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CLERMONT METROPOLITAN HOUSING AUTHORITY
PERSONNEL POLICY MANUAL

SECTION 6.8 - PUBLIC RECORDS – INSPECTION, RELEASE, AND RETENTION

Clermont Metropolitan Housing Authority (CMHA) will make available for inspection and/or copying "public records," as defined in Ohio Revised Code (ORC) 149.43, upon the request of any member of the public.

A. Public records inspection, release, and retention are subject to CMHA's Public Records Policy and will be processed accordingly.

B. Questions of whether a record is a public record as defined in O.R.C. Section 149.93 should be determined by CMHA's legal advisor.

C. Self-Help to Records Prohibited:
   1. Employees may not copy or remove and record or writing, even those regarded as "public records," without first obtaining advanced written permission from the Executive Director, or without going through the process for obtaining public records outlined in the personnel policy.
   2. No employee may copy, or use any agency writing, document, or record in any grievance, appeal, or legal action without having first obtained the written permission of the Executive Director. This policy does not apply to matters obtained through formal "discovery" under the Rules of Civil Procedure.
   3. No employee shall record any meeting, hearing, or appeal involving CMHA or representative of CMHA without the advanced written permission of the Executive Director or Board of Commissioners (BOC).
   4. Except for official agency business, employees may not have any agency writing or document in their possession, unless obtained through this policy.

D. Penalty for Breach of this Policy: Any employee who is discovered to have violated any of the above enumerated policies will be subject to removal. Any former employee who is discovered to have obtained an authorized document or produced any unauthorized recording will be barred from re-employment by CMHA and may be subject to civil or criminal penalties.

E. CMHA and its employees must follow Ohio Law on responding to public records requests. A records commission shall be set up under R.C. 149.412, a special taxing district.

F. CMHA must make this policy readily available to any member of the public requesting to review it. Copies of this policy, like other public records, will be provided promptly upon request.

G. Public record requests can be made by any member of the public Monday to Thursday from 8:00 am to 4:30 pm.

H. CMHA must post a poster describing its public records policy in a conspicuous place available to the public in its main office and each of its branch offices.

I. The Executive Director will designate a custodian of the records for the agency. All employees handling public records requests must sign a written receipt of this policy. The Executive Director will ensure that employees handling public records are well informed of the public records law by ensuring that each employee attends training as required by law, and as necessary to ensure that the employees are kept well-informed of department obligations under the law.

J. CMHA records, public or non-public, must be maintained pursuant to a records retention and disposition schedule that has been approved by the Public Housing Authority Records Commission, the Ohio Historical Society, and the State Auditor. The Executive Director will create only those records required by Ohio law to be kept, and those that are necessary for adequate documentation of the organization, functions, policies, decisions, procedures, and essential transactions of CMHA and for the protection of the legal and financial rights of CMHA and persons directly affected by the CMHA's activities.

K. All such records must not be removed, destroyed, mutilated, transferred, or otherwise disposed of, in whole or in part, except as provided by law or under the rules adopted by the Housing Authority Records Commission. Violations of the section of the policy may subject CMHA and its employees to a civil lawsuit. Each proven violation is subject to a $1,000 fine.

L. The Executive Director is required to attend or designate someone to attend three hours of certified public records training for each term that the official serves in the office. Under Ohio law certified training means that it has been approved by the Authority General's Office and that it has been approved for CLE credits by the Ohio Supreme Court.

INSPECTION AND RELEASE

A. The Executive Director will prepare, make available, and copy, the public records of that department at the request of any member of the public, as follows.
   1. Anyone wanting to inspect or obtain copies of records maintained by CMHA must reasonably identify the records they wish to inspect or have copied.
      a. When a request is made, employees are not permitted to request a person's identification by making the written request for public records or the reason for the request unless that information is necessary to fulfill the request or unless it will assist in responding to the request. WHEN THE INFORMATION IS REQUESTED TO HELP IN IDENTIFYING, LOCATING OR DELIVERING THE RESPONSE, THE EMPLOYEE MUST INFORM THE PERSON THAT THE INFORMATION IS NOT REQUIRED.
      b. When a request is not reasonably clear, the employees must explain how the records are accessed in the ordinary course of business so that the person may revise the request. The employee may also assist the person to make the request so that it reasonably identifies the records.
      c. If the employee knows that the records requested are held by another department, the employee should direct that person to the department responsible for those records.
      d. Redaction: (obscuring or deleted information of a copy of a record to be provided pursuant to a public record request because it is exempt from the public records law) redaction is considered against a public records request unless the information is exempt from disclosure under the law. The person providing the public record to the requester should confer with the CMHA's legal advisor regarding what to redact if anything.
   2. Redaction is generally not to be done to CMHA's original but is done to a copy of that record in preparation for a response to a public record request.
   3. All redactions should either be clearly visible to the requesting person or the person should be informed of what type of information was redacted.
   4. Legal authority for a redaction must be provided. If the request was made in writing, the reason in legal authority must be given in writing. The legal authority must be accurate and can be supplemented in the future if necessary.
   5. To protect the records from potential damage, no person is to be permitted to make their own copies of the records requested. Employees wanting copies of public records are subject to the same policy as any other citizen. The employees should make their requests to another employee while not on CMHA time. Employee self-help to records is grounds for discipline up to and including termination.
   6. Providing access to public records for the public is part of the obligations and duties of CMHA. It should be given as much priority as possible. Responses to public records requests should be provided promptly based upon all the facts and circumstances of the request.

