

IN THE SUPREME COURT OF OHIO

STATE EX. REL. VANESSA WELLS : CASE NO. 2023-0190

Relator :

-vs- :

LAKOTA LOCAL SCHOOLS :
BOARD OF EDUCATION, et al. :

Respondents :

**MERIT BRIEF OF RELATOR
VANESSA WELLS**

Matt Miller-Novak, Esq. (0091402)
Barron, Peck, Bennie, & Schlemmer, Co. LPA
3074 Madison Road,
Cincinnati, OH 45209
Phone: 513-721-1350
Fax: 513-991-6430
Email: mmn@bpbslaw.com

Gary Winters (0018680)
Ian Smith (0068195)
McCaslin, Imbus, & McCaslin, LLC
600 Vine St., Suite 800
Cincinnati OH 45202
Phone: (513) 421-4646
Email: irsmith@mimlaw.com

Counsel for Relator

Counsel for Respondents

TABLE OF CONTENTS

I. BACKGROUND FACTS1
II. LAW AND ARGUMENT 2
 A. The Demand Letter is a Public Record that the Board Must Produce 3
 B. The Board Unlawfully Withheld Information on its Legal Invoices 5
 C. Wells is Entitled to Statutory Damages and Attorney Fees 6
III. CONCLUSION..... 8
IV. CERTIFICATE OF SERVICE 8
V. Appendix9

TABLE OF AUTHORITIES

State ex rel. Anderson v. Vermilion, 134 Ohio St.3d 120, 2012-Ohio-5320.....5
State ex rel. Armatas v. Plain Twp. Bd. of Trustees, 163 Ohio St.3d 304, 2021-Ohio-1176, 170 N.E.3d 19.....3, 4, 5
State ex rel. Ames v. Baker, Dublikar, Beck, Wiley & Mathews, 2022-Ohio-3990, ¶18, 170 Ohio St. 3d 239, 210 N.E.3d 518 (2022).....3, 5
State ex rel. Cincinnati Enquirer v. Krings, 93 Ohio St.3d 654, 2001-Ohio-1895.....3
State ex rel. Findlay Publ'g Co. v. Hancock Cnty. Bd. of comm'rs, 1997-Ohio-353, 80 Ohio St. 3d 134, 137, 684 N.E.2d 1222.....3, 4
State ex rel. Gannett Satellite Information Network v. Shirey, 78 Ohio St.3d 400, 403-404, 1997-Ohio-206, 678 N.E.2d 557.....2
State ex rel. Rogers v. Dep't of Rehab. & Corr., 2018-Ohio-5111, 155 Ohio St. 3d 545, 122 N.E.3d 1208 (2018).....6, 7
State ex rel. Toledo Blade Co. v. Ohio Bur. of Workers' Comp., 106 Ohio St.3d 113, 2005-Ohio-3549.....3
O.R.C. § 149.43 Availability of public records for inspection and copying....APPENDIX

Respondents Lakota Local Schools Board of Education and Adam Zink (collectively “Board”) unlawfully have refused to produce unprivileged legal invoices and communications in violation of the Ohio Open Records Act (“ORA”). Relator State ex rel Vanessa Wells (“Wells”) is entitled to a writ on mandamus to compel the production of the public records she requested, statutory penalties, attorney fees, and costs.

I. STATEMENT OF THE FACTS

Wells is a parent within the Lakota Local School District (“District”) in Butler County, OH. Not long ago, the Board’s former superintendent, Matt Miller (“Miller”), found himself in controversy.¹ Miller’s ex-wife released a lot of information about the Miller’s sexual conduct, some of which contained allegations that caused some parents in the District a lot of concerns about child safety within the District. Wells emailed the Board, and she asked the Board what the Board was doing to investigate the matter.

Miller hired an attorney, and he threatened Wells for reaching out to the Board as a concerned parent. However, a lot of people voiced concerns in the District, so the issue became a matter of public concern. The local media also paid a lot attention to the controversy. Eventually, Miller resigned from the District, and he made numerous statements regarding one Board member, Darbi Boddy, as well as other members of the public. One of Board’s employees told Wells that Matt Miller also sent the Board a demand letter (the “Letter”) that potentially threatened litigation against the Board regarding matters related to the accusations against him. During the next Board meeting, the Board appeared to enter executive session to discuss these possible threats of litigation and the contents of the Letter.

¹ All facts in this Brief rely upon the Affidavit of Vanessa Wells, which was electronically submitted, as well as Exhibit 1, Exhibit 2, and Exhibit 3 attached to that affidavit.

Wells sent an anonymous public records request for a copy of the demand Letter that Matt Miller's attorney sent the Board. (Exhibit 1). Wells also sent public records requests for invoices and other legal expenses of the Board to inspect the fees the Board spent on the Miller matter. (Exhibit 2).

