Members Brief

An informational brief prepared by the LSC staff for members and staff of the Ohio General Assembly

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Legislative Documents and the Public Records Law

This brief discusses the laws that exempt certain legislative documents from disclosure under the Public Records Law. It includes revisions made by H.B. 96 of the 136th General Assembly, effective September 30, 2025.

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LSC confidentiality

Confidential relationship with LSC staff

Under the Revised Code, the staff of the Legislative Service Commission (LSC), the Legislative Information Systems Office (LIS), and any other legislative agency included in LSC's budget group (referred to in this brief as "LSC staff") must maintain a confidential relationship with each legislator and with each General Assembly staff member. "General Assembly staff" means an officer or employee of either house of the General Assembly who acts on behalf of a General Assembly member or on behalf of a committee or chamber.

LSC staff are prohibited from disclosing their communications with a legislator or General Assembly staff member. But the legislator or General Assembly staff member may choose to disclose those communications to others.[1]

[1] R.C. 101.30(A) and (B).

LSC documents under the Public Records Law

In general, a legislative document arising out of the confidential relationship between LSC staff and a legislator or General Assembly staff member is exempt from disclosure under Ohio's Public Records Law. The LSC exemption covers:

- A working paper, work product, correspondence, preliminary draft, note, proposed legislation, proposed amendment, analysis, opinion, memorandum, or other document in whatever form prepared by LSC staff for a legislator or General Assembly staff;
- Any document or material provided by a legislator or General Assembly staff to LSC staff that requests, or that provides information or materials to assist in, the preparation of any of the items described above; or
- Any summary of legislation or an amendment, if the summary is prepared before the legislation or amendment is filed for introduction or presented at a committee hearing or floor session.

For example, an email from a legislator to LSC requesting a bill draft and the bill draft LSC staff prepare in response would be considered confidential under this law.

An otherwise confidential legislative document becomes a public record when a legislator makes it public by doing any of the following:

- Filing it for introduction (bills and resolutions);
- Presenting it at a committee hearing or floor session (amendments or substitute bills or resolutions); or
- Otherwise releasing it, or authorizing General Assembly staff or LSC staff to release it, to the public (research memorandums, bills, resolutions, amendments, and other documents).

Additionally, a bill analysis, synopsis, fiscal note, or local impact statement that LSC staff prepare for the benefit of the members of either or both houses or any legislative committee becomes public when it is presented to those members.

If it is in the public interest and the Legislative Service Commission (LSC's governing body) consents, the LSC Director also may release an otherwise confidential legislative document to the public under certain circumstances. This procedure applies only if the document arises out of a confidential relationship with a former legislator or former member of the General Assembly staff and one of the following is true:

- The person is not available to make the document public because of death or disability;
- The Director is unable to contact the person for that purpose;

- The person fails to respond to the Director after the Director has made a reasonable number of attempts to make contact for that purpose.[2]

Other legislative documents under the Public Records Law

Documents exchanged among legislators and their staff

Effective September 30, 2025, Ohio law also makes a limited exception to the Public Records Law for legislative documents exchanged among legislators and General Assembly staff that are not covered by LSC confidentiality. The exemption applies to:

- A working paper, work product, correspondence, preliminary draft, note, proposed legislation, proposed amendment, analysis, opinion, memorandum, or other document in whatever form prepared by a legislator or General Assembly staff for a legislator or General Assembly staff; or
- Any document or material provided by a legislator or General Assembly staff to a legislator or General Assembly staff that requests, or that provides information or materials to assist in, the preparation of any of the items described above.

For instance, these documents might include a memorandum drafted by a legislative aide for a legislator or an email exchange between legislators.

Such a document is exempt from disclosure only during the two-year General Assembly in which the document was created. After that General Assembly adjourns *sine die* (typically in December of an even-numbered year), the document is considered a public record, unless it would be covered by the legislative evidentiary privilege conveyed by the Ohio Constitution or another exemption applies.[3]

The Ohio Constitution specifies that ". . . for any speech, or debate, in either house, [legislators] shall not be questioned elsewhere." Under this provision, legislators and their staff enjoy a limited evidentiary privilege. This privilege protects them from having to testify about their legislative conduct and prevents statements, discussions, and debate made in the course of the legislative process from being used as evidence in court. But legislative privilege does not necessarily cover all types of documents or conduct related to the legislative process. In the few instances in which the issue has come before Ohio's courts, the courts determined on a case-by-case basis whether particular communications were privileged.[4]

[2] R.C. 101.30. For more information about public records, including other exemptions that may apply, see LSC's *Members Brief*, Ohio's Public Records Law (PDF), available on LSC's website at lsc.ohio.gov.

[3] R.C. 101.30, effective September 30, 2025.

[4] Ohio Constitution, Article II, Section 12; *Dublin v. State of Ohio*, 138 Ohio App.3d 753 (10th Dist. Ct. App. 2000); *Plain Local School District Board of Education v. DeWine,* 464 F.Supp.3d 915 (S.D. Ohio 2020); and *Columbus City School District v. State of Ohio,* Case No. 22-CV-67 (C.P. Franklin Co. December 21, 2023).

Legislators' public calendars

Entries for future dates on a public calendar maintained by a legislator or other state or local elected official are not considered public records. However, entries for events from the current or a past date are subject to disclosure.

A "public calendar" is a calendar or appointment book maintained by an elected official to schedule the person's activities in relation to the person's position as an elected official. Past or future entries in a personal calendar or appointment book are not public records if the calendar or book is maintained solely for the official's personal convenience and does not serve to document the person's official activities or functions or the official activities or functions of the person's public office.[5]

Personal notes

The Public Records Law also exempts a public official's personal notes and assistive devices or applications from the definition of a public record, if the notes, devices, or applications are used, maintained, and accessed solely by the person who creates them. The exemption also covers personal notes and assistive devices or applications of a public official's attorney, employee, or agent.[6]

[5] R.C. 149.43(A)(1)(aaa) and (A)(20), effective September 30, 2025, and *International Union, United Automobile, Aerospace and Agricultural Implement Workers of America v. Voinovich,* 100 Ohio App.3d 372 (10th Dist. Ct. App. 1995).

[6] R.C. 149.011(G), effective September 30, 2025.