7. CMHA is not required to create a public record. If, however the computers used by the department in question are capable of printing a "report" through its current software that satisfies a public records request, then the "report" is a record that is considered to exist already under Ohio Public Records law.

B. FORMAT OF RESPONSE

The person making the request is allowed to request the records be produced in:

1. Paper format
2. In the same way that the department keeps it
3. In any other medium that CMHA determines reasonably can be an integral part of the normal operations of CMHA.

C. TRANSMISSION BY MAIL

1. At the request of a person seeking public records, CMHA will transmit a response to a public records request via mail or other delivery service reasonably available to the office, but only upon prior payment of the actual costs of such delivery.
2. Mail requests are strictly limited to 10 requests per month unless the person making the request certifies in writing that he is not intending to use or forward the information to be used for commercial purposes. Commercial purposes do not include:
   a. Reporting or gathering news
   b. Reporting or gathering information to assist citizen oversight or understanding of the operation or activities of government
   c. Nonprofit educational research

D. WAIVER OF POLICY

The department head may waive any or all provisions under this policy on a request to inspect or obtain copies is made:

1. By another government agency or its representative
2. In complying with a court order
3. In complying with the requirements of State laws or regulations
4. As otherwise allowed by law

E. RETENTION SCHEDULE FOR ELECTRONIC MAIL AND OTHER RECORDS

1. A records retention schedule is required by Ohio law. CMHA is responsible for maintaining its records and maintaining an updated records retention schedule. Retention periods for records should be determined by evaluating the historical, administrative, legal, and fiscal (hereinafter "HALF") value of the records being scheduled. Care should be taken to title and description of each type of department

record on a retention schedule. As the types of records are identified, the type of record should be added to CMHA retention schedule.

2. Because of the constant changes in technology, even the most current forms of electronic records preservation may be insufficient for long-term reliability. The retention schedule be set based upon "HALF" value of the records. If CMHA cannot realistically maintain a record in electronic form for the required period, it should be maintained in paper or other appropriate format for the remainder of the retention period. Housing authorities that maintain records in electronic format should have detailed written documentation that supports the basis for its belief that technology and funding will remain sufficiently stable to satisfy the requirements of the retention period and public record law, and if possible to have a written plan for how the electronic information will migrate to a different technological system when necessary.
3. Whenever feasible, continually updated documents should be scheduled as such in the annual copy and should be printed and retained for the appropriate retention. Under "HALF."
4. Care should be taken to ensure that electronic records are scheduled for destruction and destroyed pursuant to schedule. While this is also true of other formats of records, because of software and technology changes, the expense involved in attempting to comply with a public records request for an electronic copy, that could have been destroyed, but was not could be substantial.
5. E-mail and voicemail. Any e-mail records with enduring administrative values should be printed and retained in paper format in the appropriate paper file. Care should be taken to ensure that e-mail and other documents are appropriately scheduled on the records retention schedule. E-mails involving the conduct of public business are a public record. Each employee is responsible for ensuring that these types of e-mails are preserved according to the e-mail retention policy.

F. PUBLIC RECORD EXCEPTIONS

The law allows certain records are prohibited from being released to the public. Determining the status of certain records can be difficult. The following is the list of more common exceptions to the public records law:

1. Medical records
2. Probation and parole records
3. Adoption proceedings
4. Information in the putative father registry
5. Trial preparation records
6. Confidential law enforcement investigatory records
7. Mediation communication
8. Records involving the collection or a disbursement of child support

9. Peace officer, parole officer, prosecuting attorney, assistant prosecuting attorney, correctional employee, youth services employee, firefighter, or EMT residential and familial information
10. Information pertaining to the recreational activities of a person underage of eighteen
11. Most records of the child fatality review board
12. All records prohibited from release by state or federal law
13. All records prohibited from release by HUD

There are many other exceptions. Employees uncertain of the status of the record that has been requested shall consult with CMHA's legal advisor. When calling, the employee should specify whether there is a current public records request involving that record.

G. COST OF COPIES OF PUBLIC RECORDS

By law, CMHA may only charge actual costs for copies of public records. "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 the private contractors used for copying services. It **does not** include labor costs for the public employee to respond. The cost of copies for bulk commercial extraction will be provided as allowed by law.

H. DISCIPLINE

Employees violating this policy may be subject to discipline, up to and including termination.

I. CHANGES AND AMENDMENTS

This policy is subject to change without notice.