The Board's attorney, Brodi Conover ("Conover"), was the only person who responded to Wells's records requests. Through Conover, the Board refused to produce the Letter, and the Board redacted information in the invoices that was not privileged. Conover refused to produce Miller's demand letter, claiming that it was not a public record because it was a conversation between the two private law firms. (Exhibit 1). Conover also redacted a lot of information from the invoices, such as the law firms' hourly rates, and the time that particular agents spent on certain tasks. (Exhibit 2). Some of the invoices did not contain summaries, so Wells could not even determine from the invoices how much time was spent to justify the expenditures of tax money. Hourly rates, and time expended on certain tasks, are not privileged communications as Conover alleged.

Many weeks after filing this Action, Conover finally produced the Invoices again, this time with less information redacted, but the redactions still cover non-privileged information. (Exhibit 3). However, in bad faith, the Board forced Wells to hire an attorney, file this action, and incur legal fees in order to obtain these records the Board could have produced prior to this action. The Board still has not produced Miller's demand letter.

II. ARGUMENT AND LAW

The Board has unlawfully refused to produce public records. Public records belong to the public—not the government. *State ex rel. Nat'l Broad. Co. v. City of Cleveland*, 38 Ohio St. 3d 79, 81, 526 N.E.2d 786 (1988). Exceptions to disclosure under the Public

Records Act “are strictly construed against the public-records custodian, and the custodian has the burden to establish” an exception. *Welsh-Huggins v. Jefferson Cnty. Prosecutor's Office*, 2020-Ohio-5371, 163 Ohio St. 3d 337, 170 N.E.3d 768 (2020). The custodian must prove the requested records fall “squarely within the exception.” *Id.*

A. The Demand Letter is a Public Record that the Board Must Produce.

Any letter Conover received as Respondents’ attorney is a public record. A public body cannot avoid disclosure of public records merely because it has a private entity it hires to maintain those records. *State ex rel. Toledo Blade Co. v. Ohio Bur. of Workers’ Comp.*, 106 Ohio St.3d 113, 2005-Ohio-3549; *State ex rel. Cincinnati Enquirer v. Krings*, 93 Ohio St.3d 654, 2001-Ohio-1895; *State ex rel. Gannett Satellite Information Network v. Shirey*, 78 Ohio St.3d 400, 403-404, 1997-Ohio-206, 678 N.E.2d 557.

This Court has recently held that when a public body hires a private attorney, it constitutes a delegation of that public body’s duties to prosecute and defend itself against lawsuits, which necessarily involves hiring and supervising attorneys, and documents in that attorney’s possession are public records. *State ex rel. Ames v. Baker, Dublikar, Beck, Wiley & Mathews*, 2022-Ohio-3990, ¶8, 170 Ohio St. 3d 239, 210 N.E.3d 518 (2022), citing, *State ex rel. Armatas v. Plain Twp. Bd. of Trustees*, 163 Ohio St.3d 304, 2021-Ohio-1176, 170 N.E.3d 19; see also, *State ex rel. Findlay Publ'g Co. v. Hancock Cnty. Bd. of comm'rs*, 1997-Ohio-353, 80 Ohio St. 3d 134, 137, 684 N.E.2d 1222 (holding that a confidential settlement agreement is still a public record when in the possession of a private attorney a public body hired otherwise a public body could thwart public disclosure by having an attorney possess every document the public body wants to keep confidential).

Here, attorney Conover and his law firm fall under the quasi-public agency doctrine related to their functions as general legal counsel for a public agency. This Court has determined that the quasi-agency theory applies when (1) a private entity prepares records in order to carry out a public office's responsibilities, (2) the public office is able to monitor the private entity's performance, and (3) the public office has access to the records the private entity creates. *Armatas*, 2021-Ohio-1176 at ¶16. When a relator establishes the first element of this test, the relator has met her burden. As stated above, this Court has already determined that the records private attorneys possess concerning their duties on behalf of their clients, such as settlement agreements, are public records. *Hancock Cnty. Bd. of comm'rs*, 1997-Ohio-353. If this was not the case, public bodies could hire private attorneys to store public records to evade transparency.

Moreover, under the Ohio Rules of Professional Responsibility, a client's file in the possession of an attorney, is the property of the client—not the attorney. Thus, if a client requests its file from an attorney, that attorney actually has the ethical duty to promptly produce that file to the client under Ohio's Rules of Professional Responsibility. In fact, even when a client terminates an attorney relationship (or vice versa), the attorney is required to promptly deliver all “correspondence, pleadings, deposition transcripts, exhibits, physical evidence, expert reports, and other items reasonably necessary to the client's representation.” See Ohio Rules of Professional Responsibility 1.16(d) (emphasis added), see also, Comment [8A] instructing that an attorney may not even charge a client for producing all papers to which the client is entitled. Therefore, when an attorney represents a public body, and that public body delegates its legal duties to a private attorney, any document he possesses in his client file is the property of the public body—not the attorney. Consequently, a public body's client file is public property, it is not the

attorney's property, and it is subject to the Open Records Act unless it is privileged or otherwise exempted under the Act.

