

Ohio Sunshine Laws FAQs

What is the Ohio Public Records Act?

The Ohio Public Records Act is built on the United States' historical position that the records of government are "the people's records." The Public Records Act provides citizens with steps to take in order to request records from any public office in Ohio while protecting certain specific types of records from release. It also establishes a legal process to enforce compliance when a requester feels that a public office has failed to satisfy its public records obligations.

Who can make a request for public records?

Any person can request public records by simply asking for them. Usually, the request can be made in any manner the requester chooses: by phone, in person, or in an e-mail or letter. The requester cannot be required to identify him- or herself, or to explain why the records are being requested, unless a specific law requires it. Often, however, a voluntary discussion about the requester's purposes or interest in seeking certain information can aid the public office in locating and producing the desired records.

What does a public office have to do when it receives a public records request?

A public office must organize and maintain its records to meet its duty to respond to public records requests and must keep a copy of its records retention schedule at a location readily available to the public. When it receives a public records request for specific existing records, the public office must provide inspection of the requested records during regular business hours or provide copies within a reasonable period of time. A requester is entitled to delivery of copies at the actual cost of packaging and delivery by any available means of delivery or transmission him or her requests.

The public office may withhold specific records or specific portions of records that are covered by an exception to the Public Records Act but is required to give the requester an explanation for any part of a record withheld, including the legal authority that requires or permits that withholding. In addition to denials based on an exception, a public office may deny a request in the extreme circumstance where compliance would unreasonably interfere with the discharge of the office's duties. A request can also be refused if the office no longer keeps the records, if the request is for items that are not records of the office, if the requester does not revise an ambiguous or overly broad request, or if the requester refuses to pay the cost of copies.

To whom does the Public Records Act apply?

The rights and duties set out in the act apply only to a "public office or person responsible for public records," which includes governmental subdivisions, private entities that are the "substantial equivalent" of public institutions, and other "persons responsible for public records." The act does not apply to private corporations or other organizations and is also different from the federal Freedom of Information Act (FOIA), which applies only to federal agencies.

If someone is not given public records, what recourse does that person have?

People who believe they have been wrongly denied a public record that they requested can file a lawsuit, called a mandamus action, against the public office, and the burden will be on the office to show the court that any record that it withheld was clearly protected by one or more valid exceptions under the law. If not, the public office will be ordered to provide the record, and may be subject to a civil penalty and payment of attorney fees. The Public Records Act is a “self-help” statute, in that citizens who believe that the act has been violated must independently pursue a remedy, rather than asking a public official such as the Ohio Attorney General to initiate the legal action on their behalf.

Does a public office have to work with the requester to find public records?

If a requester makes an ambiguous or overly broad request that the public office denies, the Public Records Act provides for negotiation between the parties to help identify, locate and deliver the requested records. Unless a specific law says otherwise, a requester does not have to give the reason for wanting the records, give his or her name or make the request in writing, but the request does have to be clear and specific enough for the public office to reasonably identify what public records are being requested.

Where can I find more details about the Public Records Act?

For more information about the Public Records Act, the 2009 Ohio Sunshine Laws manual is a great resource for finding answers to common and complex questions.

What is the Ohio Open Meetings Act?

The Open Meetings Act requires public bodies in Ohio to conduct all public business in open meetings that the public may attend and observe. This means that if a public body is meeting to discuss and vote on or otherwise decide public business, the meeting must be open to the public.

What is a public body, as applicable in the Ohio Open Meetings Act?

Public bodies are decision-making groups of state or local government agencies or institutions. Examples of these bodies include school boards, city councils and boards of trustees. However, the Open Meetings Act does not apply to some public bodies, such as the Ohio General Assembly and grand juries.

What is a meeting, as applicable in the Ohio Open Meetings Act?

