



## **PUBLIC RECORDS POLICY**

### **East Liverpool City Health District Policy and Procedures**

Adopted: January 17, 2018 by the East Liverpool City Board of Health

Latest Revision: 8/5/2020

Latest review: 8/5/2020

#### **OPEN RECORDS MISSION STATEMENT CITY OF EAST LIVERPOOL**

Consistent with the premise that government at all levels exists first and foremost to serve the interests of the people, it is our mission and intent to at all time fully comply with and abide by both the spirit and letter of Ohio's Open Records Act and Open Meetings Act.

#### **STATEMENT OF PRINCIPLES CITY OF EAST LIVERPOOL**

Will adopt policies that encourage employees to immediately report incidents of non-compliance with the acts that they may observe;

Will do nothing that abridges the public's right to obtain information about their government or that inhibits or discourages citizens from doing so;

Will do everything possible to aid those who are seeking information, including but not limited to, fully explaining the scope and operation of the acts and assisting citizens in the formulation of requests;

Will construe the provisions of the acts in a manner that favors compliance with requests for information;

Will seek guidance from the Office of the Ohio Attorney General whenever a question arises about the application of the acts or about the appropriateness of a request for information;

Will clearly and concisely state the reason or reasons why a request for information has been denied.

#### **INTRODUCTION**

**This Public Records Policy contains the City of East Liverpool's Public Record Policy that was reviewed October 2017.**

It is the policy of the East Liverpool City Health District that all non-exempt public records are to be promptly and reasonably made available, upon requests, for inspection or copying to any person at all reasonable times during regular business hours.

This Public Records Policy establishes the policies and procedures for responding to requests for public records. This policy supersedes any and all previous records requests and procedures. This policy shall be distributed to all record managers, records custodians and other East Liverpool City Health District employees in custody of public records, all of whom will acknowledge receiving a copy of the policy.

This policy will be included in any handbook or manuals outlining general policies of the East Liverpool City Health District.



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This policy has been developed in compliance with House Bill 9, effective September 29, 2007.

### DEFINITIONS

The term "Records" is defined in Ohio Public Records Act 149.011 (G). as follows: "(G) 'Records' includes any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in section 1306.01 of the Revised Code, created or received by or coming under the jurisdiction of any public office of the state or its political subdivisions, which serves to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office." If a document or other item does not meet all three parts of the definition of a "record", then it is a non-record and is not subject to either the Ohio Public Records Act or records retention requirements.

The term "Public Record" is defined in R.C. 149.43 (A) (1).

"Actual cost" and "commercial" have the same meanings as in Ohio Revised Code §149.43.

"Redaction" is defined in R.C. 149.43(A) (11) and 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."

"Regular business hours" are 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding City holidays.

"Requester" is a person, group, or entity making a public record request.

### RECORDS CUSTODIAN

Each department Director will serve as Records Custodian for their department. They will have custody of the records for that department. The Records Custodian must acknowledge receipt of this policy. The records Custodian is responsible for contacting the City Law Director for legal review of records requests. The Health Commissioner is responsible for reviewing and updating record retention schedules, which will be given to the Records Custodian and posted to the public for review.

#### 1. PUBLIC RECORDS

It is the policy of the East Liverpool City Board of Health that, as required by Ohio law, public records will be organized and maintained in a manner that they can be made available for inspection or copying.

Not all of the East Liverpool City Board of Health documents are "public record". If a public record contains information that is exempt from disclosure under State or federal law or because of privilege or confidentiality requirements, the public office shall redact the exempt portions and make available all the information in the public record that is not exempt. Records that hold Personal Health Information are not considered public record and will be exempt. In addition, the redaction must be plainly visible or



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the requestor must otherwise be notified of the redaction. Unless a redaction is authorized by federal or state law, the requestor shall be provided with an explanation for the redaction. If the request was in writing, so shall be the explanation for the redaction.

Every public office will have a current copy of its records retention schedule readily available to the public and will have the records poster consciously placed in the public office.

### **2. RECORD REQUESTS**

Records may be accessed by requesting to view public records, requesting for copies which the requestor will pick up personally, requesting for copies that the requestor wants mailed or delivered.

Public records request will only be responded to during regular business hours and not on City holidays.

Upon receipt of a request for public records, the request should be examined to assure that the request identifies with some degree of particularity the public record(s) being requested.

If the request is not made in writing, an internal written record of the scope and date of the request should be created.

In the event that the request is overly broad or ambiguous, such that it cannot reasonable be determined what public records are being requested, the office may deny the request and ask that the public records request be restated. In furtherance of assisting the requestor in reformulating the request, the public office will inform the requestor of the types or records maintained and the manner in which they are stored and accessed. In addition, the requestor will be provided an explanation for any denial of the public records. If the request was, made in writing, so shall be the explanation of the denial. The explanation will include the legal authority for denying the request.

So long as the request identifies with some degree of particularity the public record(s) being sought, the request should be immediately processed or acknowledged in writing within three business days following the office's receipt of the request. The letter will include the estimated number of business days necessary to satisfy the request and an estimate of the cost of the copies.

The request should be processed as quickly as possible with any delay justified by the location and volume of records, the ordinary business hours of the public office, and an opportunity for redaction and/or legal review when appropriate.