Here, there is no dispute that the Respondent Board has hired Conover and his firm to perform legal duties. As a matter of fact, as seen in his Invoices, Conover is the Board's "general" representative, which would include receiving communications on the Board's behalf, and even responding to public records requests. (See Brickler Invoice in Exhibit 3). For example, when Wells requested the letter-at-issue, it was Conover who responded—not the Board. Thus, the Board specifically engages Conover to perform duties related to the production of its public records. Conover also prepares emails on the Board's behalf, and he communicates with requesters on the Board's behalf. (Exhibit 2). Conover prepares invoices with time entries to the Board, so the Board can oversee Conover's performance and billing. (Exhibit 1; Exhibit 3). Under the Rules of Professional Conduct, if the Board were to terminate his representation, the Board would have the ownership rights to its complete file, which would include any communications Conover received from Miller's Counsel related to Miller's employment or other legal demands and communications to the Board. Communications between Conover and Miller's attorney are not privileged, so the Board must produce them in response to a lawful request.

B. The Board Unlawfully Withheld Information on its Legal Invoices.

Generally, a public body's invoices are public records. *Armatas*, 2021-Ohio-1176, ¶22. Although a public body may redact privileged communications, this Court has also held that public bodies cannot lawfully redact the name of an attorney billing an entry or the rate applied to an entry. *State ex rel. Anderson v. Vermilion*, 134 Ohio St.3d 120, 2012-Ohio-5320. A court should perform an in camera inspection of legal invoices to

determine if a government unlawfully redacted information that is not privileged. *State ex rel. Ames v. Baker, Dublikar, Beck, Wiley & Mathews*, 2022-Ohio-3990, ¶18.

Here, when the Board first produced the multiple invoices Wells requested, the Board essentially redacted everything on most invoices, including a lot of information that was not privileged. The Board redacted the hours expended on numerous tasks, the person performing certain tasks, and the hourly rate charged for numerous entries. This information was not privileged, and the Board should never have redacted it. (Compare Exhibit 1 and Exhibit 3). Many of the invoices did not contain summaries that included rate breakdowns or other information. In many instances, the Board just produced black rectangles with a total bill. (Exhibit 1, generally).

The Board has now produced the same invoices again. (Exhibit 3). However, the Board has maintained many redactions of information from the invoices, which likely still possesses information that is not privileged, such as simple entries for tasks, which are not narrative. For example, if an entry merely states that Conover “attended a board meeting,” this entry would contain no privileged communication.

Respondents’ initial production was unlawfully redacted. (Exhibit 1). Respondents’ supplemental production of these invoices remains unlawfully redacted. (Exhibit 3).

C. Wells is Entitled to Statutory Damages and Attorney Fees.

It is proper to award a relator statutory damages and attorney fees when she is forced to bring an action to compel the production of documents she has requested. *State ex rel. Rogers v. Dep't of Rehab. & Corr.*, 2018-Ohio-5111, 155 Ohio St. 3d 545, 122 N.E.3d 1208 (2018). “The availability of attorney fees assists citizens in vigorously enforcing their rights under the law.” *Id.* A court may award attorney fees when it orders the production

of records a public body refused to produce. *Id.* A court may also award fees when a public body withheld records in bad faith until after a person had to file suit. *Id.* A court may reduce an award of attorney fees under the Open Records Act when it determines “(1) that based on the law as it existed at the time, a well-informed person responsible for the requested public records reasonably would have believed that the conduct of the public office did not constitute a failure to comply with an obligation of R.C. 149.43(B) and (2) that a well-informed person responsible for the requested public records reasonably would have believed that the conduct of the public office would serve the public policy that underlies the authority that it asserted as permitting that conduct.” *Id.* at ¶34.

Here, the Board refused to release a letter between its former superintendent’s Counsel and the Board about matters of great public concern. The media and public expressed great concerns regarding the controversy between Miller and the Board. It was not reasonable for the Board to believe it could conceal a record from public scrutiny at its attorney’s office. More importantly, it is not in the public’s interest to hide pivotal information from public scrutiny that concerns matters of great public concern. Moreover, it was not reasonable to redact large portions of the Board’s invoices when the law is clear and provides notice to the Board that redacting entire pages of nonprivileged information is inappropriate. Finally, the Board acted in bad faith because Relator Wells was critical of its investigation into allegations involving Miller. The Board forced her to file this Action in order to obtain portions of invoices the Board should never have redacted.

Wells respectfully requests that this Court awards her attorney fees, costs, and statutory penalties. Wells's Counsel can submit further information to support his rates and time expended upon this Court's request.

III. CONCLUSION

Accordingly, Relator Wells respectfully requests that this Court compels Respondents to produce the requested records, pay statutory forfeitures, and Relator's attorney fees and costs.

