

US EPA ARCHIVE DOCUMENT

OKLAHOMA OPEN RECORDS ACT

§ 24A.1. Short title

Sections 1 through 18 of this act shall be known as the "Oklahoma Open Records Act".¹

Added by Laws 1985, c. 355, § 1, eff. Nov. 1, 1985.

¹ Sections 24A.1 to 24A.18 of this title.

Section 20 of Laws 1985, c. 355 provides for an effective date.

Title of Act:

An Act relating to officers; providing short title; stating purpose; defining terms; requiring public bodies and public officials to keep and maintain certain records for public inspection; providing for inspection and copying; providing exceptions; authorizing fees and procedures; providing for confidentiality of certain records; authorizing public inspection of certain law enforcement records; providing penalties; providing for civil liability; repealing 51 O.S.1981, section 24, which relates to inspection of public records; and providing an effective date. Laws 1985, c. 355.

§ 24A.2. Public policy—Purpose of act

As the Oklahoma Constitution recognizes and guarantees, all political power is inherent in the people. Thus, it is the public policy of the State of Oklahoma that the people are vested with the inherent right to know and be fully informed about their government. The purpose of this act is to ensure and facilitate the public's right of access to and review of government records so they may efficiently and intelligently exercise their inherent political power.

Added by Laws 1985, c. 355, § 2, eff. Nov. 1, 1985.

§ 24A.3. Definitions

Definitions. As used in this act:¹

1. "Record" means all documents, including, but not limited to, any book, paper, photograph, microfilm, computer tape, disk, and record, sound recording, film recording, video record or other material regardless of physical form or characteristic, created by, received by, under the authority of, or coming into the custody, control or possession of public officials, public bodies, or their representatives in connection with the transaction of public business, the expenditure of public funds or the administering of public property. "Record" does not mean nongovernment personal effects temporarily coming into the possession of law enforcement or medical personnel or material pertaining to financial information of private entities or research and development of products coming into the possession of the Oklahoma Development Finance Authority or the Oklahoma Center for the Advancement of Science and Technology which is determined by the respective board of directors to constitute confidential information;

2. "Public body" shall include, but not be limited to, any office, department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust, county, city, village, town, township, district, school district, fair board, court, executive

office, advisory group, task force, study group; or any subdivision thereof, supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering or operating public property, and all committees, or subcommittees thereof. Except for the records required by Section 24A.4 of this title, "public body" does not mean judges, justices, the State Legislature, or State Legislators;

3. "Public office" means the physical location where public bodies conduct business or keep records;

4. "Public official" means any official or employee of any public body as defined herein; and

5. "Law enforcement agency" means any public body charged with enforcing state or local criminal laws and initiating criminal prosecutions, including, but not limited to, police departments, county sheriffs, the Department of Public Safety, the Oklahoma Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, and the Oklahoma State Bureau of Investigation.

Added by Laws 1985, c. 355, § 3, eff. Nov. 1, 1985. Amended by Laws 1987, c. 222, § 117, operative July 1, 1987.

¹ Section 24A.1 et seq. of this title.

Approved July 2, 1987. Emergency.

§ 24A.4. Record of receipts and expenditures

In addition to other records which are kept or maintained, every public body and public official has a specific duty to keep and maintain complete records of the receipt and expenditure of any public funds reflecting all financial and business transactions relating thereto, except that such records may be disposed of as provided by law.

Added by Laws 1985, c. 355, § 4, eff. Nov. 1, 1985.

§ 24A.5. Inspection, copying and/or mechanical reproduction of records—Exemptions

All records of public bodies and public officials shall be open to any person for inspection, copying, and/or mechanical reproduction during regular business hours; provided:

1. The Oklahoma Open Records Act¹ does not apply to records specifically required by law to be kept confidential including:

- records not discoverable under state law such as material prepared in anticipation of litigation or trial; or
- records protected by a state evidentiary privilege such as the attorney-client and the identity of informer privileges; or
- records of what transpired during meetings of a public body lawfully closed to the public such as executive sessions authorized

Pre,
New HWA Statutes
F, H

under the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes.

2. Any reasonably segregable portion of a record containing exempt material shall be provided after deletion of the exempt portions, provided however, the Oklahoma Department of Public Safety shall not be required to assemble for the requesting person specific information requested from the Oklahoma Department of Public Safety's Driver License file relating to persons whose names are not furnished by the requesting person.

3. Any request for a record which contains individual records of persons and the cost of copying, reproducing or certifying such individual record which is otherwise prescribed by state law, the cost may be assessed for each individual record, or portion thereof requested as prescribed by state law. Otherwise, a public body may charge a fee only for recovery of the reasonable, direct costs of document copying, and/or mechanical reproduction. However, if the request is:

- a. solely for commercial purpose; or
- b. clearly would cause excessive disruption of the public body's essential functions;

then the public body may charge a reasonable fee to recover the direct cost of document search.

Any public body establishing fees under this act shall post a written schedule of said fees at its principal office and with the county clerk.

In no case shall a search fee be charged when the release of said documents is in the public interest, including, but not limited to, release to the news media, scholars, authors and taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.

