Ohio Supreme Court Limits Access to Private Emails of Public Officials

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Authors:

Scott D. Phillips

Robert J. Mumma

The Ohio Supreme Court recently held that private emails of public officials are not always subject to production under the Ohio Public Records Act.

In *State ex rel. Platt v. Montgomery County Board of Elections*, 2025-Ohio-2079, the Franklin County Prosecutor's Office sent a memo by email to the Montgomery County Board of Elections and its deputy director, Russell Joseph. Joseph forwarded the email (including the attached memo) from his state-issued account to his private email account. Joseph then used his private account to send the email and its attachment to a third party, Mohamed Al-Hamdani.

A subsequent public records request sought all emails related to the memorandum sent by Franklin County. The request did not seek the memorandum itself. The Ohio Supreme Court held that the email sent from Joseph's private email account was not a public record because Joseph's personal email account was not "kept by any public office," as required by R.C. 149.43(A)(1).

Despite this holding, the Ohio Supreme Court did not create a blanket rule that all emails from public officials' private accounts are exempt from the Public Records Act. The Ohio Supreme Court stated that email messages are public records if they were "created or received by or coming under the jurisdiction of a state agency and serve to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office." The Court then reasoned that the requester had not offered any "evidence indicating that the email sent from Joseph's personal account was created by the board or fell under its jurisdiction."

The Ohio Supreme Court did not define what would constitute "falling under" a public entity's jurisdiction. However, given the broad scope of the Public Records Act, private emails that detail the policies, decisions, procedures, etc. of the office may still be subject to disclosure. Therefore, public officials are advised to continue to use only their government-issued email account for

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government-related business.

For more information on the Public Records Act, please contact the authors or any attorney with Frost Brown Todd's Government Services Practice Group.

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