Respectfully Submitted,

/s/ Matt Miller-Novak

Matthew Miller-Novak (0091402)
Steven C. Davis, Esq. (0065838)
Barron, Peck, Bennie & Schlemmer
3074 Madison Road
Cincinnati, Ohio 45209
(513) 721-1350
SCD@BPBSlaw.com
MMN@BPBSLaw.com

IV. CERTIFICATE OF SERVICE

I certify that this Amended Complaint was served on Respondents' Counsel, Ian Smith, via electronic mail on this 19th day of December, 2023 at:

Ian Smith
McCaslin, Imbus, & McCaslin, LLC
Vine St., Suite 800
Email: irsmith@mimlaw.com

/s/ Matt Miller-Novak

V. APPENDIX

O.R.C. § 149.43: Availability of public records for inspection and copying.

(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 this state kept by the nonprofit or for-profit entity operating the 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, to proceedings related to the imposition of community control sanctions and post-release control sanctions, or to proceedings related to determinations under section [2967.271](#) of the Revised Code regarding the release or maintained incarceration of an offender to whom that section applies;

(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 sections [3705.12](#) to [3705.124](#) 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 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;

- (o) Records maintained by the department of job and family services pursuant to section [3121.894](#) of the Revised Code;
- (p) Designated public service worker 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) In the case of a child fatality review board acting under sections [307.621](#) to [307.629](#) of the Revised Code or a review conducted pursuant to guidelines established by the director of health under section [3701.70](#) of the Revised Code, records provided to the board or director, statements made by board members during meetings of the board or by persons participating in the director's review, and all work products of the board or director, and in the case of a child fatality review board, child fatality review data submitted by the board to the department of health or a national child death review database, other than the report prepared pursuant to division (A) of 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 executives of long-term services and supports administers under section [4751.15](#) 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) 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;

- (y) Records listed in section [5101.29](#) of the Revised Code;
- (z) Discharges recorded with a county recorder under section [317.24](#) of the Revised Code, as specified in division (B)(2) of that section;
- (aa) Usage information including names and addresses of specific residential and commercial customers of a municipally owned or operated public utility;

- (bb) Records described in division (C) of section [187.04](#) of the Revised Code that are not designated to be made available to the public as provided in that division;
- (cc) Information and records that are made confidential, privileged, and not subject to disclosure under divisions (B) and (C) of section [2949.221](#) of the Revised Code;
- (dd) Personal information, as defined in section [149.45](#) of the Revised Code;
- (ee) The confidential name, address, and other personally identifiable information of a program participant in the address confidentiality program established under sections [111.41](#) to [111.47](#) of the Revised Code, including the contents of any application for absent voter's ballots, absent voter's ballot identification envelope statement of voter, or provisional ballot affirmation completed by a program participant who has a confidential voter registration record; records or portions of records pertaining to that program that identify the number of program participants that reside within a precinct, ward, township, municipal corporation, county, or any other geographic area smaller than the state; and any real property confidentiality notice filed under section [111.431](#) of the Revised Code and the information described in division (C) of that section. As used in this division, "confidential address" and "program participant" have the meaning defined in section [111.41](#) of the Revised Code.
- (ff) Orders for active military service of an individual serving or with previous service in the armed forces of the United States, including a reserve component, or the Ohio organized militia, except that, such order becomes a public record on the day that is fifteen years after the published date or effective date of the call to order;

- (gg) The name, address, contact information, or other personal information of an individual who is less than eighteen years of age that is included in any record related

to a traffic accident involving a school vehicle in which the individual was an occupant at the time of the accident;

(hh) Protected health information, as defined in 45 C.F.R. 160.103, that is in a claim for payment for a health care product, service, or procedure, as well as any other health claims data in another document that reveals the identity of an individual who is the subject of the data or could be used to reveal that individual's identity;

(ii) Any depiction by photograph, film, videotape, or printed or digital image under either of the following circumstances:

(i) The depiction is that of a victim of an offense the release of which would be, to a reasonable person of ordinary sensibilities, an offensive and objectionable intrusion into the victim's expectation of bodily privacy and integrity.

(ii) The depiction captures or depicts the victim of a sexually oriented offense, as defined in section [2950.01](#) of the Revised Code, at the actual occurrence of that offense.

(jj) Restricted portions of a body-worn camera or dashboard camera recording;

(kk) In the case of a fetal-infant mortality review board acting under sections [3707.70](#) to [3707.77](#) of the Revised Code, records, documents, reports, or other information presented to the board or a person abstracting such materials on the board's behalf, statements made by review board members during board meetings, all work products of the board, and data submitted by the board to the department of health or a national infant death review database, other than the report prepared pursuant to section [3707.77](#) of the Revised Code.

(ll) Records, documents, reports, or other information presented to the pregnancy-associated mortality review board established under section [3738.01](#) of the Revised Code, statements made by board members during board meetings, all work products of the board, and data submitted by the board to the department of health, other than the biennial reports prepared under section [3738.08](#) of the Revised Code;

(mm) Except as otherwise provided in division (A)(1)(oo) of this section, telephone numbers for a victim, as defined in section [2930.01](#) of the Revised Code or a witness to a crime that are listed on any law enforcement record or report.

