office); State ex rel. Munici v. Kovacic (June 15, 1994), Cuyahoga App. No. 64818, 1994 Ohio App. LEXIS 2612 (police investigatory reports are not governed by Ohio Rev. Code Ann. §2151.421). [↑](#footnote-ref-3)
4. The Family Educational Right to Privacy Act (“FERPA” or “Buckley Amendment”), 20 U.S.C. §1232g; Ohio Rev. Code Ann. §3319.321;

   United States v. Miami University (2000), 91 F.Supp.2d 1132, 2000 U.S. Dist. LEXIS 3345 (student disciplinary records are exempt under FERPA). But, cf., State ex rel. The Miami Student v. Miami University (1997), 79 Ohio St.3d 168, 1997 Ohio 386, 680 N.E.2d 956 (student disciplinary records are not student “education records” that are exempt from disclosure but, see, Phillips v. Village of Carey (Aug. 3, 2000), Wyandot App. No. 16-99-11, 2000 Ohio 1733, 2000 Ohio App. LEXIS 3675 (release of high school graduate’s transcript to his employer to verify GPA and class rank did not violate graduate’s constitutional rights. However, parent can request any or all information not be disclosed without parent’s prior consent). [↑](#footnote-ref-4)
5. FERPA, 20 U.S.C. §1232g; Ohio Rev. Code Ann. §3319.321(B) (regarding Ohio public schools, K-12). [↑](#footnote-ref-5)
6. Ohio Rev. Code Ann. §4701.19(B). [↑](#footnote-ref-6)
7. Ohio Rev. Code Ann. §102.06(F). [↑](#footnote-ref-7)
8. 1986 Ohio Atty. Gen. Ops. No. 86 069. [↑](#footnote-ref-8)
9. Ohio Rev. Code Ann. §5703.21. [↑](#footnote-ref-9)
10. Ohio Rev. Code Ann. §718.13. But, see, 1992 Ohio Atty. Gen. Ops. No. 92 005 (W-2 forms prepared and made by a township as an employer are subject to inspection as a public record). [↑](#footnote-ref-10)
11. Ohio Rev. Code Ann. §5731.90; 1992 Ohio Atty. Gen. Ops. No. 92-076. [↑](#footnote-ref-11)
12. 26 U.S.C. §6103 [↑](#footnote-ref-12)
13. 42 U.S.C. §3789g; 28 C.F.R. §20.21, §20.33(a)(3); State ex rel. Multimedia, Inc. v. Snowden (1995), 72 Ohio St.3d 141, 1995 Ohio 248, 647 N.E.2d 1374; also, Ohio Rev. Code Ann. §109.57(D) and (E); Ohio Admin. Code §109:05 1 01; Ohio Admin. Code §4501:2-10-06; 1989 Ohio Atty. Gen. Ops. No. 89 005; State ex rel. Lippett v. Kovacic (1991), 70 Ohio App.3d 525, Cuyahoga App. No. 58243, 591 N.E.2d 422; State ex rel. National Broadcasting Co. v. Cleveland (1992), 82 Ohio App.3d 202, Cuyahoga App. No. 52337, 611 N.E.2d 838. St.3d 382, 2004 Ohio 1581, 805 N.E.2d 1094; c.f. State ex rel. Highlander v. Rudduck (2004), 103 Ohio St.3d 370, 2004 Ohio 4952, 816 N.E.2d 213 (sealing must be made pursuant to lawful authority); [↑](#footnote-ref-13)
14. E.g. Ohio Rev. Code Ann. §2953.52 constitutionality of which was discussed in State ex rel. Cincinnati Enquirer v. Winkler (2004), 101 Ohio St.3d 382, 2004 Ohio 1581, 805 N.E.2d 1094; c.f. State ex rel.Highlander v. Rudduck (2004), 103 Ohio St.3d 370, 2004 Ohio 4952, 816 N.E.2d 213 (sealing must be made pursuant to lawful authority); State ex rel. WBNS v. Dues (2004), 101 Ohio St.3d 406, 2004 Ohio 1497, 805 N.E.2d 1116 (a court may not create its own exemption to the Public Records Act by sealing its records absent an appropriate grant of authority). [↑](#footnote-ref-14)
