



# **PUBLIC RECORDS REQUEST POLICY**

**for the**

## **SUMMIT & MEDINA WORKFORCE AREA COUNCIL OF GOVERNMENTS**

**EFFECTIVE MARCH 20, 2018**

**ADOPTED BY WORKFORCE AREA 2  
ON 7/2/2018 VIA [SAMWA COG RESOLUTION 2018-17](#)**

**APPROVED BY THE SUMMIT COUNTY RECORDS COMMISSION  
ON 7/17/2018**

## TABLE OF CONTENTS

Introduction	3
Distribution Acknowledgement, Publicity & Training	3
• Policy Distribution	
• Acknowledgement	
• Publicity	
• Training	
I. Definition of "Records"	4
II. Definition of "Public Records" & Necessary Records to be Made	4
III. Ohio Sunshine Laws	4
IV. Availability of Records	4
V. SAMWA COG Records Manager	5
• The SAMWA COG's Records Manager	
• The Record Manager's Log	
VI. Submission of Public Records Requests	5
VII. Requester Responsibilities, Rights & Limitations	6
VIII. Record Copy Limits, Medium, Creation & Cost	7
• Copy Limits	
• Medium and Creation of Duplicated Records	
• Costs to the Requester	
IX. Public Records Act Exceptions	7
X. Redaction of Public Records	8
XI. Denial of Records	8
XII. Social Media & Electronic Mail (E-Mail) as a Public Record	8
• Social Media	
• E-Mail	
XIII. Failure to Respond to a Public Records Request	8
XIV. Subpoena Duces Tecum not a Public Records Request	9
XV. Records Requests Submitted by Incarcerated Persons	9
XVI. Record Retention Schedules (RC-2s)	9
XVII. Disposal of or Damage to Records	10
XVIII. Audit of Public Office	10

## INTRODUCTION

In accordance with Ohio Revised Code Chapter 149, the Summit and Medina Workforce Area Council of Governments (**the "SAMWA COG"**) adopts this Public Records Policy. It is the policy of the SAMWA COG to strictly adhere to this policy, the state's Public Records Act as well as other state and federal laws. The Public Records Act evolves from the principle that Ohio's citizens are entitled to access the records of their Government.

By adopting this policy, the Summit/Medina Workforce Development Board ("**WDB**") and the **SAMWA COG Board** intend to ensure accountability, transparency and consistency in the conduct of parties which comprise Ohio Local Workforce Area 2 ("**Area 2**") and the delivery of Workforce Innovation and Opportunity Act ("**WIOA**") services therein.

This manual is intended as a guide. **This policy is not intended to be legal advice.** Pursuant to its Agreement with the SAMWA COG, when specific legal questions about the public records law arise, please contact the Summit County Department of Law, Insurance and Risk Management.

[O.R.C. § 149.43\(E\)\(1\) & \(E\)\(2\)](#)  
[SAMWA COG Resolution 2018-06](#)

## DISTRIBUTION, ACKNOWLEDGEMENT, PUBLICITY & TRAINING

### POLICY DISTRIBUTION

The SAMWA COG shall distribute this Public Records Request Policy to each SAMWA COG employee and/or Area 2 affiliate in custody of public records, including:

- Medina and Summit Counties' Chief Elected Officials who make up the SAMWA COG Board;
- Members of the WDB;
- Members of the SAMWA COG's administrative staff;
- WIOA and other staff located at Area 2's American Job Centers, which in Ohio are branded as "OhioMeansJobs Centers," including:
  - OhioMeansJobs Medina County – 60 Public Sq., Floor 3, Medina, OH 44256
  - OhioMeansJobs Summit County – 1040 E. Tallmadge Ave, Akron, OH 44310
- The Summit County Department of Law, Insurance and Risk Management who provide legal counsel to the SAMWA COG in accordance with the Agreement between the two entities.

