

## E.

### OPEN RECORDS ACT

#### **51 O.S. 24A.1. Short title.**

Section 24A.1 et seq. of this title shall be known and may be cited as the "Oklahoma Open Records Act".

*Added by Laws 1985, SB 276, c. 355, § 1, eff. November 1, 1985; Amended by Laws 1988, HB 1803, c. 68, § 1, eff. November 1, 1988; Amended by Laws 1988, HB 1846, c. 187, § 1, emerg. eff. June 6, 1988; Amended by Laws 1996, c. 247, § 41, eff. July 1, 1996; Amended by Laws 1997, c. 2, § 10, eff. February 26, 1997.*

#### **51 O.S. 24A.2. Political Power - Public Policy and 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 Oklahoma Open Records Act shall not create, directly or indirectly, any rights of privacy or any remedies for violation of any rights of privacy; nor shall the Oklahoma Open Records Act, except as specifically set forth in the Oklahoma Open Records Act, establish any procedures for protecting any person from release of information contained in public records. 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. The privacy interests of individuals are adequately protected in the specific exceptions to the Oklahoma Open Records Act or in the statutes which authorize, create or require the records. Except where specific state or federal statutes create a confidential privilege, persons who submit information to public bodies have no right to keep this information from public access nor reasonable expectation that this information will be kept from public access; provided, the person, agency or political subdivision shall at all times bear the burden of establishing such records are protected by such a confidential privilege. Except as may be required by other statutes, public bodies do not need to follow any procedures for providing access to public records except those specifically required by the Oklahoma Open Records Act.

*Added by Laws 1985, c. 355, § 2, eff. Nov. 1, 1985. Amended by Laws 1988, c. 187, § 2, emerg. eff. June 6, 1988.*

#### **51 O.S. 24A.3. Definitions.**

As used in this act:

1. "Record" means all documents, including, but not limited to, any book, paper, photograph, microfilm, data files created by or used with computer software, computer tape, disk, 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:

- a. computer software,
  - b. nongovernment personal effects,
  - c. unless public disclosure is required by other laws or regulations, vehicle movement records of the Oklahoma Transportation Authority obtained in connection with the Authority's electronic toll collection system,
  - d. personal financial information, credit reports or other financial data obtained by or submitted to a public body for the purpose of evaluating credit worthiness, obtaining a license, permit, or for the purpose of becoming qualified to contract with a public body,
  - e. any digital audio/video recordings of the toll collection and safeguarding activities of the Oklahoma Transportation Authority,
  - f. any personal information provided by a guest at any facility owned or operated by the Oklahoma Tourism and Recreation Department or the Board of Trustees of the Quartz Mountain Arts and Conference Center and Nature Park to obtain any service at the facility or by a purchaser of a product sold by or through the Oklahoma Tourism and Recreation Department or the Quartz Mountain Arts and Conference Center and Nature Park,
  - g. a Department of Defense Form 214 (DD Form 214) filed with a county clerk, including any DD Form 214 filed before the effective date of this act, or
  - h. except as provided for in Section 2-110 of Title 47 of the Oklahoma Statutes,
    - (1) any record in connection with a Motor Vehicle Report issued by the Department of Public Safety, as prescribed in Section 6-117 of Title 47 of the Oklahoma Statutes,
    - (2) personal information within driver records, as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, which are stored and maintained by the Department of Public Safety, or
    - (3) audio or video recordings of the Department of Public Safety;
2. "Public body" shall include, but not be limited to, any office, department, board, bureau, commission, agency, trusteeship, authority, council, committee, trust or any entity created by a 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 Council on Judicial Complaints, the Legislature, or 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 State Bureau of Narcotics and Dangerous Drugs Control, the Alcoholic Beverage Laws Enforcement Commission, and the Oklahoma State Bureau of Investigation.