When a written request or the disclosure of the identity of the requestor or the disclosure of the intended use or the public records benefits the requestor by enhancing the ability of the public office to identify, locate or deliver the public records sought by the requestor, the public office may make such inquiries or requests. However, before doing so, the public office must first disclose to the requestor that a written request is not mandatory and must further advise the requestor that he or she may decline to make the request in writing and that he or she may also decline to reveal his or her identity and/or intended use of the records.



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In processing the request, unless a statutory exemption exists, no public records request is to be denied based on the refusal of the requestor to make the request in writing, or based on refusal of the requestor to disclose his or her identity or the motive for making the request.

If a public record contains information that is exempt from disclosure, the public office shall redact the exempt portions and make available all the information in the public record that is not exempt. In addition, the redaction must be plainly visible or the requestor must otherwise be notified of the redaction. Unless a redaction is authorized by federal or state law, the requestor shall be provided with an explanation for the redaction. If the request was in writing, so shall be the explanation for the redaction.

There is no limit on the number of records that will be made available to any single person. Nor shall there be any express limit on the number of records that will be made available during a fixed period of time. However, if a policy and procedure for transmitting public records is established, the number of records requested by a person that the office will transmit by U.S. mail may be limited to ten per month, unless the person certifies to the public office, in writing, that the person does not intend to use or forward the requested records, or information contained in them, for commercial purposes. "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.

No fixed period of time will be established to respond to a public records request, unless that period is less than eight hours.

### **3. PROHIBITED INFORMATION TO PROVIDE**

"Protected Health Information" as defined in section 3701.17 (A)(2) of the Ohio Revised Code ("R.C."). R.C. 3701.17 (B) prohibits the department from releasing any protected health information without the written consent of the individuals who are the subjects of the information. Records that are prohibited from release under R.C. 3701.17 are also excluded from the definition of "public record" under R.C. 149.43 (A)(1)(v), and therefore exempt from release under the Act.

### **4. PROCESSING REQUESTS**

In processing the request, there is no obligation to create new records or perform new analysis of existing information. An electronic record will be deemed to exist so long as a computer is already programmed to produce the record through simple sorting, filtering, and querying.

In processing a request for inspection of a public record, an office employee should accompany the requestor during inspection to make certain original records are not taken or altered. The requestor is not entitled to make the copies themselves.

In processing the request, the public office will provide copies on any medium requested by the requestor, including paper or upon the same medium upon which the public office or person responsible for the public record keeps it, or upon any other medium which the public office or person



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responsible for the public record determines that it can reasonably be duplicated as an integral part of the normal operation in the medium chosen by the operator.

In processing the request for records, the office will provide any copies by ordinary United States mail, if so requested, or by any other means of delivery or transmission. The public office may adopt a policy and procedure for transmitting public records.

If the request presents a high probability of litigation, or a unique issue not previously addressed, contact the City Law Director's Office as the request is being processed. The city Law director's Office will then advise on how to proceed with the request.

### **5. COST OF MAKING COPIES**

In processing the request, the public office may require the requestor to pay the actual cost of copying the records, as well as any postage and mailing supplies. The requestor may be required to pay the costs in advance. Actual costs 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. Actual cost does not include the time used for gathering, reviewing or physically copying the records. The Actual cost will be reviewed and updated regularly as needed. Medical Records copies will be charged according to the current fees prescribed by law. Please see attachment with current fees.

Documents may be mailed if requested. The actual cost of the postage and mailing supplies will be accessed against the party making such a request. This office shall require payment in advance the cost of the postage and additional costs incurred for mailing, delivery or transmission.

### **6. E-MAIL**

Documents in electronic mail format are records under the Ohio Revised Code when their content relates to the business of the office.

Records in private e-mail accounts used to conduct public business are subject to disclosure.

All employees of the East Liverpool City Health District are to retain their e-mails that relate to public business

### **7. FAILURE TO RESPOND TO PUBLIC RECORDS REQUEST**

The East Liverpool City Board of Health recognizes the legal and non-legal consequences of failing to properly respond to a public records request.

### **8. COST OF MAKING COPIES**

**In accordance with the Ohio Revised Code Section 3701.741: Fees for providing copies of medical records.**





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1. Requests made by the patient or patient's representative for copies of medical records shall not be charged more than the amounts set forth:

- \$2.74 per page 1-10 pages
- \$0.75 per page 11-50 pages
- \$0.23 per page 50+ pages

The actual cost of any related postage incurred by the health department will be charged.

2. Requests made by other than the patient or patient's representative for copies of medical records shall not be charged more than the amounts set forth:

- Initial fee of \$16.84 to compensate for records search, in accordance with section 3701.742 of the revised code

Except with data recorded on paper or electronically, the following amounts will be charged:

- \$1.11 per page 1 -10 pages
- \$0.57 per page 11-50 pages
- \$0.23 per page 50+ pages

The actual cost of any related postage incurred by the health department will be charged.

Upon request, one copy of the patient's medical record and one copy of any records regarding treatment subsequent to the original request, not including records already provided, will be provided **without charge** to the following:

- Bureau of workers' compensation
- Industrial commission
- Dept of Medicaid or county dept of job and family services
- The attorney general
- A patient or authorized person to support a claim that has been filed

For further information see OHIO Revised code 3701.741



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Original Policy Adoption 1/17/2018				
Review/Revision #	Review Date	Revision Date	Brief Description of Revision or Section #	Board President or Vice President Initials
1	-----	1/16/2019	Added Section 7- Codst of making copies	Carl Covert
2	1/8/2020	-----	-----	-----
3		8/5/2020	Added "Prohibited Information to Provide" under Records Custodian	Carl Covert