**[[1]](#endnote-2)**Upon consultation with the AOS Legal Division (for IPAs, email [*IPAcorresondance@ohioauditor.gov*](mailto:IPAcorresondance@ohioauditor.gov)) regarding the applicability of the Sunshine Law to your entity and subsequent response that the requirements do apply, insert the following steps into your AUP report shell after the Budgetary Compliance section.

**Sunshine Law Compliance *[2024 OCS 2B-8][[2]](#endnote-3)***

1. We obtained and inspected the [Entity]’s Public Records Policy to determine the policy was in accordance with Ohio Rev. Code §§ 149.43(E)(2) and 149.43(B)(7)(c) and did not limit the number of responses that may be made to a particular person, limit the number of responses during a specified period of time, or establish a fixed period of time before it will respond unless that period is less than eight hours. [We found no exceptions.]

***OR***

***[Include if the entity did not have a Public Records policy.]*** [We inquired with [Entity] management and determined that the [Entity] did not have a public records policy during the engagement period as required by Ohio Rev. Code § 149.43(E)(2).]

2. ***[[3]](#endnote-4)***We selected 5 ***[or total population if less than 5]*** public records requests from the engagement period and inspected each request to determine the following:

a. The [Entity] was compliant and responded to the request in accordance with their adopted policy as required by Ohio Rev. Code § 149.43(B)(1). [We found no exceptions.]  **OR** [For 3 of the 5 public records requests selected, the [Entity] did not respond to the request in accordance with their adopted policy. See the table below.

|  |  |  |  |
| --- | --- | --- | --- |
| **Date Request Received** | **Date Request Fulfilled** | **Policy Response Time (in Business days)** | **Actual Response Time (in Business days)** |
| 6/15/2023 | 6/22/2023 | 3 | 6 |
| 8/2/2023 | 8/15/2023 | 3 | 9 |
| 11/13/2023 | 11/20/2023 | 3 | 5 |

***OR***

***[Include if the entity did not have any completed public records requests.]*** [We inquired with [Entity] management and determined that the [Entity] did not have any completed public records requests during the engagement period.]

b. ***[Include if a request was denied, in part or in whole.]*** The [Entity] provided an explanation for the denied request which included the legal authority to the requester as required by Ohio Rev. Code § 149.43(B)(3). [We found no exceptions.]

***OR***

***[Include if the entity did not have any denied public records requests.]*** [The [Entity] did not have any denied public records requests during the engagement period.]

c. ***[Include if a request contained redactions, in part or in whole.]*** The [Entity] was redacting records and making the redactions visible and provided an explanation which included the legal authority to the requester as required by Ohio Rev. Code § 149.43(B)(1). [We found no exceptions.]

***OR***

***[Include if the entity did not have any public records requests with redactions.]*** [The [Entity] did not have any public records requests with redactions during the engagement period.]

3. We inquired whether the [Entity] had a records retention schedule and observed that it was readily available to the public as required by Ohio Rev. Code § 149.43(B)(2). [We found no exceptions.]

***OR***

***[Include if the entity did not have a records retention policy.]*** [We inquired with [Entity] management and determined that the [Entity] did not have a records retention schedule during the engagement period and therefore could not make it readily available to the public as required by Ohio Rev. Code § 149.43(B)(2).]

4. We inspected written evidence that the Public Records Policy was provided to the records custodian/manager as required by Ohio Rev. Code § 149.43(E)(2). [We found no exceptions.]

***OR***

***[Include if the entity did not have a Public Records policy.]*** [We inquired with [Entity] management and determined that the [Entity] did not have a public records policy during the engagement period therefore could not provide it to the records custodian/manager as required by Ohio Rev. Code § 149.43(E)(2).]

5. We inspected the [Entity]’s policy manual and determined the public records policy was included as required by Ohio Rev. Code § 149.43(E)(2). [We found no exceptions.]

***OR***

***[Include if the entity did not have a Public Records policy.]*** [We inquired with [Entity] management and determined that the [Entity] did not have a public records policy during the engagement period therefore it could not be included in a policy manual as required by Ohio Rev. Code § 149.43(E)(2).]

***OR***

***[Include if the entity did not have a policy manual.]*** [We inquired with [Entity] management and determined that the [Entity] did not have a policy manual during the engagement period therefore the public records policy could not be included as required by Ohio Rev. Code § 149.43(E)(2).]

6. We observed that the [Entity]’s poster describing their Public Records Policy was displayed conspicuously in all branches of the [Entity] as required by Ohio Rev. Code § 149.43(E)(2). [We found no exceptions.]

***OR***

***[Include if the entity did not have a Public Records policy.]*** [We inquired with [Entity] management and determined that the [Entity] did not have a public records policy during the engagement period therefore it could not be displayed in all the branches of the [Entity] as required by Ohio Rev. Code § 149.43(E)(2).]