In order for the Open Meetings Act to apply, the members of a public body must be meeting to discuss the public’s business. A meeting is a prearranged gathering of a majority of the members of a public body for the purpose of discussing public business. For example, if there are five members of a school board, and only two get together to discuss public business, this is not a meeting and the Open Meetings Act would not require it to be open to the public. However, if three members gather to discuss public business, this is a meeting and the Open Meetings Act would require it to be open to the public. Also, if there is a meeting, the public body must give notice to the public.

What kind of notice should be given to the public when a meeting is planned?

Public bodies must notify the public when and where each meeting will take place and must sometimes say what will be discussed. Also, every public body must establish, by rule, a reasonable method for notifying the public in advance of meetings. There are three types of meetings, each requiring different types of notice. "Regular meetings" are held at predictable intervals, such as once a month. The notice required for this type of meeting includes letting the public know of the time and place of the meeting. A "special meeting" is any other kind of meeting. Public notice must be given of the time, place and purpose of the special meeting. At least 24 hours notice must be given to the public and only topics related to the stated purpose of the meeting can be discussed. "Emergency meetings" are special meetings that are needed because a situation requires immediate action. The public body must immediately notify certain media outlets and individuals of the time, place and purpose of the emergency meeting. As with special meetings, only topics related to the stated purpose of the meeting can be discussed.

Are detailed minutes required to be taken at a public meeting?

A public body must keep full and accurate minutes of its meetings, but those minutes do not have to be an exact transcript of every word said. Minutes must be promptly prepared, filed and made available for public inspection.

What are executive sessions, as applicable in the Open Meetings Act, and when can they be used?

Closed-door sessions, or executive sessions, are initiated when a member makes a motion for a closed-door session and the public body votes on it. These sessions are attended by only members of the public body and persons they invite. Executive sessions may be held for only a few specific purposes. No votes may be taken or decisions made on the matter(s) discussed during the executive session. Members would have to reconvene their meeting and then openly conduct a vote.

What can be done if there are violations of the Open Meetings Act?

If any citizen believes that a public body has violated the Open Meetings Act, that citizen may file an injunctive action in common pleas court to compel the public body to obey the act. If an injunction is issued, the public body must correct its actions, may have to pay court costs, and must pay a fine of \$500. Whichever party loses the lawsuit pays the reasonable attorney fees of the other party as ordered by the court.

If someone is seeking access to a public body's minutes, and the body is not turning them over, that person can file a mandamus action under the Public Records Act to force the creation of, or access to, meeting minutes. Mandamus can also be used to order a public body to give notice of meetings to the person filing the action.

Any action taken by a public body while that body is in violation of the Open Meetings Act is invalid. A member of the public body who violates an injunction imposed for a violation of the Open Meetings Act may be subject to a court action removing that official from office.

What if I want more details about the Open Meetings Act?

The 2009 Ohio Sunshine Laws manual is a great resource for finding answers to common and complex questions.

What makes a “record” a “public record?”

While the rights of records access under the Ohio Public Records Act apply to all records kept by an Ohio public office, the terms “records” and “public records” do not include every document or item found in a public office -- only those that document the policies, operations and other activities of the office.

Can some public records be withheld from a requester?

The General Assembly has passed a number of laws that protect certain records by either requiring or allowing a public office to withhold them from public release. Where a public office uses one of these “exceptions,” the office may only withhold a record or part of a record clearly covered by the exception and must tell the requester what legal authority it is relying on to withhold the record. If only part of a page, audiotape or image is protected by an exception, then the public office must redact (obscure or delete) only that part of the record and provide the unprotected remainder to the requester.

The General Assembly can change the preceding rights and duties for any particular records, for particular public offices, for particular requesters or in specific situations. In other words, the general rules of public records law may be modified in a variety of ways. In applying the Public Records Act, the courts interpret the act and any claimed exceptions in favor of disclosure.

Visit the following website for additional information on the Sunshine Laws, including the manual referenced above: www.ohioattorneygeneral.gov/Sunshine

You can also view or download a pdf copy of the manual, *Ohio Sunshine Laws: An Open Government Resource Manual*, on the Erie-Ottawa MHRB website by clicking on the “General Information” tab under “About MHRB” in the left column.