*Added by Laws 1985, SB 276, c. 355, § 3, eff. November 1, 1985; Amended by Laws 1987, c. 222, § 117, eff. July 1, 1987; Amended by Laws 1988, HB 1846, c. 187, § 3, emerg. eff. June 6, 1988; Amended by Laws 1993, c. 39, § 1, eff. September 1, 1993; Amended by Laws 1996, c. 209, § 2, eff. November 1, 1996; Amended by Laws 1998, c. 315, § 4, emerg. eff. May 28, 1998; Amended by Laws 1998, c. 368, § 11, eff. July 1, 1998; Amended by Laws 2001, SB 748, c. 355, § 1, emerg. eff. June 1, 2001; Amended by Laws 2002, HB 2738, c. 293, § 3, emerg. eff. May 22, 2002 (repealed by Laws 2003, HB 1816, c. 3, § 43, emerg. eff. March 19, 2003); Amended by SB 960, c. 478, § 2, emerg. eff. July 1, 2002; Amended by Laws 2003, HB 1816, c. 3, § 42, emerg. eff. March 19, 2003; Amended by Laws 2004, HB 1695, c. 328, § 1, emerg. eff. July 1, 2004; Amended by Laws 2005, HB 1553, c. 199, § 4, eff. November 1, 2005.*

#### **51 O.S. 24A.4. Duty to Keep and Maintain Complete Records of Receipt and Expenditure of Funds.**

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.*

### **51 O.S. 24A.5. Open records and Confidential Records.**

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

1. The Oklahoma Open Records Act, Sections 24A.1 through 24A.28 of this title, does not apply to records specifically required by law to be kept confidential including:

a. records protected by a state evidentiary privilege such as the attorney-client privilege, the work product immunity from discovery and the identity of informer privileges,

b. records of what transpired during meetings of a public body lawfully closed to the public such as executive sessions authorized under the Oklahoma Open Meeting Act, Section 301 et seq. of Title 25 of the Oklahoma Statutes,

c. personal information within driver records as defined by the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725, or

d. information in the files of the Board of Medicolegal Investigations obtained pursuant to Sections 940 and 941 of Title 63 of the Oklahoma Statutes that may be hearsay, preliminary unsubstantiated investigation-related findings, or confidential medical information.

2. Any reasonably segregable portion of a record containing exempt material shall be provided after deletion of the exempt portions; provided however, the Department of Public Safety shall not be required to assemble for the requesting person specific information, in any format, from driving records relating to any person whose name and date of birth or whose driver license number is not furnished by the requesting person.

The Oklahoma State Bureau of Investigation shall not be required to assemble for the requesting person any criminal history records relating to persons whose names, dates of birth, and other identifying information required by the Oklahoma State Bureau of Investigation pursuant to administrative rule 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 each individual record 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 record copying, or mechanical reproduction. Notwithstanding any state or local provision to the contrary, in no instance shall the record copying fee exceed twenty-five cents (\$0.25) per page for records having the dimensions of eight and one-half (8 1/2) by fourteen

(14) inches or smaller, or a maximum of One Dollar (\$1.00) per copied page for a certified copy. However, if the request:

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

then the public body may charge a reasonable fee to recover the direct cost of record search and copying; however, publication in a newspaper or broadcast by news media for news purposes shall not constitute a resale or use of a record for trade or commercial purpose and charges for providing copies of electronic data to the news media for a news purpose shall not exceed the direct cost of making the copy. The fee charged by the Department of Public Safety for a copy in a computerized format of a record of the Department shall not exceed the direct cost of making the copy unless the fee for the record is otherwise set by law.

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

In no case shall a search fee be charged when the release of records 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.

The 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, the index shall not be copied or mechanically reproduced for the purpose of sale of the 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 reproduction. At least one person shall be available at all times to release records during the regular business hours of the public body.

*Added by Laws 1985, SB 276, c. 355, § 5, eff. November 1, 1985; Amended by Laws 1986, SB 487, c. 213, § 1, emerg. eff. June 6, 1986; Amended by Laws 1986, HB 1633, c. 279, § 29, emerg. eff. July 1, 1986; Amended by Laws 1988,*

