

## **IPP. 8101.Requests for Public Records**

October 26, 2021 - Reviewed

January 25, 2019 - Revised

February 14, 2003 - Original

### **I. PURPOSE/REASON:**

- A. To inform Ohio Department of Job and Family Services (ODJFS) employees of the procedures for responding to requests for public records.
- B. Ohio's public records laws require that ODJFS make available to the public any records created and maintained in the ordinary course of business, unless specifically exempted by state or federal law. The Public Records Act is intended to keep citizens better informed, which in turn is intended to foster better government and public policy.

Note: Individuals who are denied all or portions of records must be informed of the legal basis for that denial or redaction. If the request is in writing, the explanation of the denial or redaction must also be in writing. See section VI. D. for additional details.

### **II. REFERENCES/AUTHORITY:**

#### **A. REFERENCES**

*Note: Ohio Revised Code (ORC) and Ohio Administrative Code (OAC) references can be accessed at <http://codes.ohio.gov/>*

- 1. ORC Chapter 149 and Chapter 1347
- 2. ORC 5101.02
- 3. ORC 5101.13 et seq., 5101.99, 5164.756
- 4. ORC 3107.17, 3107.99
- 5. ORC 3121.898, 3121.899, 3121.99, 3125.08, 3125.50 and 3125.99
- 6. ORC 4141.162, 4141.21, 4141.22 and 4141.99
- 7. OAC 5101:1-1-03
- 8. OAC 5160-1-32, 5160:1-1-04
- 9. OAC 5101:9-22-15

10. OAC 4141-43-01 et seq.
11. 7 USC 2020(e)(8), 7 CFR 272.1 (c), and OAC 5101:4-1-13
12. 42 CFR 431 Subpart E; and, 45 CFR Parts 160 and 164
13. 45 CFR 205.50

**B. AUTHORITY**

1. This policy is established by order of the Director, ODJFS, hereinafter referred to as Director.
2. Per ORC 5101.02, all duties conferred on the various work units of the department by law or by order of the Director shall be performed under such rules as the Director prescribes and shall be under the Director's control.
3. This policy is also established pursuant to ORC 149.43 (E) (1), which requires each public office to adopt a public records policy for responding to public records requests.

**III. SUPERSEDES:**

ODJFS IPP 8101 dated January 26, 2011

**IV. SCOPE:**

This procedure applies to all ODJFS employees and offices handling records.

**V. DEFINITIONS:**

- A. **RECORD:** Any document, device, or item, regardless of physical form or characteristic, created or received by or coming under the jurisdiction of ODJFS, serving to document the organization, functions, policies, decisions, procedures, operations, or other activities of ODJFS. This means that records can be in the form of electronically maintained data, including e-mail and scanned documents.
- B. **PUBLIC RECORD:** Any record kept by ODJFS, unless the record or a portion thereof is exempted from release by the provisions in ORC Section 149.43, or another state or federal law. In addition, certain records, or portions thereof, are made expressly confidential by state or federal law. If a record is neither exempt from disclosure nor made expressly confidential by law, then it must be made available for inspection or copying—whichever the requester chooses—within a reasonable time after the request is made. If a portion of a public record is confidential or exempt, only that portion may be redacted (blocked out with a black marker or electronic redaction software, so that it is illegible) from the

record. Ohio law requires that the remainder of the record be disclosed in response to a proper public records request. Failure to release a public record can result in court action and an order compelling ODJFS to release the record, as well as to pay court costs, attorney's fees, and/or statutory damages to the requester.

**C. RECORDS THAT ARE NOT PUBLIC RECORDS**

1. ORC 149.43 provides that certain records are exempt from treatment as public records. Appendix B contains a list of many of those exempt records. Exempt records are not required to be released to the public, but are also not prohibited from being released to the public. It is within the public offices' discretion whether or not to release exempt records.
2. ORC 149.43 provides that records designated as confidential or precluded from release by state or federal law are not public records. Such "confidential" records include public assistance recipient data (ORC 5101.27), unemployment compensation claim data (ORC 4141.21), child support obligor and obligee information (ORC 3125.50), and adoption records (ORC 3107.17).
3. Some records that are listed as exempt under ORC 149.43(A) are also made confidential by other statutes. Once a record is made confidential, the public office no longer has discretion to release that record to the general public. Release of confidential records must be made in accordance with federal and state laws and regulations.
4. "Personal information" is defined in ORC 149.45(A) as an individual's social security number; state or federal tax identification number; driver's license number or state identification number; checking or savings account number; debit or credit card number; or money market, mutual fund account, or other financial or medical account number.