Said fees shall not be used for the purpose of discouraging requests for information or as obstacles to disclosure of requested information.

4. The land description tract index of all recorded instruments concerning real property required to be kept by the county clerk of any county shall be available for inspection or copying in accordance with the provisions of the Oklahoma Open Records Act; provided, however, such index shall not be copied and/or mechanically reproduced for the purpose of sale of such information.

5. A public body must provide prompt, reasonable access to its records but may establish reasonable procedures which protect the integrity and organization of its records and to prevent excessive disruptions of its essential functions.

6. A public body shall designate certain persons who are authorized to release records of the public body for inspection, copying, or mechanical repro-

duction. At least one such person shall be available at all times to release records during the regular business hours of the public body.

Added by Laws 1985, c. 355, § 5, eff. Nov. 1, 1985. Amended by Laws 1986, c. 213, § 1, emerg. eff. June 6, 1986; Laws 1986, c. 279, § 29, operative July 1, 1986.

¹ Section 24A.1 et seq. of this title.

Approved June 24, 1986. Emergency.

Construction and application

Tulsa Tribune Co. v. Oklahoma Horse Racing Com'n, Okl., 735 P.2d 548 (1986).

§ 24A.6. Public body maintaining less than 30 hours of regular business per week—Inspection, copying or mechanical reproduction of records

A. If a public body or its office does not have regular business hours of at least thirty (30) hours a week, the public body shall post and maintain a written notice at its principal office and with the county clerk where the public body is located which notice shall:

1. Designate the days of the week when records are available for inspection, copying or mechanical reproduction;

2. Set forth the name, mailing address, and telephone number of the individual in charge of the records; and

3. Describe in detail the procedures for obtaining access to the records at least two days of the week, excluding Sunday.

B. The person requesting the record and the person authorized to release the records of the public body may agree to inspection, copying, or mechanical reproduction on a day and at a time other than that designated in the notice.

Added by Laws 1985, c. 355, § 6, eff. Nov. 1, 1985.

§ 24A.7. Personnel records—Confidentiality—Inspection and copying

A. A public body may keep personnel records confidential:

1. Which relate to internal personnel investigations including examination and selection material for employment, hiring, appointment, promotion, demotion, discipline, or resignation; or

2. Where disclosure would constitute a clearly unwarranted invasion of personal privacy such as employee evaluations, payroll deductions, or employment applications submitted by persons not hired by the public body.

B. All personnel records not specifically falling within the exceptions provided in subsection A of this section shall be available for public inspection and copying including, but not limited to, records of:

1. An employment application of a person who becomes a public official;

2. The gross receipts of public funds;

3. The dates of employment, title or position; and

4. Any final disciplinary action resulting in loss of pay, suspension, demotion of position, or termination.

C. Except as may otherwise be made confidential by statute, an employee of a public body shall have a right of access to his own personnel file. Added by Laws 1985, c. 355, § 7, eff. Nov. 1, 1985.

§ 24A.8. Law enforcement records—Disclosure

A. Law enforcement agencies shall make available for public inspection, if kept, the following records:

1. An arrestee description, including the name, date of birth, address, race, sex, physical description, and occupation of the arrestee;

2. Facts concerning the arrest, including the cause of arrest and the name of the arresting officer;

3. Conviction information, including the name of any person convicted of a criminal offense;

4. Disposition of all warrants, including orders signed by a judge of any court commanding a law enforcement officer to arrest a particular person;

5. A chronological list of incidents, including initial offense report information showing the offense, date, time, general location, officer and a brief summary of what occurred;

6. A crime summary, including a departmental summary of crimes reported and public calls for service by classification or nature and number;

7. Radio logs, including a chronological listing of the calls dispatched; and

8. Jail registers, including jail blotter data or jail booking information recorded on persons at the time of incarceration showing the name of each prisoner with the date and cause of his commitment, the authority committing him, whether committed for a criminal offense, a description of his person, and the date or manner of his discharge or escape.

B. Except for the records listed in subsection A of this section and those made open by other state or local laws, law enforcement agencies may deny access to law enforcement records except where a court finds that the public interest or the interest of an individual outweighs the reason for denial.

C. Nothing contained in this section imposes any new recordkeeping requirements. Law enforcement records shall be kept for as long as is now or may hereafter be specified by law. Absent a legal requirement for the keeping of a law enforcement record for a specific time period, law enforcement

agencies shall maintain their records for so long as needed for administrative purposes.

Added by Laws 1985, c. 355, § 8, eff. Nov. 1, 1985.

§ 24A.9. Personal notes and personally created material—Confidentiality

Prior to taking action, including making a recommendation or issuing a report, a public official may keep confidential his or her personal notes and personally created materials other than departmental budget requests of a public body prepared as an aid to memory or research leading to the adoption of a public policy or the implementation of a public project.

Added by Laws 1985, c. 355, § 9, eff. Nov. 1, 1985.