### ACKNOWLEDGMENT

Upon receipt of this policy, employees of the SAMWA COG and employees and/or Area 2 affiliates will submit a written acknowledgement to verify the receipt of the policy. New SAMWA COG employees shall provide this acknowledgement upon receipt of the **SAMWA COG's Personnel Policies & Procedures handbook, which shall include this Public Records Request Policy.**

### PUBLICITY

A poster that describes the SAMWA COG's Public Records Request Policy shall be posted in a conspicuous place at locations where SAMWA COG and/or Area 2 affiliates conduct business.

### TRAINING

Designated members of the SAMWA COG's administrative staff shall attend Ohio Attorney General-approved public records law training for three (3) hours every four (4) years. Only training courses approved by the Ohio Attorney General will satisfy this requirement.

[O.R.C. § 109.43\(B\), \(E\)\(1\) & \(E\)\(2\)](#)  
[SAMWA COG Resolution 2018-06](#)

## I. DEFINITION OF “RECORDS”

“Records” includes any document, device, or item, regardless of physical form or characteristic, including an electronic record as defined in § 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 office’s organization, functions, policies, decisions, procedures, operations, or other activities.

All records of the SAMWA COG, **which include records under its purview in Medina and Summit Counties**, are public unless they are specifically exempt from disclosure under Ohio or Federal law.

[O.R.C. § 149.011\(G\)](#)

[O.R.C. § 1306.01](#)

## II. DEFINITION OF “PUBLIC RECORDS” & NECESSARY RECORDS TO BE MADE

“Public Record” means records *kept by* any public office. The terms “Records” and “Public records” do not include every document or item found in the public office – only those which actually document the policies, operations and other activities of the office.

Not every piece of paper on which a public officer or employee writes something meets the definition of a record. Employee notes have been found not be public records if they are kept for the employee’s own convenience and the notes were not shared with other employees.

Public offices shall make only such records as are necessary for the adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the SAMWA COG and to protect the legal and financial rights of the SAMWA COG and persons directly affected.

As long as a public record is *kept by* a public office, it does not lose its status as a public record.

[O.R.C. § 149.40](#)

[O.R.C. § 149.43\(A\)\(1\)](#)

[State ex rel. Canford v. Cleveland, 103 Ohio St. 3d 196\(2004\)](#)

## III. OHIO SUNSHINE LAWS

“The Ohio Sunshine Laws – An Open Government Resource Manual,” a manual prepared yearly by the Ohio Attorney General and the Ohio Auditor of State, provides the most updated open meetings and public records law. The manual is commonly referred to as the “yellow book” and can be accessed online at [www.ohioattorneygeneral.gov/yellowbook](http://www.ohioattorneygeneral.gov/yellowbook).

## IV. AVAILABILITY OF RECORDS

Pursuant to Ohio law, all public records are to be organized and maintained so that they are promptly available for inspection and copying. If legal review and/or redaction are required, then the records shall be provided within a reasonable period of time thereafter.

Public records are to be available for inspection during regular business hours, with the exception of holidays, weekends or other days the offices are closed. Public records must be made available for inspection **promptly**.

For purposes of a response to a records request, "prompt" and "reasonable" take into account:

1. The volume of records requested;
2. The proximity of the location where the records are stored, and;
3. The necessity for legal review of the requested records for redaction of exempt information.

The SAMWA COG is **NOT** permitted to 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 (8) hours.

[O.R.C. § 149.43\(B\)\(2\) & \(E\)\(1\)](#)

## V. SAMWA COG RECORDS MANAGER

### THE SAMWA COG'S RECORDS MANAGER

The SAMWA COG's **Operations Coordinator** shall be designated as the SAMWA COG's record manager. The OC may, if necessary, designate records coordinators who shall be responsible for the maintenance of the records at each of Area 2's OhioMeansJobs Centers, including the OhioMeansJobs Medina County Center and the OhioMeansJobs Summit County Center.