(nn) A preneed funeral contract, as defined in section [4717.01](#) of the Revised Code, and contract terms and personally identifying information of a preneed funeral contract, that is contained in a report submitted by or for a funeral home to the board of embalmers and funeral directors under division (C) of section [4717.13](#), division (J) of section [4717.31](#), or section [4717.41](#) of the Revised Code.

(oo) Telephone numbers for a party to a motor vehicle accident subject to the requirements of section [5502.11](#) of the Revised Code that are listed on any law

enforcement record or report, except that the telephone numbers described in this division are not excluded from the definition of "public record" under this division on and after the thirtieth day after the occurrence of the motor vehicle accident.

(pp) Records pertaining to individuals who complete training under section [5502.703](#) of the Revised Code to be permitted by a school district board of education or governing body of a community school established under Chapter 3314. of the Revised Code, a STEM school established under Chapter 3326. of the Revised Code, or a chartered nonpublic school to convey deadly weapons or dangerous ordnance into a school safety zone;

(qq) Records, documents, reports, or other information presented to a domestic violence fatality review board established under section [307.651](#) of the Revised Code, statements made by board members during board meetings, all work products of the board, and data submitted by the board to the department of health, other than a report prepared pursuant to section [307.656](#) of the Revised Code;

(rr) Records, documents, and information the release of which is prohibited under sections [2930.04](#) and [2930.07](#) of the Revised Code;

(ss) Records of an existing qualified nonprofit corporation that creates a special improvement district under Chapter 1710. of the Revised Code that do not pertain to a purpose for which the district is created.

A record that is not a public record under division (A)(1) of this section and that, under law, is permanently retained becomes a public record on the day that is seventy-five years after the day on which the record was created, except for any record protected by the attorney-client privilege, a trial preparation record as defined in this section, a statement prohibiting the release of identifying information signed under section [3107.083](#) of the Revised Code, a denial of release form filed pursuant to section [3107.46](#) of the Revised Code, or any record that is exempt from release or disclosure under section [149.433](#) of the Revised Code. If the record is a birth certificate and a biological parent's name redaction request form has been accepted under section [3107.391](#) of the Revised Code, the name of that parent shall be redacted from the birth certificate before it is released under this paragraph. If any other section of the Revised Code establishes a time period for disclosure of a record that conflicts with the time period specified in this section, the time period in the other section prevails.

(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;

(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) "Designated public service worker" means a peace officer, parole officer, probation officer, bailiff, prosecuting attorney, assistant prosecuting attorney, correctional employee, county or multicounty corrections officer, community-based correctional facility employee, designated Ohio national guard member, protective services worker, youth services employee, firefighter, EMT, medical director or member of a cooperating

physician advisory board of an emergency medical service organization, state board of pharmacy employee, investigator of the bureau of criminal identification and investigation, emergency service telecommunicator, forensic mental health provider, mental health evaluation provider, regional psychiatric hospital employee, judge, magistrate, or federal law enforcement officer.

(8) "Designated public service worker residential and familial information" means any information that discloses any of the following about a designated public service worker:

(a) The address of the actual personal residence of a designated public service worker, except for the following information:

(i) The address of the actual personal residence of a prosecuting attorney or judge; and

(ii) The state or political subdivision in which a designated public service worker 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 designated public service worker;

(d) The name of any beneficiary of employment benefits, including, but not limited to, life insurance benefits, provided to a designated public service worker by the designated public service worker's employer;

(e) The identity and amount of any charitable or employment benefit deduction made by the designated public service worker's employer from the designated public service worker'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 designated public service worker;

(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.

(9) As used in divisions (A)(7) and (15) to (17) of this section:

"Peace officer" has the meaning defined 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.

"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.

"County or multicounty corrections officer" means any corrections officer employed by any county or multicounty correctional facility.

"Designated Ohio national guard member" means a member of the Ohio national guard who is participating in duties related to remotely piloted aircraft, including, but not limited to, pilots, sensor operators, and mission intelligence personnel, duties related to special forces operations, or duties related to cybersecurity, and is designated by the adjutant general as a designated public service worker for those purposes.

"Protective services worker" means any employee of a county agency who is responsible for child protective services, child support services, or adult protective services.

"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.

"Firefighter" means any regular, paid or volunteer, member of a lawfully constituted fire department of a municipal corporation, township, fire district, or village.

"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 meanings defined in section [4765.01](#) of the Revised Code.

"Investigator of the bureau of criminal identification and investigation" has the meaning defined in section [2903.11](#) of the Revised Code.

"Emergency service telecommunicator" means an individual employed by an emergency service provider as defined under section [128.01](#) of the Revised Code, whose primary responsibility is to be an operator for the receipt or processing of calls for emergency services made by telephone, radio, or other electronic means.