15. Ohio Rev. Code Ann. §1333.61(D). See, also, State ex rel. Besser v. Ohio State University (2000), 87 Ohio St.3d 535, 2000 Ohio 475, 721 N.E.2d 1044 (“Besser I”) (public entity can have its own trade secrets); State ex rel. Lucas County Board of Comm’rs. v. Ohio EPA (2000), 88 Ohio St.3d 166, 2000 Ohio 282, 724 N.E.2d 411; State ex rel. Plain Dealer v. Ohio Dept. of Ins. (1997), 80 Ohio St.3d 513, 1997 Ohio 75, 687 N.E.2d 661; compare, State ex rel. Gannett Satellite Info. Network v. Shirey (1997), 76 Ohio St.3d 1224, 669 N.E.2d 1148 (resumes are not trade secrets of private consultant); State ex rel. Rea v. Ohio Dept. of Education (1998), 81 Ohio St.3d 527, 1998 Ohio 334, 692 N.E.2d 596 (proficiency tests are public records after they have been administered); State ex rel. Dayton Newspapers v. Dayton Board of Education (2000), 140 Ohio App.3d 243, Montgomery App. No. 18247, 747 N.E.2d 255 (resumes of applicants for superintendent not trade secret). [↑](#footnote-ref-15)
16. Ohio Rev. Code Ann. §1333.61(D). State ex rel Toledo Blade Co. v. Ohio Bureau of Workers Compensation (2005), 106 Ohio St.3d 113, 2005 Ohio 3549, 832 N.E.2d 711 (trade secret argument requires allegation of efforts to maintain recovery); State ex rel. Allright Parking of Cleveland, Inc. v. Cleveland (1992), 63 Ohio St.3d 772, 591 N.E.2d 708 (an in camera inspection is necessary to determine whether disputed records contain trade secrets); State ex rel. Lucas County Board of Comm’rs. v. Ohio EPA (2000), 88 Ohio St.3d 166, 2000 Ohio 282, 724 N.E.2d 411; State ex rel. Besser v.Ohio State University (2000), 89 Ohio St.3d 396, 2000 Ohio 207, 732 N.E.2d 373 (“Besser II”) (following in camera inspection, court held documents did not constitute “trade secrets”); State ex rel. Seballos v. School Employees Retirement Sys. (1994), 70 Ohio St.3d 667, 1994 Ohio 80, 640 N.E.2d 829; State ex rel. Dayton Newspapers v. Dayton Board of Education (2000), 140 Ohio App.3d 243, Montgomery App. No. 18247, 747 N.E.2d 255. [↑](#footnote-ref-16)
17. TBC Westlake v. Hamilton County Board of Revision (1998), 81 Ohio St.3d 58, 1998 Ohio 445, 689 N.E.2d 32 (hearing examiner’s report to Board of Tax Appeals is not a public record). [↑](#footnote-ref-17)
18. Ohio Rev. Code Ann. §2921.24(A); in fact, violation of Ohio Rev. Code Ann. §2921.24(A) is a fourth degree misdemeanor. Ohio Rev. Code Ann. §2921.24(D). [↑](#footnote-ref-18)
19. Ohio Rev. Code Ann. §5123.62(T); 1992 Ohio Atty. Gen. Ops. No. 92-071 [↑](#footnote-ref-19)
20. Ohio Rev. Code Ann. §1345.05(A)(7) and Ohio Rev. Code Ann. §109.28, respectively. But, see, also, Ohio Rev. Code Ann. §109.34 (nonprofit health care entities proposing to transfer ownership or control of assets to persons exempt from taxation shall provide notice of the proposed transaction to the attorney general and obtain written approval of the transaction. The notice and all other documents or materials submitted pursuant to Ohio Rev. Code Ann. §109.34 are public records provided they meet the definition set forth in Ohio Rev. Code Ann. §149.43). [↑](#footnote-ref-20)
21. Ohio Rev. Code Ann. §2317.023. [↑](#footnote-ref-21)
22. 29 CFR 825.500(g [↑](#footnote-ref-22)
23. 29 CFR 1630.14(c)(1 [↑](#footnote-ref-23)