*HB 1846, c. 187, § 4, emerg. eff. June 6, 1988; Amended by Laws 1992, HB 2142, c. 231, § 2, emerg. eff. May 19, 1992; Amended by Laws 1993, HB 1053, c. 97, § 7, eff. September 1, 1993; Amended by Laws 1996, SB 719, c. 209, § 3, eff. November 1, 1996; Amended by Laws 2000, HB 2100, c. 342, § 8, emerg. eff. July 1, 2000; Amended by Laws 2001, SB 665, c. 137, § 1, emerg. eff. April 24, 2001; Amended by Laws 2005, HB 1553, c. 199, § 5, eff. November 1, 2005; Amended by Laws 2005, HB 1318, c. 223, § 1, eff. November 1, 2005 (repealed by Laws 2006, HB 3139, c. 16, § 35, emerg. eff. March 29, 2006; Amended by Laws 2006, HB 3139, c. 16, § 34, emerg. eff. March 29, 2006.*

**51 O.S. 24A.6. Written Notice of Business Hours of Public Bodies - Inspection, Copying, or Reproduction of Records of Public Body.**

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.*

**51 O.S. 24A.7. Confidential Personnel Records of Public Body.**

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, employment applications submitted by persons not hired by the public body, and transcripts from institutions of higher education maintained in the personnel files of certified public school employees; provided, however, that nothing in this subsection shall be construed to exempt from disclosure the degree obtained and the curriculum on the transcripts of certified public school employees.

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.

D. Public bodies shall keep confidential the home address, telephone numbers and social security numbers of any person employed or formerly employed by the public body.

*Added by Laws 1985, SB 276, c. 355, § 7, eff. November 1, 1985; Amended by Laws 1990, HB 1883, c. 257, § 6, emerg. eff. May 23, 1990; Amended by Laws 1994, c. 177, § 1, eff. September 1, 1994; Amended by Laws 2005, HB 1728, c. 116, § 2, eff. November 1, 2005.*

#### **51 O.S. 24A.8. Law Enforcement Agency Records Available for Public Inspection.**

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. A chronological list of incidents pertaining to the arrest, including initial offense report information showing the offense, date, time, general location, officer, and a brief summary of what occurred; and
4. Radio logs, including a chronological listing of the calls dispatched.

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

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

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

3. A crime summary, including an agency summary of crimes reported and public calls for service by classification or nature and number; and

4. 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 commitment, the authority committing the prisoner, whether committed for a criminal offense, a description of the prisoner, and the date or manner of discharge or escape of the prisoner.

C. Except for the records listed in subsections A and B 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.

D. 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.

E. Registration files maintained by the Department of Corrections pursuant to the provisions of the Sex Offenders Registration Act shall be made available for public inspection in a manner to be determined by the Department.

F. The Council on Law Enforcement Education and Training (C.L.E.E.T.) shall keep confidential all records it maintains pursuant to Section 3311 of Title 70 of the Oklahoma Statutes and deny release of records relating to any employed or certified full-time officer, reserve officer, retired officer or other person; teacher lesson plans, tests and other teaching materials; and personal communications concerning individual students except under the following circumstances:

1. To verify the current certification status of any peace officer;

2. As may be required to perform the duties imposed by Section 3311 of Title 70 of the Oklahoma Statutes;

3. To provide to any peace officer copies of the records of that peace officer upon submitting a written request;

4. To provide, upon written request, to any law enforcement agency conducting an official investigation, copies of the records of any peace officer who is the subject of such investigation;

5. To provide final orders of administrative proceedings where an adverse action was taken against a peace officer; and

6. Pursuant to an order of the district court of the State of Oklahoma.

G. The Department of Public Safety shall keep confidential:

1. All records it maintains pursuant to its authority under Title 47 of the Oklahoma Statutes relating to the Oklahoma Highway Patrol Division, the Communications Division, and other divisions of the Department relating to:

a. training, lesson plans, teaching materials, tests, and test results,

b. policies, procedures, and operations, any of which are of a tactical nature, and

c. the following information from radio logs:

(1) telephone numbers,

(2) addresses other than the location of incidents to which officers are dispatched, and

(3) personal information which is contrary to the provisions of the Driver's Privacy Protection Act, 18 United States Code, Sections 2721 through 2725; and

2. For the purpose of preventing identity theft and invasion of law enforcement computer systems, except as provided in Title 47 of the Oklahoma Statutes, all driving records.