**VI. POLICY/PROCEDURES APPLICABLE TO ALL OFFICES:**

**A. PUBLIC RECORDS MANAGERS/LIAISONS**

1. Each ODJFS office that creates/maintains public records shall appoint a primary and secondary public records manager/liaison to ensure that public records are located, gathered, reviewed, redacted, and provided in a timely manner. Since some ODJFS offices are much larger than others and require the use of bureaus, sections, and other subdivisions in order to adequately manage that office's functions, these offices may, at their Deputy Director's discretion and with the approval of the Office of Legal and Acquisition Services (hereafter also "Legal Services"), designate more

than one set (a set being one primary and one secondary) of public records managers/liaisons.

2. Each ODJFS office shall provide the names of the primary and secondary public records managers/liaisons to Legal Services.
3. Whenever any office within ODJFS receives a subpoena or court order for records, the subpoena or court order must be submitted immediately to Legal Services, which will coordinate and monitor any necessary actions in order to ensure timely responses to subpoenas and court orders. Legal Services will work with the public records manager/liaison in the office that creates/maintains the records to determine what records exist that would be responsive to the request and to determine what records can be released.
4. Records requests that do not come in the form of a subpoena or court order shall be submitted to the public records manager/liaison of the office that creates/maintains the records being requested. If the records are maintained by more than one office, then the affected offices shall work together and designate one public records manager/liaison to serve as a single point of contact for the party making the records request. In certain circumstances, including but not limited to instances when the records request is sent by a law firm or attorney, the Office of Legal and Acquisition Services may serve as the single point of contact. Designation of the point(s) of contact shall be made on a case-by-case basis after internal discussion and, when needed, with the assistance of the Office of Legal and Acquisition Services. See also SECTION VII for handling media, legislative, personnel, and other routine records requests.
5. Each office shall periodically review and update the portion of the Department's records retention schedules that apply to that office and ensure that the updated version is made available to the public.

**B. RECORDS MAINTENANCE AND RESPONDING TO REQUESTS FOR PUBLIC RECORDS**

1. ORC 149.43(B) requires ODJFS to make public records available to any person requesting the records. Public records must be made available for inspection or copying, whichever the requester chooses.
2. ODJFS offices must organize and maintain public records in a manner that the public records can be made available for inspection or copying in accordance with this procedure. All questions regarding proper records maintenance procedures must be directed to the Records Management Section of the Office of Employee and Business Services.

3. An office may direct the requester to the ODJFS internet site if the record is available online. However, if the requester declines accessing the record online, the office that maintains the record is required to provide the record via paper or, if feasible and available, other record-keeping medium routinely utilized by that office. Any costs associated with the medium in which the record is delivered or made available to the requester can usually be charged to the requester (i.e. cost of compact disc or paper copies).
4. If a records request is ambiguous or overly broad, or the ODJFS office responding to the request cannot reasonably identify what records are being sought, the office may deny the request but must also give the requester an opportunity to revise/clarify the request by informing the requester of the manner in which the records are maintained and accessed by that office.
5. If a request is made for what is clearly considered a public record, then the requesting party need not provide his/her/its request in writing, or identify himself/herself/itself, or specify the intended use of the records. However, after first explaining to the requester that he/she/it does not need to (1) make the request in writing, (2) identify himself/herself/itself, or (3) specify the intended use of the information being requested, the ODJFS office responding to the request may ask for all three of the aforementioned items, as long as the office also conveys to the requester that having the aforementioned three pieces of information may enhance ODJFS's ability to identify, locate, and deliver the requested records.

#### C. SAFEGUARDING CLIENT CONFIDENTIALITY

1. ODJFS employees must be alert to issues regarding confidentiality to ensure that information precluded from release by state or federal law is not released.
2. The ODJFS office or employee must first determine if the requested records are confidential or otherwise precluded from release pursuant to federal/state confidentiality laws and rules. See ODJFS's Public Records and Confidentiality Laws e-manual for a detailed list of applicable laws and regulations.
3. Legal Services regularly updates the ODJFS Public Records and Confidentiality Laws manual, which can be found online at the eManuals website and provides information regarding public and confidential records. ODJFS offices may use that manual as a reference but should contact Legal Services whenever there is doubt concerning the confidentiality of information held by ODJFS.

4. If a request is received for data that is expressly made confidential by state or federal law, then the identity of the requesting party must be verified (i.e. written request with requester's signature, and legible copy of requester's driver's license, or requester's attorney's written request on attorney letterhead, signed by the attorney, along with a release authorization from the client) prior to release. With confidential data, in many instances the intended use of the records is also relevant and must also be ascertained prior to any release.
5. In addition, other than to the subject of the information, or pursuant to a court order or release authorization from the subject of the information, any personal information (as defined in Section V.C. above) maintained by ODJFS must be redacted or withheld from any records that are disclosed in response to a records request. Particular care must be taken to redact or withhold an individual's social security number, driver's license number, and financial account information.