§ 24A.10. Bids, computer programs, appraisals and prospective business locations—Confidentiality

If disclosure would give an unfair advantage to competitors or bidders, a public body may keep confidential records relating to:

1. Bid specifications for competitive bidding prior to publication by the public body; or

2. Contents of sealed bids prior to the opening of bids by a public body; or

3. Computer programs or software but not data thereon; or

4. Appraisals relating to the sale or acquisition of real estate by a public body prior to award of a contract; or

5. The prospective location of a private business or industry prior to public disclosure of such prospect except for records otherwise open to inspection such as applications for permits or licenses.

Added by Laws 1985, c. 355, § 10, eff. Nov. 1, 1985.

§ 24A.11. Library, archive or museum materials—Confidentiality

A. A public body may keep confidential library, archive, or museum materials donated to the public body to the extent of any limitations imposed as a condition of the donation or any information which would reveal the identity of an individual who lawfully makes a donation to a public body if anonymity of the donor is a condition of the donation.

B. If library, archive, or museum materials are donated to a public body and the donation may be claimed as a tax deduction, the public body may keep confidential any information required as a condition of the donation except the date of the donation, the appraised value claimed for the donation, and a general description of the materials donated and their quantity.

Added by Laws 1985, c. 355, § 11, eff. Nov. 1, 1985.

§ 24A.12. Litigation files and investigatory files of Attorney General, district or municipal attorney—Confidentiality

Except as otherwise provided by state or local law, the Attorney General of the State of Oklahoma, the office of the district attorney of any county of the state, and the office of the municipal attorney of any municipality may keep its litigation files and investigatory reports confidential.

Added by Laws 1985, c. 355, § 12, eff. Nov. 1, 1985.

§ 24A.13. Federal records—Confidentiality

Records coming into the possession of a public body from the federal government or records generated or gathered as a result of federal legislation may be kept confidential to the extent required by federal law.

Added by Laws 1985, c. 355, § 13, eff. Nov. 1, 1985.

§ 24A.14. Personal communications relating to exercise of constitutional rights—Confidentiality

Except for the fact that a communication has been received and that it is or is not a complaint, a public official may keep confidential personal communications received by the public official from a person exercising rights secured by the Constitution of the State of Oklahoma or the Constitution of the United States. The public official's written response to this personal communication may be kept confidential only to the extent necessary to protect the identity of the person exercising the right.

Added by Laws 1985, c. 355, § 14, eff. Nov. 1, 1985.

§ 24A.15. Crop and livestock reports—Confidentiality

The Division of Agricultural Statistics, Oklahoma Department of Agriculture (also known as the Oklahoma Crop and Livestock Reporting Service), may keep confidential crop and livestock reports provided by farmers, ranchers, and agri-businesses to the extent the reports individually identify the providers.

Added by Laws 1985, c. 355, § 15, eff. Nov. 1, 1985.

§ 24A.16. Educational records and materials—Confidentiality

A. Except as set forth in subsection B of this section, public educational institutions and their employees may keep confidential:

1. Individual student records;
2. Teacher lesson plans, tests and other teaching material; and
3. Personal communications concerning individual students.

B. If kept, statistical information not identified with a particular student and directory information

shall be open for inspection and copying. "Directory information" includes a student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational institution attended by the student. Any educational agency or institution making public directory information shall give public notice of the categories of information which it has designated as such information with respect to each student attending the institution or agency and shall allow a reasonable period of time after such notice has been given for a parent to inform the institution or agency that any or all of the information designated should not be released without the parent's or guardian's prior consent or the student's himself if he is eighteen (18) years of age or older.

Added by Laws 1985, c. 355, § 16, eff. Nov. 1, 1985.
Amended by Laws 1986, c. 116, § 1, emerg. eff. April 9, 1986.

§ 24A.17. Violations—Penalties—Civil liability

A. Any public official who willfully violates any provision of the Oklahoma Open Records Act,¹ upon conviction, shall be guilty of a misdemeanor, and shall be punished by a fine not exceeding Five Hundred Dollars (\$500.00) or by imprisonment in the county jail for a period not exceeding one (1) year, or by both such fine and imprisonment.

B. Any person denied access to a record of a public body or public official may bring a civil suit for declarative and/or injunctive relief and, if successful, shall be entitled to reasonable attorney fees. If the public body or public official successfully defends a civil suit and the court finds that the suit was clearly frivolous, the public body or public official shall be entitled to reasonable attorney fees.

C. A public body or public official shall not be civilly liable for damages for providing access to records as allowed under the Oklahoma Open Records Act.

Added by Laws 1985, c. 355, § 17, eff. Nov. 1, 1985.

¹ Section 24A.1 et seq. of this title.

§ 24A.18. Additional recordkeeping not required

Except as may be required in Section 4 of this act,¹ this act does not impose any additional recordkeeping requirements on public bodies or public officials.

Added by Laws 1985, c. 355, § 18, eff. Nov. 1, 1985.

¹ Section 24A.4 of this title.

CHAPTER 4.—OLD AGE AND SURVIVORS INSURANCE UNDER FEDERAL ACT

§ 126. Contribution Fund

(a) There is hereby established a special fund to be known as the Contribution Fund. Such fund