"Forensic mental health provider" means any employee of a community mental health service provider or local alcohol, drug addiction, and mental health services board who, in the course of the employee's duties, has contact with persons committed to a local alcohol, drug addiction, and mental health services board by a court order pursuant to section [2945.38](#), [2945.39](#), [2945.40](#), or [2945.402](#) of the Revised Code.

"Mental health evaluation provider" means an individual who, under Chapter 5122. of the Revised Code, examines a respondent who is alleged to be a mentally ill person subject to court order, as defined in section [5122.01](#) of the Revised Code, and reports to the probate court the respondent's mental condition.

"Regional psychiatric hospital employee" means any employee of the department of mental health and addiction services who, in the course of performing the employee's duties, has contact with patients committed to the department of mental health and addiction services by a court order pursuant to section [2945.38](#), [2945.39](#), [2945.40](#), or [2945.402](#) of the Revised Code.

"Federal law enforcement officer" has the meaning defined in section [9.88](#) of the Revised Code.

(10) "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.

(11) "Community control sanction" has the meaning defined in section [2929.01](#) of the Revised Code.

(12) "Post-release control sanction" has the meaning defined in section [2967.01](#) of the Revised Code.

(13) "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.

(14) "Designee," "elected official," and "future official" have the meanings defined in section [109.43](#) of the Revised Code.

(15) "Body-worn camera" means a visual and audio recording device worn on the person of a correctional employee, youth services employee, or peace officer while the correctional employee, youth services employee, or peace officer is engaged in the performance of official duties.

(16) "Dashboard camera" means a visual and audio recording device mounted on a peace officer's vehicle or vessel that is used while the peace officer is engaged in the performance of the peace officer's duties.

(17) "Restricted portions of a body-worn camera or dashboard camera recording" means any visual or audio portion of a body-worn camera or dashboard camera recording that shows, communicates, or discloses any of the following:

(a) The image or identity of a child or information that could lead to the identification of a child who is a primary subject of the recording when the department of rehabilitation and correction, department of youth services, or the law enforcement agency knows or has reason to know the person is a child based on the department's or law enforcement agency's records or the content of the recording;

(b) The death of a person or a deceased person's body, unless the death was caused by a correctional employee, youth services employee, or peace officer or, subject to division (H)(1) of this section, the consent of the decedent's executor or administrator has been obtained;

(c) The death of a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the decedent was engaged in the performance of official duties, unless, subject to division (H)(1) of this section, the consent of the decedent's executor or administrator has been obtained;

(d) Grievous bodily harm, unless the injury was effected by a correctional employee, youth services employee, or peace officer or, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

(e) An act of severe violence against a person that results in serious physical harm to the person, unless the act and injury was effected by a correctional employee, youth services employee, or peace officer or, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

(f) Grievous bodily harm to a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the injured person was engaged in the performance of official duties, unless, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

(g) An act of severe violence resulting in serious physical harm against a correctional employee, youth services employee, peace officer, firefighter, paramedic, or other first responder, occurring while the injured person was engaged in the performance of official duties, unless, subject to division (H)(1) of this section, the consent of the injured person or the injured person's guardian has been obtained;

(h) A person's nude body, unless, subject to division (H)(1) of this section, the person's consent has been obtained;

(i) Protected health information, the identity of a person in a health care facility who is not the subject of a correctional, youth services, or law enforcement encounter, or any other information in a health care facility that could identify a person who is not the subject of a correctional, youth services, or law enforcement encounter;

(j) Information that could identify the alleged victim of a sex offense, menacing by stalking, or domestic violence;

(k) Information, that does not constitute a confidential law enforcement investigatory record, that could identify a person who provides sensitive or confidential information to the department of rehabilitation and correction, the department of youth services, or a law enforcement agency when the disclosure of the person's identity or the information provided could reasonably be expected to threaten or endanger the safety or property of the person or another person;

(l) Personal information of a person who is not arrested, cited, charged, or issued a written warning by a peace officer;

(m) Proprietary correctional, youth services, or police contingency plans or tactics that are intended to prevent crime and maintain public order and safety;

(n) A personal conversation unrelated to work between correctional employees, youth services employees, or peace officers or between a correctional employee, youth services employee, or peace officer and an employee of a law enforcement agency;

(o) A conversation between a correctional employee, youth services employee, or peace officer and a member of the public that does not concern correctional, youth services, or law enforcement activities;

(p) The interior of a residence, unless the interior of a residence is the location of an adversarial encounter with, or a use of force by, a correctional employee, youth services employee, or peace officer;

(q) Any portion of the interior of a private business that is not open to the public, unless an adversarial encounter with, or a use of force by, a correctional employee, youth services employee, or peace officer occurs in that location.

As used in division (A)(17) of this section:

"Grievous bodily harm" has the same meaning as in section [5924.120](#) of the Revised Code.

