

# First Suburbs Consortium of Dayton, Ohio

## Public Records Policy

### **I. Purpose:**

The First Suburbs Consortium of Dayton, Ohio (FSC-Dayton) acknowledges that it maintains many records that are used in the administration and operation of the FSC-Dayton. In accordance with state law and the FSC-Dayton local Records Commission, the FSC-Dayton has adopted Schedules of Records Retention and Disposition (RC-2) that identify these records. These schedules identify records that are stored on a fixed medium (paper, computer, film, etc.) that are created, received or sent under the jurisdiction of the FSC-Dayton and document the organization, functions, policies, decisions, procedures, operations, or other activities of the FSC-Dayton. (R.C. 149.011(G); R.C. 149.43(A)(1)). The records maintained by the FSC-Dayton and the ability to access them are a means to provide trust between the public and the FSC-Dayton.

### **II. Scope:**

- A. Each department or function that maintains records has a designated person who serves as the custodian of all records maintained by the department or function.
  - 1. Each record custodian has a copy of the FSC-Dayton public records policy. (R.C. 149.43(E)(2)).
- B The FSC-Dayton public records policy is located in the FSC-Dayton policies and procedures manual.

### **III. Fees:**

- A. The FSC-Dayton, in accordance with Section 149.43 of the Revised Code, has established the following fees for providing copies or reproductions of public records maintained by the FSC-Dayton:
  - 1. For photocopies of either letter or legal size documents, the fees shall be:

1 –10 copies	Free
11+ copies	\$0.08 per copy

Advance payment is required before any copies are prepared.
  - 2. For cassette tapes or for any other type of media, the fee shall be the replacement cost or the reproduction (copying) cost.

#### **IV. Availability:**

##### **A. Inspection**

1. All public records maintained by the FSC-Dayton shall be promptly prepared and made available for inspection by appointment as well as a copy of FSC-Dayton's current records retention schedule(s). (R.C. 149.43(B)(1). (Promptness is to be determined by the facts and circumstances of each public records request). The FSC-Dayton is staffed by volunteers and does not maintain an office or regular office hours.
2. For the purpose of enhancing the ability of the FSC-Dayton to identify, provide for prompt inspection as well as provide copies of the requested items in a reasonable period of time, the FSC-Dayton shall provide to the requestor a form for the requestor to complete.
  - a. Prompt inspection and copies of records within a reasonable amount of time contemplates the opportunity for legal review.
  - b. Although the FSC-Dayton may ask the requestor to make the request in writing, for the requestor's identity, and may inquire about the intended use of the information requested, the requestor shall be advised that:
    - (1) The requests are not mandatory; and
    - (2) The requestor's refusal to complete the form does not impair the requestor's right to inspect and/or receive copies of the public record.
  - c. Any person, including corporations, individuals, and even governmental agencies, may request public records, and will be allowed prompt inspection of public records and copies within a reasonable amount of time upon request.
3. In the event a request is made to inspect and/or obtain a copy of a record maintained by the FSC-Dayton whose release may be prohibited or exempted by either state or federal law, the request shall be forwarded to legal counsel for the FSC-Dayton for research and/or review by legal counsel to ensure that protected and/or exempted information is not improperly released by the FSC-Dayton.
4. Records, whose release is prohibited or exempted by either state or federal law, or not considered public records as defined by R.C. 149.43(A)(1), shall NOT be subject to public inspection.

B. Public Records Requests

1. Mailed or E-mailed Requests for Public Records:

- a. Upon receiving a written request for copies of a public record made in accordance with Section 149.43 of the Ohio Revised Code via the United States Postal Service, the FSC-Dayton shall promptly respond to the request. Mailed requests to the FSC-Dayton are received in a PO Box which is only checked occasionally, which may significantly delay response. E-mails to the FSC-Dayton at the e-mail address shown on the FSC-Dayton website are monitored on a regular basis.
- b. An authorized officer or designated representative of the FSC-Dayton shall, by any means practical, contact the requestor and advise them that advance payment is required prior to providing copies of public records, and in addition, the fee shall also include the cost of postage and the envelope. (R.C. 149.43(B)(7)).
- c. When practical, the FSC-Dayton may forward copied records by any other means reasonably acceptable to the requestor.
  - (1) If a person requests a copy of a public record, the FSC-Dayton shall permit the requestor to choose to have the public record duplicated on paper or upon the same medium upon which the FSC-Dayton maintains the public record or upon any other medium on which the record can reasonably be duplicated as an integral part of the normal operations of the FSC-Dayton, or the FSC-Dayton officer or designated representative responsible for the public record. (R.C. 149.43(B)(6)(7)).
  - (2) Persons seeking copies of public records are not permitted to make their own copies of the requested records by any means (R.C. 149.43(B)(6)).
- d. In accordance with Section 149.43(B)(7) of the Ohio Revised Code, the FSC-Dayton limits the number of requested records, to be transmitted through the U.S. Mail, to a maximum of ten records per month, unless the requestor certifies that the records or information in them will not be used for commercial purposes.
  - (1) "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.
- e. Authorized FSC-Dayton officers and designated representatives shall comply with the following procedures upon receiving a

valid public record request through the United States Postal System:

- (1) FSC-Dayton officers and designated representatives shall promptly process requests.
  - (2) Requestors shall be charged the postage fees and the cost of the envelope required to properly send the requested records through the mail.
2. Written or verbal requests for copies made by the public records requestor or their designee shall be processed in the same manner as mailed requests.

C. Response and Denials

1. Requests for inspection and/or copies of public records, which are not maintained by the FSC-Dayton, shall be processed in the following manner:
  - a. If the FSC-Dayton receives a request for a record that it does not maintain or the request is for a record which is no longer maintained, the requestor shall be so notified in writing utilizing RC101 that one of the following applies:
    - (1) Their request involves records that have never been maintained by the FSC-Dayton;
    - (2) Their request involves records that are no longer maintained or have been disposed of or transferred pursuant to applicable FSC-Dayton Schedules of Record Retention and Disposition (RC-2);
    - (3) Their request involves a record that has been disposed of pursuant to an Application of the One-Time Records Disposal (RC-1);
    - (4) If the record that is requested is not a record used or maintained by the FSC-Dayton, the requestor shall be notified that in accordance with Ohio Revised Code Section 149.40, the FSC-Dayton is under no obligation to create records to meet public record requests.
2. Ambiguous or Overly Broad Request for Public Records

If a requestor makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records such that the public office responsible for the requested public record / FSC-Dayton cannot reasonably identify what public records are being requested:

- a. The FSC-Dayton may deny the request.
- b. However, the FSC-Dayton shall provide the requestor with an opportunity to revise the request by informing the requestor of the manner in which records are maintained by the FSC-Dayton in the ordinary course of business. (R.C. 149.43(13)(2)).

3. Denial of a Record Maintained by the FSC-Dayton

The FSC-Dayton may deny request for a record maintained by the FSC-Dayton if:

- a. The record that is requested is prohibited from release due to applicable state or federal law.
  - (1) Officers and designated representatives of the FSC-Dayton shall consult legal counsel if they are unsure of whether the record requested should be withheld from disclosure.
- b. As governed by R.C. 149.43(B)(3), if a request is ultimately denied, in part or in whole, the FSC-Dayton shall provide the requestor with an explanation, including legal authority, setting forth why the request was denied.
  - (1) If the initial request was provided in writing, then the explanation shall also be provided in writing.
  - (2) The explanation shall not preclude the FSC-Dayton from relying upon additional reasons or legal authority in defending an action commenced pursuant to R.C. 149.43.

4. Redacting Exempted Records/Procedure

- a. “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 Ohio Revised Code. R.C. 149.43(A)(11);
  - (1) 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. (R.C. 149.43(B)(1)).
  - (2) If a request is ultimately denied, in part or in whole, the FSC-Dayton shall provide the requestor with an explanation, including legal authority, setting forth why the request was denied. (R.C. 149.43(B)(3)).

- b. If a public record contains certain information that is exempt from the duty to permit public inspection or to copy the public record, the FSC-Dayton shall make available the information within the public record that is not exempt.
- c. When making that public record available for public inspection or copying that public record, the FSC-Dayton shall notify the requestor of any redaction or make the redaction plainly visible. (R.C. 149.43(B)(1)).
- d. The releasing officer or designated representative shall then reproduce a copy of the page with the redactions; the resulting copy shall be the page that is released to the requestor.
- e. The first reproduction page with the original redactions made by the officer or designated representative is the work sheet. It shall be attached to the original record and maintained in accordance with the retention period established for the original document.

D. Remedy

1. Grievances

- a. If a person allegedly is aggrieved due to the inability to inspect a public record or due to the inability to receive a copy of the public record, the person shall be advised that they may:
  - (1) Contact the FSC-Dayton senior representative.
  - (2) If the person is not satisfied after contacting the FSC-Dayton senior representative, they shall be advised that Ohio Revised Code Section 149.43 provides a legal means for addressing their complaint in these disputes. (R.C. 149.43(C)(1)(2)).

V. **Training and Education:**

The FSC-Dayton continues to update and address all education, training, disclosure, and policy requirements mandated by R.C. 109.43 and R.C. 149.43(E)(1)(2).