D. DENYING ACCESS TO OR COPIES OF RECORDS

1. Records requests that are submitted in writing must be denied in writing. Verbal requests need not be denied in writing.
2. ODJFS employees may deny access to or copies of records only when permitted by state or federal law.
3. When a portion of the record is confidential, the ODJFS employee is required to redact the confidential information and make the remaining portion of the record available for public inspection and duplication. All redactions must be made plainly visible, meaning that it must be clear **where** any redaction has been made (via use of a black marker or its electronic equivalent), but **not what** precisely has been redacted.
4. Any denial of access to, or copies of, public records requires prior approval of Legal Services. When an ODJFS employee believes a request for access to or copies of records should be denied because of provisions in state or federal law, the employee must contact Legal Services with a written description of the requested records and a specific explanation of the reasons for denying access to or copies of records. If Legal Services' approval for redacting or withholding information or records has been requested and obtained in one instance, approval from Legal Services for each and every similar or identical subsequent request is not required, absent a change in law, regulation, policy or circumstances since the time of Legal Services' prior approval. However, an ODJFS

employee may always request assistance and approval from Legal Services, even when it is not required.

5. The ODJFS employee must tell the requester if information has been redacted from the record if the redaction is not obvious from the appearance of the record.
6. If the request has been denied, or if redactions have been made, the ODJFS employee must tell the requester the reason or reasons, including legal authority, for the denial or redaction. If the requester's original request was in writing, the reason or reasons for the denial or redaction must also be issued in writing. Whenever the program area or office is unclear about the legal authority for denial or redaction of records, Legal Services will assist in identifying that legal authority.
7. Unless specifically authorized by state or federal law, ODJFS offices cannot deny a person access to public records even if the person refuses to disclose his or her name.

E. REQUESTS FOR ACCESS TO INSPECT PUBLIC RECORDS;  
DOCUMENTATION

1. In response to a request for access to public records, ODJFS is required to promptly prepare and make available for inspection to any person at all reasonable times during regular business hours all public records that are responsive to the request.
2. In order to help track public records requests, the ODJFS office that maintains the record(s) may, to the extent possible, document the following:
  - a. The name of the person requesting the record inspection, if available (note that for public records as defined heretofore, the requester is not required to identify herself);
  - b. whether the request was made in writing, and if so, the method of delivery (e.g., hand-delivered, certified mail, electronic mail, etc.);
  - c. a description of records requested;
  - d. the request date; and
  - e. the date records were either made available for inspection or that access was denied.

3. Each office must establish procedures to ensure that the security of all records is maintained during public inspection. Without the approval of the Office of Legal and Acquisition Services, original records cannot be removed from the department.
4. If the person requesting access to inspect public records requests copies of any or all such records, the ODJFS employee must follow the procedure for requests for copies of public records outlined below.

F. REQUESTS FOR COPIES OF PUBLIC RECORDS;  
DOCUMENTATION; COSTS

1. ODJFS is required to provide copies of public records or those portions of records containing public record information within a reasonable time of the request for copies. Reasonableness depends on the volume of documents requested, their location, and the necessity for any review, redaction or legal analysis. The requester may specify that the copies be made on paper, in the medium upon which the record is kept, or upon any other medium the office determines the record can reasonably be duplicated as an integral part of the offices' normal operations.
2. A request for public records may be written or oral. Due to the detail of the information requested or due to a high volume of requests, ODJFS offices may ask individuals to submit their requests in writing to enable ODJFS to respond expeditiously, but the office must make clear to requesters that their requests are not required to be in writing. ODJFS cannot refuse to supply public records solely on the basis that the request was made verbally, rather than in writing.
3. If the ODJFS office responsible for maintaining a record receives a records request from an individual or entity for more than ten records in one month, the number of records that the office will transmit by United States mail to the requesting party may be limited to ten per month, unless the requesting party certifies to the office in writing that he/she/it does not intend to use or forward the requested records, or the information contained in them, for commercial purposes. The concept of 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.