"Health care facility" has the same meaning as in section [1337.11](#) of the Revised Code.

"Protected health information" has the same meaning as in 45 C.F.R. 160.103.

"Law enforcement agency" means a government entity that employs peace officers to perform law enforcement duties.

"Personal information" means any government-issued identification number, date of birth, address, financial information, or criminal justice information from the law enforcement automated data system or similar databases.

"Sex offense" has the same meaning as in section [2907.10](#) of the Revised Code.

"Firefighter," "paramedic," and "first responder" have the same meanings as in section [4765.01](#) of the Revised Code.

(B)(1) Upon request by any person 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 the requester at all reasonable times during regular business hours. Subject to division (B)(8) of this section, upon request by any person, a public office or person responsible for public records shall make copies of the requested public record available to the requester 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. When the auditor of state receives a request to inspect or to make a copy of a record that was provided to the auditor of state for purposes of an audit, but the original public office has asserted to the auditor of state that the record is not a public record, the auditor of state may handle the requests by directing the requestor to the original public office that provided the record to the auditor of state.

(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 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 requester'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, 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 requests 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 the requester to pay in advance the cost involved in providing the copy of the public record in accordance with the choice made by the requester under this division. The public office or the person responsible for the public record shall permit the requester 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 requester 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 requester. Nothing in this section requires a public office or person responsible for the public record to allow the requester of a copy of the public record to make the copies of the public record.

(7)(a) 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 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.

(b) 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 division (B)(7) of this section. A public office that adopts a policy and

procedures under division (B)(7) of this section shall comply with them in performing its duties under that division.

(c) In any policy and procedures adopted under division (B)(7) of this section:

(i) A public office may limit the number of records requested by a person that the office will physically deliver by United States mail or by another delivery service 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;

(ii) A public office that chooses to provide some or all of its public records on a web site that is fully accessible to and searchable by members of the public at all times, other than during acts of God outside the public office's control or maintenance, and that charges no fee to search, access, download, or otherwise receive records provided on the web site, may limit to ten per month the number of records requested by a person that the office will deliver in a digital format, unless the requested records are not provided on the web site and 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.

(iii) For purposes of division (B)(7) of this section, "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)(a) Upon written request made and signed by a journalist, a public office, or person responsible for public records, having custody of the records of the agency employing a specified designated public service worker shall disclose to the journalist the address of the actual personal residence of the designated public service worker and, if the

designated public service worker's spouse, former spouse, or child is employed by a public office, the name and address of the employer of the designated public service worker'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.

(b) Division (B)(9)(a) of this section also applies to journalist requests for:

(i) Customer information maintained by a municipally owned or operated public utility, other than social security numbers and any private financial information such as credit reports, payment methods, credit card numbers, and bank account information;

(ii) Information about minors involved in a school vehicle accident as provided in division (A)(1)(gg) of this section, other than personal information as defined in section [149.45](#) of the Revised Code.

(c) As used in division (B)(9) of this section, "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.

(10) Upon a request made by a victim, victim's attorney, or victim's representative, as that term is used in section [2930.02](#) of the Revised Code, a public office or person responsible for public records shall transmit a copy of a depiction of the victim as described in division (A)(1)(ii) of this section to the victim, victim's attorney, or victim's representative.

(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 do only one of the following, and not both:

(a) File a complaint with the clerk of the court of claims or the clerk of the court of common pleas under section [2743.75](#) of the Revised Code;

(b) 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)(2) 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.

(2) If a requester transmits a written request by hand delivery, electronic submission, 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 requester 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.

(3) In a mandamus action filed under division (C)(1) of this section, the following apply:

(a)(i) If the court orders the public office or the person responsible for the public record to comply with division (B) of this section, the court shall determine and award to the relator all court costs, which shall be construed as remedial and not punitive.

(ii) If the court makes a determination described in division (C)(3)(b)(iii) of this section, the court shall determine and award to the relator all court costs, which shall be construed as remedial and not punitive.

(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 or if the court determines any of the following, the court may award reasonable attorney's fees to the relator, subject to division (C)(4) of this section:

(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.

(iii) The public office or the person responsible for the public records acted in bad faith when the office or person voluntarily made the public records available to the relator for the first time after the relator commenced the mandamus action, but before the court issued any order concluding whether or not the public office or person was required to comply with division (B) of this section. No discovery may be conducted on the issue of the alleged bad faith of the public office or person responsible for the public records. This division shall not be construed as creating a presumption that the public office or the person responsible for the public records acted in bad faith when the office or person voluntarily made the public records available to the relator for the first time after the relator commenced the mandamus action, but before the court issued any order described in this division.

(c) The court shall 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 would serve the public policy that underlies the authority that is asserted as permitting that conduct or threatened conduct.

(4) All of the following apply to any award of reasonable attorney's fees awarded under division (C)(3)(b) of this section:

(a) The fees shall be construed as remedial and not punitive.