*Added by Laws 1985, SB 276, c. 355, § 8, eff. November 1, 1985; Amended by Laws 1989, HB 1136, c. 212, § 8, eff. November 1, 1989; Amended by Laws 2000, HB 2428, c. 226, § 1, eff. November 1, 2000 (repealed by Laws 2001, HB 1965, c. 5, § 30, emerg. eff. March 21, 2001); Amended by Laws 2000, HB 2552, c. 349, § 2, eff. November 1, 2000; Amended by Laws 2001, HB 1965, c. 5, § 29, emerg. eff. March 21, 2001; Amended by Laws 2005, SB 13, c. 35, § 1, emerg. eff. April 12, 2005 (repealed by Laws 2006, HB 3139, c. 16, § 37, emerg. eff. March 29, 2006); Amended by Laws 2005, HB 1553, c. 199, § 6, eff. November 1, 2005; Amended by Laws 2006, HB 3139, c. 16, § 36, emerg. eff. March 29, 2006.*

#### **51 O.S. 24A.9. Confidential Personal Notes and Personally Created Materials of Public Official Making Recommendation**

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.*

### **51 O.S. 24A.10 - Disclosure of Information Voluntarily Supplied**

A. Any information, records or other material heretofore voluntarily supplied to any state agency, board or commission which was not required to be considered by that agency, board or commission in the performance of its duties may, within thirty (30) days from June 6, 1988, be removed from the files of such agency, board or commission by the person or entity which originally voluntarily supplied such information. Provided, after thirty (30) days from the effective date of this act, any information voluntarily supplied shall be subject to full disclosure pursuant to this act.

B. 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.

C. Except as set forth hereafter, the Oklahoma Department of Commerce may keep confidential:

1. Business plans, feasibility studies, financing proposals, marketing plans, financial statements or trade secrets submitted by a person or entity seeking economic advice from the Oklahoma Department of Commerce; and
2. Information compiled by the Oklahoma Department of Commerce in response to those submissions.

The Oklahoma Department of Commerce may not keep confidential that submitted information when and to the extent the person or entity submitting the information consents to disclosure.

D. Although they must provide public access to their records, including records of the name, address, rate paid for services, charges, and payment for each customer, public bodies that provide utility services to the public may keep confidential credit information, credit card numbers, telephone numbers, social security numbers, and bank account information for individual customers; provided that, where a public body performs billing or collection services for a utility regulated by the Corporation Commission pursuant to a contractual agreement, any customer or individual

payment data obtained or created by the public body in performance of the agreement shall not be a record for purposes of this act.

*Added by Laws 1985, SB 276, c. 355, § 10, eff. November 1, 1985; Amended by Laws 1988, HB 1846, c. 187, § 5, emerg. eff. June 6, 1988; Amended by Laws 1996, SB 719, c. 209, § 4, eff. November 1, 1996; Amended by Laws 2004, SB 1108, c. 186, § 1, emerg. eff. May 3, 2004; Amended by Laws 2006, HB 2396, c. 18, § 1, eff. November 1, 2006.*

**51 O.S. 24A.10a. Confidential Market Research and Marketing Plans.**

The Oklahoma Medical Center may keep confidential market research conducted by and marketing plans developed by the Oklahoma Medical Center if the Center determines that disclosure of such research or plans would give an unfair advantage to competitors of the Oklahoma Medical Center regarding marketing research and planning, public education, and advertising and promotion of special and general services provided by the Oklahoma Medical Center.

*Added by Laws 1988, c. 266, § 22, operative July 1, 1988.*

**51 O.S. 24A.11. Confidential Library, Archive, or Museum Materials.**

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 and any information which would reveal the identity of an individual who lawfully makes a donation to or on behalf of a public body including, but not limited to, donations made through a foundation operated in compliance with Sections 5-145 and 4306 of Title 70 of the Oklahoma Statutes.

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. Amended by Laws 1992, c. 231, § 3, emerg. eff. May 19, 1992.*

**51 O.S. 24A.12. Confidential Litigation Files and Investigatory Reports.**

Except as otherwise provided by state or local law, the Attorney General of the State of Oklahoma and agency attorneys authorized by law, 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. Amended by Laws 1988, c. 187, § 6, emerg. eff. June 6, 1988.*

**51 O.S. 24A.13. Confidential Federal Legislation Records.**

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.*

**51 O.S. 24A.14. Confidential Personal Communications Exercising Constitutional Rights.**

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.*

**51 O.S. 24A.15. Confidential Crop and Livestock Reports Provided by Farmers, Ranchers, and Agribusinesses.**

A. 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 agribusinesses to the extent the reports individually identify the providers.