4. In order to help track public records requests, ODJFS offices providing copies of public records may, to the extent possible, document the following: the name of the requester, if available, the request date, whether the request was made in writing, and if so, the method of delivery (e.g., hand-delivered, certified mail, electronic mail, etc.), records description, and date the records were provided or denied.
5. ODJFS may charge the requesting party the cost of providing copies as follows:
  - a. charges for photocopies of paper records are five cents per page plus (1) postage and packaging expenses if the copies are mailed by United States mail, or (2) the cost of transmission if the copies are transmitted by other than United States mail (e.g., FedEx);
  - b. charges for computer records, including the actual time charges for online computer access and any other actual costs excluding staff time; or
  - c. if the records or information are provided using another type of medium, charges for actual costs of the copying excluding staff time.
6. Charges for costs may be waived at the discretion of a Deputy Director. Some factors in determining whether to waive cost include the ability of the requester to pay, public interest in receiving the records, and ease of providing the records.
7. Although state statute allows ODJFS to obtain payment in advance for the anticipated cost of copying, storing and transmitting records (i.e. \$.05 per page or the cost of a compact disc), any ODJFS office that is considering assessing such a cost should consult with Legal Services beforehand.
8. Each office must establish procedures to collect charges for the provided copies, including invoicing procedures for payment of such charges after distribution of the records.
9. Each office must follow guidelines established by the Office of Fiscal Services regarding the receipt of cash and checks.

## **VII. ROUTINE REQUESTS FOR SPECIFIC TYPES OF RECORDS:**

A. Certain ODJFS offices provide specific types of records or obtain records for specified persons as a function of that office (see Sections VII – B through VII – D).

1. Each office providing records is responsible for compliance with all rules and laws relating to client confidentiality and the exemptions contained in this procedure.
2. Offices must comply with the provisions regarding denial of access to the records and with charging the requesting party for any copies of the records.

### **B. MEDIA AND LEGISLATIVE REQUESTS FOR PUBLIC RECORDS**

1. Requests for access to and/or copies of public records made by the news media are immediately referred to the ODJFS Office of Communications, which is responsible for obtaining the records from the appropriate ODJFS office and providing access and/or copies to the media person making the request while maintaining the confidentiality of any information or records that are prohibited from disclosure to the general public under federal or state law.
2. Requests for access to and/or copies of public records made by legislators are referred to the ODJFS Office of Legislation, which is responsible for obtaining the records from the appropriate ODJFS office and providing access and/or copies to the legislative person making the request while maintaining the confidentiality of any information or records that are prohibited from disclosure to the general public under federal or state law.
3. If there are any questions concerning the release of any information contained in a record, the Office of Communications or Legislation, along with the appropriate ODJFS program or support office, shall consult with the Office of Legal and Acquisition Services prior to release.
4. The Offices of Communications and Legislation may waive copying charges for legislators, other governmental agencies, and the media.

### **C. REQUESTS FOR PERSONNEL RECORDS**

1. All requests for access to and/or copies of personnel records are referred to the ODJFS Office of Employee and Business Services, which is responsible for responding promptly to the requests.

2. Prior to the release of any documents, the Office of Employee and Business Services determines whether the item requested is a public record. The Office of Employee and Business Services will also determine whether any non-public portions of the personnel file may be accessed by the ODJFS employee who is the subject of the information.
3. Social security numbers, home addresses, driver's license numbers, financial account information, and other personal information contained in personnel files must not be released to third parties and should be redacted prior to release as a public record.
4. Should there be any question concerning the release of any information contained in a personnel file, the Office of Employee and Business Services shall consult with the Office of Legal and Acquisition Services prior to release.
5. ODJFS employees making public records requests to ODJFS should not do so using a work email address. All documents requested to be provided electronically will only be provided to ODJFS employees at a personal email address. Hard copy documents will only be provided to a home address or a private individual's post office box.

**D. CHILD DAY-CARE-LICENSING REPORTS**

1. All requests for records of child day-care-licensing activities are referred to the ODJFS Child Day-Care-Licensing Section, which provides records to the person making the request.
2. The Child Day-Care-Licensing Section may make public records available without charge.

**VIII. APPENDIXES:**

**A. SUBJECT MATTER EXPERT**

<b>Owning Entity</b>	<b>Address</b>	<b>Name (SME)</b>	<b>Contact Information</b>
OLAS	30 E. Broad St. 31st Floor	Ramesh Thambuswamy or staff attorney responsible for program area	614-466-4605 legal@jfs.ohio.gov

	Columbus, Ohio 43215		
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- B. List of Certain Records that are not Public Records per ORC 149.43  
[IPP 8101 Appendix B List of Certain Records that are not Public Records per ORC 149.43.pdf](#)
- C. Sample Log Sheet, JFS 07999  
<https://innerapp.odjfs.state.oh.us/forms/num/JFS07999/pdf/>
- D. ODJFS Public Records and Confidentiality Laws e-Manual  
[IPP 8101 Appendix D ODJFS Public Records and Confidentiality Laws eManual.pdf](#)