### THE RECORDS MANAGER'S LOG

The Operations Coordinator shall maintain a log of all public records requests which shall include the:

- Date of request;
- Name of the person or entity requesting information (only if provided);
- Records requested;
- Records released;
- Date of release, and;
- Legal authority for any redactions or exemptions.

The SAMWA COG shall retain copies of the records released pursuant to the Records Retention Schedule. The SAMWA COG and its affiliates recognize that this log and related copies are subject to review by the Auditor of the State of Ohio.

## VI. SUBMISSION OF PUBLIC RECORDS REQUESTS

The Operations Coordinator is responsible for responding completely and accurately to any public records request related to the records of Area 2. The Operations Coordinator may be notified directly by e-mail and/or telephone when a public records request is made, regardless of whether the request is in writing or verbal.

Area 2 entities other than the SAMWA COG that receive requests for records maintained by the SAMWA COG shall relay the request to the Operations Coordinator immediately.

If it is unclear whether information received constitutes a public records request, please forward the received information to the Operations Coordinator immediately. The SAMWA COG's Executive Director and the Summit County Department of Law, Insurance and Risk Management will determine whether or not the information received constitutes public records request.

## VII. REQUESTER RESPONSIBILITIES, RIGHTS & LIMITATIONS

Individuals or entities submitting a request for public records:

1. Must identify the records with reasonable clarity

The request must not be overly broad or ambiguous. If a requester makes an ambiguous or overly broad request or has difficulty in making a request for copies or inspection of public records such that the SAMWA COG cannot reasonably identify what records are being requested, the SAMWA COG may deny the request.

Prior to issuing a denial for an overly broad or ambiguous request for records, the Operations Coordinator **MUST** provide the requester with an opportunity to revise the request by informing the requester of the manner in which the SAMWA COG maintains its records.

2. Must request a record that actually exists at the time of the request

The SAMWA COG is under no obligation to furnish or provide records that were not in existence at the time of the request, but which later come into existence. Further, the SAMWA COG is not required to create new records by searching for and compiling information in existing records. Any compilation of the information sought must already exist. If a computer program can perform a search and compile information requested, that output is deemed to already exist.

3. Cannot make a request for the SAMWA COG to conduct research on the requester's behalf

The SAMWA COG will not conduct research for a requester when the requester can inspect the records themselves.

4. May make the request(s) verbally or in writing

The SAMWA COG shall make no requirement regarding the medium of request submission.

5. May submit the request(s) anonymously and for any reason

The SAMWA COG **CANNOT** require requesters to disclose their identity nor the intended use of the requested public record(s). The requester may be asked to make the request in writing, to provide their identity, and to disclose the intended use of the information requested, but may be asked such questions **ONLY** after it has been disclosed to the requester that a written request is not mandatory, that they do not need to provide their identity and that they are not required to disclose the intended use of the information requested.

6. Cannot be required to use specific language or jargon within a request

In the spirit of promoting openness and transparency, the SAMWA COG may make no requirement regarding the use of specific language or jargon within a records request. The requester is only required to identify the record(s) requested with sufficient clarity to allow the SAMWA COG to identify, retrieve and review the records. If it is unclear what record(s) are being requested, the Operations Coordinator is required to seek clarification from the requester. When necessary, the Operations Coordinator shall assist the requester in revising their request by informing the requester of the manner in which the SAMWA COG maintains its records.

[O.R.C. § 149.43 \(B\)\(1\)\(2\) & \(5\)](#)

## VIII. RECORD COPY LIMITS, MEDIUM, CREATION & COST

### COPY LIMITS

The SAMWA COG is **NOT** permitted to limit the number of public records that it will make available to a single person and **CANNOT**, with exceptions for records sent via U.S. mail, limit the number of public records that it will make available during a fixed period of time.

The SAMWA COG **MAY** limit the number of **PHYSICAL RECORDS** requested by a single requester to ten (10) per month only if those records are being transmitted through the U.S. mail. This limit is **VOIDED** when the requester submits a written statement certifying that they do not intend to use or forward the requested records, or the information contained in them, for commercial purposes. **“Commercial purpose”** 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.

