

# Public Records and Open Meetings

Electronic Records and Social Media

# Records

- \* R.C. §149.011(G):
  - \* Have information stored on fixed media
    - \* paper, electronic document, email, video, map, blueprint, photograph, or voicemail message, **and**
  - \* Are created or received by, or come under the jurisdiction of a public office, i.e. the Township, **and**
  - \* Documents what the public office does: the organization, functions, policies, decisions, procedures, operations, or other activities **of the Township.**

# Emails

- \* All emails are items containing information stored on a fixed medium.
- \* If an email is received by, created by, or comes under the jurisdiction of a Township, then its status as a record depends on the content of its message.
- \* If the email serves to document the organization, functions policies, decisions, procedures, operations, or other activities of the office, then it is a record.

# Emails

- \* If the email does not serve to document the activities of the office, then it does not meet the definition of a record.
- \* It does not matter if the email was sent or received by a public official on a Township computer or to a Township email account, or a private one, if the email meets the above definition of a record, then it is a public record and must be properly maintained and distributed upon request.

# Email Retention

- \* Like paper records emails typically fall into one of the following categories:
  - \* **Non-record:** emails that do not meet the definition of a “record” may be deleted at any time.
  - \* **Official-record:** emails that meet the definition of a record and must be scheduled, retained, and disposed of pursuant to the Township’s Records Retention Schedule

# Email Retention

- \* Official Records usually fall into the following categories:
  - \* **Transient records:** emails that have very limited administrative value. Examples include meeting notices, telephone messages, and drafts.
  - \* **Intermediate records:** email messages that have more significant administrative, legal and/or fiscal value. Examples include: general or routine correspondence, monthly or weekly reports and accounting documentation.

# Email Retention

- \* **Long-term records:** emails that have significant historical, administrative, legal and/or value. Examples include: executive correspondence, departmental policies and procedures, and minutes of boards, committees and commissions.

# Email Retention

- \* Emails can be saved either on paper or in electronic form, as long as they can be retrieved upon request.
- \* Emails are often distributed to a number of recipients.
  - \* Usually the individual who sends the email message should maintain the record copy of the message.
  - \* Multiple recipient need not retain the message.

# Computerized Databases

- \* A database is an organized collection of related data.
- \* The Public Records Act does not require a public office to search a database for information and compile or summarize it to create a new record.
- \* If the public office already uses a computer program that can perform the search and produce the compilation or summary described by the requester, the Ohio Supreme Court has determined that output already exists as a record. *State ex rel. Scanlon v. Deters*, 45 Ohio St.3d 376 (1989)

# Electronic Records

- \* If you need further information regarding the retention of electronic records, please look at the Ohio Electronic Records Committee.
- \* <http://ohioerc.org>

# Open Meetings

- \* White v. King et al., Slip Opinion No. 2016-Ohio-2770
  - \* Decided May 3, 2016
  - \* R.C. 121.22 prohibits any private prearranged discussion of public business by a majority of members of a public body regardless of whether the discussion occurs face to face, telephonically, by video conference or electronically by email, text, tweet, or other form of communication.