

A public hearing will be held by the Office of Attorney General Mike DeWine on Tuesday, March 8, 2016 at 10:00 a.m. in the B-1 Hearing Room of the Rhodes State Office Tower, located at 30 East Broad Street, Columbus, Ohio 43215.

The purpose of the hearing is to solicit comment on amended rules **109-4-01** and **109-4-03**.

### **109-4-01 Definitions.**

For the purposes of administrative rules promulgated in accordance with section [1347.15](#) of the Revised Code, the following definitions apply:

(A) "Access" as a noun means an instance of copying, viewing, or otherwise perceiving whereas "access" as a verb means to copy, view, or otherwise perceive.

(B) "Acquisition of a new computer system" means the purchase of a "computer system," as defined in this rule, that is not a computer system currently in place nor one for which the acquisition process has been initiated as of the effective date of the office rule addressing requirements in section [1347.15](#) of the Revised Code.

(C) "Computer system" means a "system," as defined by section [1347.01](#) of the Revised Code, that stores, maintains, or retrieves personal information using electronic data processing equipment.

(D) "Confidential personal information" (CPI) has the meaning as defined by division (A)(1) of section [1347.15](#) of the Revised Code and identified by rules promulgated by the office in accordance with division (B)(3) of section [1347.15](#) of the Revised Code that reference the federal or state statutes, administrative rules or case law that make personal information maintained by the office mandatorily confidential.

(E) "Employee of the office" ~~means each employee of the attorney general's office except for employees assigned to the bureau of criminal identification and investigation and/or the Ohio peace officers' training academy.~~ means a full-time or part-time employee, except as otherwise provided in R.C. 1347.04; permanent, temporary or intermittent employees; interns and externs; consultants, and contractors of the AGO who gain access to AGO physical facilities or data or electronic and paper systems that are determined to contain CPI, as defined in ORC 1347.15.

(F) "Incidental contact" means contact with the information that is secondary or tangential to the primary purpose of the activity that resulted in the contact.

(G) "Individual" means a natural person or the natural person's authorized representative, legal counsel, legal custodian, or legal guardian.

(H) "Information owner" means the individual appointed in accordance with division (A) of section [1347.05](#) of the Revised Code to be directly responsible for a system.

(I) "Person" means a natural person.

(J) "Personal information" has the same meaning as defined in division (E) of section [1347.01](#) of the Revised Code.

(K) "Personal information system" means a "system" that "maintains" "personal information" as those terms are defined in section [1347.01](#) of the Revised Code. "System" includes manual and computer systems.

(L) "Research" means a methodical investigation into a subject.

(M) "Routine" means commonplace, regular, habitual, or ordinary.

(N) "Routine information that is maintained for the purpose of internal office administration, the use of which would not adversely affect a person" as that phrase is used in division (F) of section [1347.01](#) of the Revised Code means personal information relating to employees, potential employees or former employees and maintained by the office for internal administrative and human resource purposes.

(O) "System" has the same meaning as defined in division (F) of section [1347.01](#) of the Revised Code.

(P) "Upgrade" means a substantial redesign of an existing computer system for the purpose of providing a substantial amount of new application functionality, or application modifications that would involve substantial administrative or fiscal resources to implement, but would not include maintenance, minor updates and patches, or modifications that entail a limited addition of functionality due to changes in business or legal requirements.

#### **109-4-03 Valid reasons for accessing confidential ~~person~~personal information.**

Pursuant to the requirements of division (B)(2) of section [1347.15](#) of the Revised Code, this rule contains a list of valid reasons, directly related to the office's exercise of its power or duties, for which only employees of the office may access confidential personal information (CPI) regardless of whether the personal information system is a manual system or computer system:

(A) Performing the following functions constitute valid reasons for authorized employees of the office to access confidential personal information:

(1) Responding to a public records request;

(2) Responding to a request from an individual for the list of CPI the office maintains on that individual;

- (3) Administering a constitutional provision or duty;
- (4) Administering a statutory provision or duty;
- (5) Administering an administrative rule provision or duty;
- (6) Complying with any state or federal program requirements;
- (7) Processing or payment of claims or grants or otherwise administering a program with individual participants or beneficiaries;
- (8) Auditing purposes;
- (9) Licensure processes;
- (10) Investigation or law enforcement purposes;
- (11) Administrative hearings;
- (12) Litigation, complying with an order of the court, or subpoena;
- (13) Human resource matters (e.g., hiring, promotion, demotion, discharge, salary/compensation issues, leave requests/issues, time card approvals/issues);
- (14) Complying with an executive order or policy;
- (15) Complying with an office policy or a state administrative policy issued by the department of administrative services, the office of budget and management or other similar state agency;
- (16) Complying with a collective bargaining agreement provision; or
- (17) Supervising the work of another employee.

(B) To the extent that the general processes described in paragraph (A) of this rule do not cover the following circumstances, for the purposes of carrying out specific duties of the attorney general's office, authorized employees would also have valid reasons for accessing CPI in these following circumstances:

- (1) Performing the attorney general's duty to represent the State and its agencies in administrative and judicial proceedings;
- (2) Performing the attorney general's duty to administer the crime victims reparation award program pursuant to sections [2743.51](#) to [2743.72](#) of the Revised Code;
- (3) Performing the attorney general's duty to conduct background investigations pursuant to sections [3734.41](#) to [3734.99](#) of the Revised Code;

- (4) Performing the attorney general's duty to document, manage and report on debt collection and enforce collection pursuant to section [131.02](#) of the Revised Code; or
- (5) Issuing identity fraud passports pursuant to section [109.94](#) of the Revised Code.

All interested parties are invited to attend the hearing and present oral and/or written testimony. Written comments may also be submitted prior to the hearing to the attention of Amber Aimar, Policy and Public Affairs Section, Office of the Ohio Attorney General Mike DeWine, 30 East Broad Street, Columbus, Ohio 43215, or [Amber.Aimar@OhioAttorneyGeneral.gov](mailto:Amber.Aimar@OhioAttorneyGeneral.gov) no later than Monday, March 7, 2016 by close of business.