### MEDIUM & CREATION OF DUPLICATED RECORDS

The SAMWA COG will **ALLOW** the requestor to choose the **MEDIUM** in which the duplicated record is produced, so long record duplication on the medium selected can be reasonably achieved within the course of day-to-day operations. If the medium requested is unreasonable, the Operations Coordinator shall appraise the requester of other options.

A requester seeking physical or digital copies of public records **MAY NOT** make their own copies or scans of the requested records. This measure is to protect the integrity of the original document.

### COSTS TO THE REQUESTER

Requesters who choose to have physical copies made shall be first be appraised of the costs associated with the production and transmission of the physical copies. Physical copies shall be issued at a cost **\$0.10 per double-sided black and white page**. The requester shall also be charged for the cost of shipping physical copies via US Mail, if applicable. **Up-front payment is required** for requesters who select to have physical copies sent via U.S. mail.

**There is no cost to requesters who chooses to have records transmitted electronically** (ex. e-mail). Requesters who cannot provide up-front payment for the production and transmission (if applicable) of physical copies shall be made aware of the free electronic alternative.

[O.R.C. § 149.43\(B\)\(6\), \(B\)\(7\) & \(E\)\(1\)](#)

## IX. PUBLIC RECORDS ACT EXCEPTIONS

Exceptions are created only by law. Throughout the Ohio Revised Code, the General Assembly has identified records, information and other items that are not public records.

If any state statutes, rules, federal statutes or regulations prohibit disclosure, the SAMWA COG **MUST NOT** release that record in response to a Public Records Request.

Some records may be subject to both a discretionary and mandatory exception. In other words, the SAMWA COG could have the option to withhold the record and also be subject to an exemption which prohibits its release. It is important to find all exemptions and not to rely on the first one that is found to apply. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the rest released. A partial list of exceptions may be found at [O.R.C. §149.43\(A\)\(1\)](#).

[O.R.C. § 149.43\(A\)\(1\), \(A\)\(1\)\(bb\) & \(A\)\(1\)\(cc\)](#)

## X. REDACTION OF PUBLIC RECORDS

“**Redaction**” means obscuring or deleting from a record any information that is exempt from the duty to permit public inspection or copying. The Operations Coordinator shall make any redaction plainly visible. A redaction is a denial of a request to inspect or copy the redacted information, unless Federal or Ohio law authorizes or requires the redaction.

[O.R.C. § 149.43\(A\)\(11\) & \(B\)\(1\)](#)

## XI. DENIAL OF RECORDS

If a public records request is denied, the denial must include an explanation, **including legal authority**, setting forth why the request was denied. All request denials shall be in writing.

[O.R.C. § 149.43\(B\)\(3\)](#)

## XII. ELECTRONIC MAIL (E-MAIL) & SOCIAL MEDIA AS A PUBLIC RECORD

### **SOCIAL MEDIA**

At this time, the SAMWA COG does not maintain a social media presence. Past social media pages for the OhioMeansJobs Medina County Center and the OhioMeansJobs Summit County Center are archived electronically and available upon request.

If and when the SAMWA COG establishes a social media presence, any content maintained in a social media format related to the SAMWA COG’s business, including a list of subscribers and posted communication, is a public record. If social media sites are created, they shall clearly indicate that any content posted or submitted for posting is subject to public disclosure.

### **E-MAILS**

Documents in e-mail form are public records when their content relates to the business of the office. Electronic mail is to be treated in the same fashion as records in other formats and should follow the same retention schedules. The **content** of an e-mail shall determine the retention period which applies the e-mail.

An e-mail is not considered a public record when the content of the e-mail does not serve to document the organization, functions, policies, procedures or other activities of the public office. This applies even if the e-mail was created by public employees on a public office’s e-mail system.

