

**DELAWARE COUNTY COMMON PLEAS COURT
PUBLIC RECORDS POLICY**

I. Introduction and Scope:

This Delaware County Common Pleas Court Public Records Policy (“Policy”) applies when any person, including any corporation, individual, or governmental agency, seeks to obtain copies of Court Records from the Delaware County Common Pleas Court, General Division or Domestic Relations Division (“Court”) or the Legal Division of the Delaware County Clerk of Courts (“Clerk”). This policy is consistent with Rules 44 through 47 of the Rules of Superintendence for the Courts of Ohio and will be applied in compliance with such Rules and/or other applicable law.

II. Presumption of Public Access:

Court records are presumed open to public access. Sup.R. 45(A).

III. Definitions:

- A. Administrative Document: means a document and information in a document created, received, or maintained by a court that serves to record the administrative, fiscal, personnel, or management functions, policies, decisions, procedures, operations, organization, or other activities of the court, subject to the exclusions in Sup.R. 44(G)(2).
- B. Case Document: means a document and information in a document submitted to a court or filed with a clerk of court in a judicial action or proceeding, including exhibits, pleadings, motions, orders, and judgments, and any documentation prepared by the court or clerk in the judicial action or proceeding, such as journals, dockets, and indices, subject to the exclusions in Sup.R. 44(C)(2).
- C. Court Record: means both a Case Document and an Administrative Document, regardless of physical form or characteristic, manner of creation, or method of storage.
- D. Direct Access: means the ability of any person to inspect and obtain a copy of a Court Record at all reasonable times during regular business hours at the place where the record is made available.

IV. Internal Procedure:

- A. The Clerk and each division of the Court will designate and maintain a designated employee who will serve as the records custodian or records manager of all Court Records maintained by that office.

- B. Each such records custodian or records manager will be provided a copy of this Policy, will acknowledge receipt of this Policy in writing, and will be responsible for knowing and being familiar with its contents. (R.C. § 149.43(E)(2)).
- C. The Clerk and Court may post this Policy on their respective internet web sites. (R.C. § 149.43(E)(2)).
- D. This Policy will be provided to all Clerk and Court employees. Each employee will acknowledge receipt of this Policy in writing.
- E. Any manual or handbook of the Clerk's or Court's general policies and procedures for all employees will include a copy of this Policy. (R.C. § 149.43(E)(2)).
- F. The Clerk and Court will create a poster that describes this Policy and will post the poster in a conspicuous place in their respective offices and in all locations where the Clerk or Court have branch offices. (R.C. § 149.43(E)(2)).

V. Fees and Costs:

- A. Unless a different fee is required by law, in accordance with Sup.R. 45(B)(4) the following fee schedule is established for providing copies or reproductions of public records:

Media Type	Unit	Cost Per Unit
Letter or Legal Sized Paper Copy (Single/Double Side)	Page	\$0.10
Letter or Legal Sized Color Paper Copy (Single/Double Side)	Page	\$0.20
Certified Paper Copy	Page	\$1.00
Microfiche	Fiche	\$0.50
Film Duplication	16mm Roll	\$15.00
Film Duplication	35mm Roll	\$20.00
Audio Cassette Tape	Tape	\$1.00
Video Cassette Tape	Tape	\$2.50
CD 700 MB	Disk	\$1.00
DVD 4.7 GB	Disk	\$1.00
DVD 8.5 GB	Disk	\$2.00
Email Documents	N/A	Copies Generated in Redaction Process - See Cost Per Unit Above

- B. The above fee schedule will be clearly posted and visible to the public at

all locations authorized to provide copies of Court Records.

- C. Advance payment is required before any copies are prepared.
- D. The Court and Clerk will charge the actual cost of material for media not listed in the above fee schedule.
- E. If records are to be mailed by regular mail or delivered by courier service, the Court or Clerk will charge the actual cost of mailing or delivery.
- F. No cost will be charged for electronic transmission (i.e. email) of records.