7. ***[Include if the entity has records authority. (Please review the OCS Legal Matrix, OCS 2B-8 Step 7 Applicability tab. “No Records Authority” indicates this step is not applicable.)]*** We selected 5 ***[or total population if less than 5]*** applications submitted to the Records Commission for one-time disposal of obsolete records, and management’s review of the schedules of records retention and dispositions for the engagement period. We inspected the approval by the Records Commission for the 5 selected and the review of the schedules. This was required by Ohio Rev. Code §[***[[4]](#endnote-5)***]. [We found no exceptions.] ***<<< Note: the records retention schedule is not the same policy as the public records policy.]***

***OR***

***[Include if the entity did not have any applications submitted to the Records Commission but has Records Authority per OCS Legal Matrix, OCS 2B-8 Step 7 Applicability tab.]*** [We inquired with [Entity] management and determined that the [Entity] did not have any applications for record disposal submitted to the Records Commission during the engagement period.]

***OR***

***[Include if the entity has “No Records Authority” per OCS Legal Matrix, OCS 2B-8 Step 7 Applicability tab and this step is not applicable.]*** [We did not select any applications submitted to the Records Commission for one-time disposal of obsolete records, and management’s review of the schedules of records retention and dispositions for the engagement period. The [Entity] is not subject to the Ohio Rev. Code records authority. Therefore this step is not applicable and applications were not inspected or inquired about.]

8. We inspected [individual proof of attendance***[[5]](#endnote-6)***] and determined whether each elected official***[[6]](#endnote-7)*** in accordance with Ohio Rev. Code § 149.43(E)(1) (or his/her designee) successfully attended a certified three-hour Public Records Training for each term of office as required by Ohio Rev. Code § 109.43(B). [We found no exceptions.]

***OR***

***[Include if the entity did not have any elected officials subject to the training requirement.]*** [We inquired with [Entity] management and determined that the [Entity] did not have any elected officials subject to the Public Records Training requirements during the engagement period as required by Ohio Rev. Code §§ 149.43(E)(1) and 109.43(B).]

9. We inspected the public notices for the public meetings held during the engagement period and determined the [Entity] notified the general public and news media of when and where meetings during the engagement period were to be held as required by Ohio Rev. Code § 121.22(F). [We found no exceptions.]

10. We inspected the minutes of public meetings during the engagement period in accordance with Ohio Rev. Code § 121.22(C) and determined whether they were:

a. Prepared – a file is created following the date of the meeting

b. Filed – placed with similar documents in an organized manner

c. Maintained - retained, at a minimum, for the engagement period

d. Open to public inspection – available for public viewing or request.

[We found no exceptions.]

11. We inspected the minutes from the engagement period in accordance with Ohio Rev. Code § 121.22(G) and determined the following:

1. Executive sessions were only held at regular or special meetings.
2. The purpose for the meetings and going into an executive session (when applicable) correlated with one of the matters listed in Ohio Rev. Code § 121.22(G).
3. Formal governing board actions were adopted in open meetings.

[We found no exceptions.]

1. Updated January 2024 – Changes are not marked. The following should be completed prior to finalizing the report:

   All the red references should be updated as appropriate and changed to black; and

   * All blue font items are guidance and need removed.

   [↑](#endnote-ref-2)
2. For additional guidance see the [Sunshine Law and StaRS FAQ](http://ohioauditor.gov/ocs/2019/Sunshine%20Laws%20and%20StaRS%20FAQs.docx).

   Note: AOS staff should consult with the assistant legal counsel assigned to their region regarding any non-compliance or questions related to these requirements or violations of Ohio Rev. Code § 149.351 (destruction of records) related to these records. [↑](#endnote-ref-3)
3. Note: one selection of five (or total population if less than five) is sufficient for each policy tested no matter how many departments follow that policy. In addition, if there are no denials or redactions pulled in the selection, auditors do not need to pull an additional selection. [↑](#endnote-ref-4)
4. See the “OCS 2B-8 Step 7 Applicability” Tab of the [Legal Matrix](https://ohioauditor.gov/ocs/2024/legal_matrix.xlsx) for the Ohio Rev. Code Section applicable to your entity type. [↑](#endnote-ref-5)
5. Note: Auditor should ask whether the elected official, or his/her designee successfully attended a certified three-hour Public Records Training for each term of office.

   The Attorney General’s Office (AGO) currently uploads an attendance roster for each certified public records training provided by its office to its external website. The roster is now proof of attendance from the AGO to attendees. The attendance rosters are located here: <https://www.ohioattorneygeneral.gov/Legal/Sunshine-Laws/Sunshine-Laws-Training-Attendance-Reports>. All attendees are notified at the trainings where the rosters are posted.

   The AOS provides paper certificates as proof of attendance.

   Additionally, the AGO may contract with other state agencies, political subdivisions, or other public or private entities to conduct the training programs and seminars. AOS auditor should consult with Legal to determine whether any other trainings qualify as a certified public records training. See Ohio Rev. Code § 109.43(D). [↑](#endnote-ref-6)
6. Elected official does not include judges or clerk of courts. See Ohio Rev. Code § 109.43(A)(2). [↑](#endnote-ref-7)