[O.R.C. § 149.011\(G\)](#)

[O.R.C. § 1306.01\(G\)](#)

[\*State ex rel. Wilson-Simmons v. Lake County Sheriff's Dept. \(1998\), 82 Ohio St.3d 37\*](#)

## XIII. FAILURE TO RESPOND TO A PUBLIC RECORDS REQUEST

The failure to respond to a public records request may lead to legal consequences. If a requester feels that they have been improperly denied public records due to the inability to inspect or to receive a copy of a record, the requester shall be advised that they may contact the Summit County Department of Law, Insurance and Risk Management.



If after contacting the Summit County Department of Law, Insurance and Risk Management, the requester is still not satisfied, they shall be advised that the Ohio Revised Code provides a legal means for addressing their Complaint.

**Any person may file a civil action for injunctive relief and/or a civil action to recover a forfeiture of \$1,000 per page for each violation of the Public Records law.**

[SAMWA COG Resolution 2018-06](#)  
[O.R.C. § 149.43\(C\)\(1\), \(2\)\(a\) & \(b\)](#)

#### **XIV. SUBPOENA DUCES TECUM NOT A PUBLIC RECORDS REQUEST**

A court subpoena duces tecum is **NOT** a public records requests. Pursuant with its Agreement with the SAMWA COG, when a subpoena duces tecum is received, the Summit County Department of Law, Insurance and Risk Management must be notified immediately. All communication with an outside attorney and/or court shall be made by the Summit County Department of Law, Insurance and Risk Management.

[SAMWA COG Resolution 2018-06](#)

#### **XV. RECORD REQUESTS SUBMITTED BY INCARCERATED PERSONS**

Under Ohio law, an incarcerated person may receive public records. However, if the inmate requests public records concerning a criminal investigation or prosecution, the incarcerated person must have secured a finding from the Judge who imposed the sentence of incarceration (or that Judge's successor) that the information sought in the public record is necessary to support a justifiable claim of the person.

[O.R.C. § 149.43\(B\)\(8\)](#)

#### **XVI. RECORD RETENTION SECHEDULES (RC-2s)**

The SAMWA COG is responsible for providing rules for retention and disposal of its records, including records related to the business of the SAMWA COG Board, the WDB, Area 2 Staff, OhioMeansJobs Centers, and Workforce Innovation and Opportunity Act providers. The SAMWA COG shall set and follow the Record Retention Schedule (RC-2) as approved by the WDB and SAMWA COG Board. The approved RC-2 shall never use abbreviations, acronyms and/or jargon to identify the records to which the RC-2 applies.

The SAMWA COG shall periodically review its RC-2 to ensure it is up-to-date. With the approval of the WDB or SAMWA COG Board, previously approved RC-2 schedules may be revised.

The SAMWA COG shall make copies of the RC-2 available at public locations including **The SAMWA COG's Administrative Offices** (191 S. Main Street, Akron, OH 44308), **The OhioMeansJobs Medina County Center** and **The OhioMeansJobs Summit County Center**.

[O.R.C. § 149.38\(A\)\(B\)](#)  
[O.R.C. § 149.43\(B\)\(2\)](#)

## **XVII. DISPOSAL OF OR DAMAGE TO RECORDS**

All records are the property of the SAMWA COG and shall not be removed, destroyed, mutilated, transferred, or otherwise damaged or disposed of, in whole or in part, except as provided by law or under the rules adopted by the WDB and/or the SAMWA COG Board.

[O.R.C. § 149.412\(A\) & B](#)

## **XVIII. AUDIT OF PUBLIC OFFICE**

The Auditor of State will audit the public office for compliance of the following:

1. Public records policy provisions;
2. Poster requirement;
3. Training of records custodians;
4. Acknowledgments, and;
5. Public access to the records retention schedules of each public office.

[O.R.C. § 109.43\(G\)](#)

[O.R.C. § 149.43\(E\)](#)