VI. Availability/Inspection:

- A. The Clerk and each division of the Court shall make a Court Record available by Direct Access during regular business hours, with the exception of legal holidays, promptly acknowledge any person's request for direct access, and respond to the request within a reasonable amount of time. Sup.R. 45(B)(1).
- B. Except for a request for bulk distribution pursuant to Sup.R. 46, the Clerk or Court shall permit a requestor to have a Court Record or public record duplicated upon paper, upon the same medium upon which the Clerk or Court keeps it, or upon any other medium the Clerk or Court determines it can be reasonably duplicated as an integral part of its normal operations. Sup.R. 45(B)(2).
- C. The Clerk or Court shall mail, transmit, or deliver copies of a requested Court Record to the requestor within a reasonable time from the request. Sup.R. 45(B)(3).
- D. Copies or reproductions of the requested record will be made available at cost (see above fee schedule). If records are to be mailed by regular mail or delivered by courier service, the Court or Clerk will charge the actual cost of mailing or delivery. The Clerk or Court may require a deposit of these estimated actual costs. Sup.R. 45(B)(4).
- E. "Reasonable," as used above in connection with the preparation and production of the requested records, is to be determined by the facts and circumstances of each public records request and take into account the following:
 - 1. The opportunity/need for legal review,
 - 2. The volume of the records requested, and,
 - 3. The proximity of the location where the records are stored.

VII. Requests for Public Records:

- A. Any person, including corporations, individuals, and 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.
- B. No specific language is required to make a request for public records. The requestor must, however, identify the records requested with sufficient clarity to allow the Clerk or Court to identify, retrieve, and review the records.
- C. If it is not clear what records are being sought, the records custodian or records manager will contact the requestor for clarification and should inform the requestor of the manner in which the office keeps its records.
- D. The requestor may be asked, but the requestor does not have to:
 - 1. Put a records request in writing,
 - 2. Provide his or her identity, or
 - 3. The intended use of the requested public record.

If the requestor is asked for any of this information, he or she will first be advised:

- 1. A written request is not mandatory,
 - 2. The requestor does not have to answer any of these questions,
 - 3. When a written request or disclosure of the identity or intended use would benefit the requestor by enhancing the ability of the Clerk or Court to identify, locate, or deliver the public records; and
 - 4. The requestor's refusal to provide any of this information does not impair the requestor's right to inspect and/or receive copies of the requested public records. (R.C. § 149.43(B)(5)).
- E. For the purpose of enhancing the ability of the Court to identify and provide for prompt inspection and/or copies of the requested records in a reasonable period of time, the requestor may be provided with Form 1 for the requestor to complete. In providing Form 1 to the requestor, the requestor will be informed:
 - 1. The requestor does not have to complete the form, and,
 - 2. The requestor's refusal to complete or provide any and/or all information on the form does not impair the requestor's right to inspect and/or receive copies of the requested public records. (R.C. § 149.43(B)(5)).

VIII. Response/Release:

- A. Requests for public records will be processed the same regardless of the means by which the request was made.
- B. Requests for records that are capable of being satisfied immediately and about which there are no issues concerning release should be satisfied immediately.
- C. Requests for public records that are not capable of being satisfied immediately will be dealt with as follows:

1. Voluminous/Copying or Reproduction Time Required Request:

- a. Each such request for public records should be evaluated for the estimated number of copies required to satisfy the request and/or an estimated length of time required to gather the records.
- b. The requestor will be informed of the estimated length of time required to respond.
- c. The requestor will be informed of the estimated total fee/cost associated with copying or reproducing and delivery of the record(s), the requirement of any deposit, and that such estimated total cost must be paid in full prior to the record(s) being copied or reproduced.
- d. The requestor will be informed that any difference between the total estimated cost and the total actual cost must be settled either by the Court or Clerk re-paying any overage or, prior to the delivery of the records, the requestor paying any deficit.
- e. The requestor will be informed of any items within the request that are redacted or withheld, including legal authority supporting the redaction or withholding.
- f. If the request is made verbally the above information will be provided to the requestor either verbally or in writing. If the request is made in writing, the requestor will be informed of the above information in writing.
- g. All such information as required above will be provided to the requestor in a reasonable timeframe after receiving the request.
- h. Considering the volume of records requested, the requested records should be made available to the requestor within a reasonable period of time.

2. Legal Issue Concerning Release:

- a. In the event a request for public records is made to inspect and/or obtain a copy of a record whose release may be prohibited or exempted by either state or federal law, the request must be forwarded to legal counsel (Delaware County Prosecuting Attorney), the judge, or court administrator for research and/or review.
- b. The person submitting the request will be advised that their request is being reviewed to ensure that protected and/or exempted information is not improperly released. If the request is made verbally this information will be provided to the requestor either verbally or in writing. If the request is made in writing, the requestor will be informed in writing.
- c. If after review, it is determined that the record will be released, refer to the procedures in subsection VIII(B) above.
- d. If after review, it is determined that the record will NOT be released, refer to Section X.