(b) The fees awarded shall not exceed the total of the reasonable attorney's fees incurred before the public record was made available to the relator and the fees described in division (C)(4)(c) of this section.

(c) 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.

(d) The court may reduce the amount of fees awarded if the court determines that, given the factual circumstances involved with the specific public records request, an alternative means should have been pursued to more effectively and efficiently resolve the dispute that was subject to the mandamus action filed under division (C)(1) of this section.

(5) If the court does not issue a writ of mandamus under division (C) of this section and the court determines at that time that the bringing of the mandamus action was frivolous conduct as defined in division (A) of section [2323.51](#) of the Revised Code, the court may award to the public office all court costs, expenses, and reasonable attorney's fees, as determined by the court.

(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. A future official may satisfy the requirements of this division by attending the training before taking office, provided that the future official may not send a designee in the future official's place.

(2) 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 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.

The public office shall distribute the public records policy adopted by the public office under this division 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 database 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 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.

(G) A request by a defendant, counsel of a defendant, or any agent of a defendant in a criminal action that public records related to that action be made available under this section shall be considered a demand for discovery pursuant to the Criminal Rules, except to the extent that the Criminal Rules plainly indicate a contrary intent. The defendant, counsel of the defendant, or agent of the defendant making a request under this division shall serve a copy of the request on the prosecuting attorney, director of law, or other chief legal officer responsible for prosecuting the action.

(H)(1) Any portion of a body-worn camera or dashboard camera recording described in divisions (A)(17)(b) to (h) of this section may be released by consent of the subject of the recording or a representative of that person, as specified in those divisions, only if either of the following applies:

(a) The recording will not be used in connection with any probable or pending criminal proceedings;

(b) The recording has been used in connection with a criminal proceeding that was dismissed or for which a judgment has been entered pursuant to Rule 32 of the Rules of Criminal Procedure, and will not be used again in connection with any probable or pending criminal proceedings.

(2) If a public office denies a request to release a restricted portion of a body-worn camera or dashboard camera recording, as defined in division (A)(17) of this section, any person may file a mandamus action pursuant to this section or a complaint with the clerk of the court of claims pursuant to section [2743.75](#) of the Revised Code, requesting the court to order the release of all or portions of the recording. If the court considering the request determines that the filing articulates by clear and convincing evidence that the public interest in the recording substantially outweighs privacy interests and other interests asserted to deny release, the court shall order the public office to release the recording.

Last updated August 18, 2023 at 4:38 PM

Available Versions of this Section

- September 29, 2013 – House Bill 59 - 130th General Assembly [[View September 29, 2013 Version](#)]
- March 20, 2015 – Senate Bill 23 - 130th General Assembly [[View March 20, 2015 Version](#)]
- March 23, 2015 – House Bill 663 - 130th General Assembly [[View March 23, 2015 Version](#)]
- September 29, 2015 – House Bill 64 - 131st General Assembly [[View September 29, 2015 Version](#)]
- September 8, 2016 – Amended by Senate Bill 321, House Bill 359, House Bill 317 - 131st General Assembly [[View September 8, 2016 Version](#)]
- December 19, 2016 – Amended by House Bill 471 - 131st General Assembly [[View December 19, 2016 Version](#)]
- November 2, 2018 – Amended by House Bill 34, House Bill 312, House Bill 8 - 132nd General Assembly [[View November 2, 2018 Version](#)]
- April 8, 2019 – Amended by House Bill 341, Senate Bill 201, Senate Bill 214, House Bill 425, House Bill 139, House Bill 34, Senate Bill 229, House Bill 312, House Bill 8 - 132nd General Assembly [[View April 8, 2019 Version](#)]
- October 17, 2019 – Amended by House Bill 166 - 133rd General Assembly [[View October 17, 2019 Version](#)]
- March 24, 2021 – Amended by Senate Bill 284 - 133rd General Assembly [[View March 24, 2021 Version](#)]

- September 7, 2021 – Amended by Senate Bill 284 (GA 133), Senate Bill 4 (GA 134) [[View September 7, 2021 Version](#)]
- September 30, 2021 – Amended by House Bill 110 - 134th General Assembly [[View September 30, 2021 Version](#)]
- April 29, 2022 – Amended by House Bill 110 (GA 134), Senate Bill 4 (GA 134), House Bill 93 (GA 134), Senate Bill 284 (GA 133) [[View April 29, 2022 Version](#)]
- September 12, 2022 – Amended by House Bill 99 (GA 134) [[View September 12, 2022 Version](#)]
- April 7, 2023 – Amended by House Bill 254 (GA 134), Senate Bill 288 (GA 134), House Bill 45 (GA 134), House Bill 558 (GA 134), House Bill 99 (GA 134), House Bill 343 (GA 134) [[View April 7, 2023 Version](#)]
- October 3, 2023 – Amended by House Bill 33 - 135th General Assembly [[View October 3, 2023 Version](#)]