D. Copied records may be forwarded to the requestor by any means reasonably acceptable to the requestor.

E. Records, whose release is prohibited or exempted by either state or federal law, or not considered a Court Record as defined in Sup.R. 44(B) or a public record as defined by R.C. § 149.43(A)(1) (also see “record” defined in R.C. § 149.011(G)), shall NOT be subject to public inspection. Refer to Section X.

IX. Medium:

A. Pursuant to Sup. R. 45(B)(2), the Court or Clerk shall permit a requestor to have a Court Record or public record duplicated upon paper, upon the same medium upon which the Court or Clerk keeps it, or upon any other medium the Court or Clerk determines it can be reasonably duplicated as an integral part of its normal operations.

B. Persons seeking copies of Court Records or public records are not permitted to:

1. Make their own copies of the requested records regardless of means or media. (R.C. 149.43(B)(6)); or,
2. If electronic copies on a CD, DVD, thumb drive, or similar portable electronic media are requested, supply their own electronic media for the records to be placed on. No outside portable electronic media shall be placed in or connected to Delaware County computers without the prior approval of the IT Department.

X. Response/Denial

A. No Record Responsive to the Request (Records Not Maintained by the Office Where the Request is Made)

1. The requested records have never been maintained by the office where the request is made,
2. The requested records are no longer maintained or have been disposed of or transferred pursuant to applicable Schedules of Record Retention and Disposition (RC-2),
3. The requested record is a record that has been disposed of pursuant to an Application of the One-Time Records Disposal (RC-1) or Certificate of Records Disposal (RC-3),
4. The requested record is not a record used or maintained by the office where the request is made. In such case, the requestor will be notified that in accordance with R.C. § 149.40, that there is no requirement to create records to meet public record requests.

B. Ambiguous or Overly Broad Request for Public Records (R.C. § 149.43(B)(2))

1. 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 Court or Clerk cannot reasonably identify what Court Records or public records are being requested:
 - a. The request may be denied.
 - b. However, the requestor must be provided with an opportunity to revise the request. In such case, the records custodian/records manager will inform the requestor of the manner in which records are maintained by the office and accessed in the ordinary course of the office's or records custodian's/ record manager's duties.

C. Denial of the Public Records Request

1. The request for a record, Court Record, or public record maintained by the office where the request is made may be denied if the record that is requested is not required to be released or is prohibited from release due to applicable state or federal law.
 - a. Any denial of public records requested must include an explanation, including legal authority.
 - b. If portions of a record are public and portions are exempt, the exempt portions are to be redacted and the rest released. If there are redactions, each redaction must be made plainly visible and accompanied by a supporting

explanation, including legal authority. (R.C. § 149.43(B)(1) and (3)).

- c. Employees must consult legal counsel if they are unsure of whether the record requested should be withheld from disclosure.
2. As governed by R.C. § 149.43(B)(3), if a request is ultimately denied, in whole or in part, the requestor will be provided with an explanation, including legal authority, setting forth why the request was denied.
3. If the initial request was provided in writing then the explanation will also be provided in writing.
4. The explanation will not preclude the Court from relying upon additional reasons or legal authority in defending an action commenced pursuant to Sup R. 47 or R.C. § 149.43.

D. Redaction/Procedure

1. Definition and Effect of a Redaction

- 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 R.C. § 149.011. (R.C. § 149.43(A)(13)).
- b. A redaction will 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. Redaction Procedure

- a. If a public record contains certain information that is exempt from the duty to permit public inspection or to copy the public record, the information within the public record that is exempt will be redacted and that information in the record which is not exempt will be made available.
- b. Where a redaction is to be made, the records custodian or records manager may make redactions to a hardcopy (i.e. physical copy) of the record or electronically to an electronic version of the record. If the redaction is to be made to a hardcopy, the page where the redaction is to be made shall be copied. The redaction will be made on the

copied page. The copied page will then be re-copied with the redactions. The resulting copy will be the page that is released to the requestor. If the redaction is to be made to an electronic version of the record, the redaction will only be made in a re-saved version using software capable of permanent redaction. The resulting redacted version of the record will be released to the requestor.

- c. The first reproduction page with the original redactions made by the employee will be maintained in accordance with the retention period established for the original document.
- d. When making that public record available for public inspection or copying, the records custodian or records manager will notify the requestor of any and all redactions and/or make any and all redactions plainly visible. (R.C. § 149.43(B)(1)).
- e. As governed by R.C. § 149.43(B)(3), if a request is ultimately denied, in whole or in part, including redactions, the requestor will be provided with an explanation, including legal authority, setting forth why the request was denied.
- f. If the initial request was provided in writing then the explanation will also be provided in writing. (R.C. § 149.43(B)(3)).
- g. The explanation will not preclude the Court from relying upon additional reasons or legal authority in defending an action commenced pursuant to Sup. R. 47 or R.C. § 149.43. (R.C. § 149.43(B)(3)).

XI. Special Provisions Related to Email

Documents in electronic mail format are Court Records and/or records as defined by the Rules of Superintendence for the Courts of Ohio and the Ohio Revised Code when their content relates to the business of the office. Email will be treated in the same fashion as records in any other format and should follow the same retention schedules.

- A. Court Records and records in private email accounts used to conduct public business are subject to disclosure, and all employees or representatives of the Court and Clerk are instructed to retain their emails that relate to public business and to copy them to their business email accounts and/or to the office's records

custodian/records manager.

- B. The records custodian/records manager is to treat the emails from private accounts as records of the public office, filing them in the appropriate way, retaining them per established schedules and making them available for inspection and copying in accordance with the Rules of Superintendence for the Courts of Ohio and the Public Records Act.

XII. Grievances

- A. If a person is allegedly aggrieved due to the inability to inspect a Court Record/public record or due to the inability to receive a copy of the Court Record/public record, the person will be advised that they may contact the Court Administrator of the Court where the request was made or the First Deputy Clerk.
- B. If the person is not satisfied after contacting the Court Administrator or the First Deputy Clerk, they will be advised that Sup.R. 47 or R.C. § 149.43 provides a legal means for addressing their complaint in these disputes. (Sup.R. 47(B) and R.C. 149.43(C)).



DELAWARE COUNTY COMMON PLEAS COURT
DELAWARE COUNTY CLERK OF COURTS
PUBLIC RECORDS REQUEST FORM

IMPORTANT:

COMPLETION OF THIS FORM IS NOT MANDATORY. YOUR REFUSAL TO COMPLETE OR PROVIDE ANY AND/OR ALL INFORMATION ON THIS FORM WILL NOT AFFECT YOUR RIGHT AND/OR ABILITY TO INSPECT AND/OR RECEIVE COPIES OR REPRODUCTIONS OF THE REQUESTED RECORDS. (R.C. § 149.43(B)(5)).

IF YOU COMPLETE THIS FORM, IT WILL HELP US TO BETTER AND MORE EFFECTIVELY SERVE YOU IN PROVIDING YOU WITH THE RECORDS YOU ARE REQUESTING.

1. GENERAL INFORMATION: (Please Print.)

Today's Date	
Name	
Street Address	
City	
State	
Zip Code	
Telephone Number	
Email Address	

2. INFORMATION ON RECORD REQUESTED: (Please Print.)

With as much specificity as possible, please describe what records you are requesting. (Use the back or attach other sheets as needed.)

3. INSPECTION OF RECORD: (Check your preference below.)

There is no charge to inspect public records while in the Court’s or Clerk’s office where the records are kept. The Court and Clerk have adopted and provide photocopies and reproductions of public records in accordance with the Fee Schedule and Policy Regarding Fees for Copies and Reproductions of Public Records.

<input type="checkbox"/>	I would like to inspect these records in the office when they are ready.
<input type="checkbox"/>	I would like these records copied/reproduced and I will pick them up when they are ready.
<input type="checkbox"/>	I would like these records copied and mailed to me at the address on this form.

4. MEDIUM:

Preferred Medium (i.e. paper, email (pdf or locked format only), CD-ROM, etc. . . .) for Copy/Reproduction. ¹	
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¹ Medium is limited by the determination of the records custodian/records manager as to the types of media upon which the record can reasonably be duplicated as an integral part of the normal operations of the public office or records custodian/records manager.