B. The State Board of Agriculture is authorized to provide for the confidentiality of any financial statement filed pursuant to Section 9-22 of Title 2 of the Oklahoma Statutes. Copies of such financial statements may only be obtained upon written request to the Commissioner of Agriculture.

Upon good cause shown, and at the discretion of the Commissioner of Agriculture, such financial statements may be released.

*Added by Laws 1985, c. 355, § 15, eff. Nov. 1, 1985. Amended by Laws 1988, c. 259, § 14, emerg. eff. June 29, 1988.*

**51 O.S. 24A.16 - Confidential Records of Public Educational Institutions - Statistical and Directory Information**

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 directory information with respect to each student attending the institution or agency and shall allow a reasonable period of time after the 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 prior consent of the parent or guardian or the student if the student is eighteen (18) years of age or older.

C. A public school district may release individual student records for the current or previous school year to a school district at which the student was previously enrolled for purposes of evaluating educational programs and school effectiveness.

*Added by Laws 1985, SB 276, c. 355, § 16, eff. November 1, 1985; Amended by Laws 1986, c. 116, § 1, emerg. eff. April 9, 1986; Amended by Laws 2003, HB 1646, c. 430, § 1, emerg. eff. July 1, 2003.*

#### **51 O.S. 24A.17. Violations of Oklahoma Open Records Act - Civil Liability.**

A. Any public official who willfully violates any provision of the Oklahoma Open Records Act, 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 records of a public body or public official:

1. May bring a civil suit for declarative or injunctive relief, or both, but such civil suit shall be limited to records requested and denied prior to filing of the civil suit; and

2. If successful, shall be entitled to reasonable attorney fees.

C. 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.

D. 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, SB 276, c. 355, § 17, eff. November 1, 1985; Amended by Laws 2005, HB 1553, c. 199, § 7, eff. November 1, 2005.*

**51 O.S. 24A.18. Additional Recordkeeping Requirements on Public Bodies or Public Officials not Imposed.**

Except as may be required in Section 24A.4 of this title, this act does not impose any additional recordkeeping requirements on public bodies or public officials.

*Added by Laws 1985, SB 276, c. 355, § 18, eff. November 1, 1985; Amended by Laws 2005, HB 1553, c. 199, § 8, eff. November 1, 2005.*

**51 O.S. 24A.19. Confidential Nature of Research Information.**

In addition to other records that a public body may keep confidential pursuant to the provisions of the Oklahoma Open Records Act, a public body may keep confidential:

1. Any information related to research, the disclosure of which could affect the conduct or outcome of the research, the ability to patent or copyright the research, or any other proprietary rights any entity may have in the research or the results of the research including, but not limited to, trade secrets and commercial or financial information obtained from an entity financing or cooperating in the research, research protocols, and research notes, data, results, or other writings about the research; and

2. The specific terms and conditions of any license or other commercialization agreement relating to state owned or controlled technology or the development, transfer, or commercialization of the technology. Any other information relating to state owned or controlled technology or the development, transfer, or commercialization of the technology which, if disclosed, will adversely affect or give other persons or entities an advantage over public bodies in negotiating terms and conditions for the development, transfer, or commercialization of the technology. However, institutions within The Oklahoma State System of Higher Education shall:

- a. report to the Oklahoma State Regents for Higher Education as requested, on forms provided by the Regents, research activities funded by external entities or the institutions, the results of which have generated new intellectual property, and
- b. report to the Oklahoma State Regents for Higher Education annually on forms provided:
  - (1) expenditures for research and development supported by the institution,
  - (2) any financial relationships between the institution and private business entities,
  - (3) any acquisition of an equity interest by the institution in a private business,
  - (4) the receipt of royalty or other income related to the sale of products, processes, or ideas by the institution or a private business entity with which the institution has established a financial arrangement,

- (5) the gains or losses upon the sale or other disposition of equity interests in private business entities, and
- (6) any other information regarding technology transfer required by the Oklahoma State Regents for Higher Education.

The reports required in subparagraphs a and b of this paragraph shall not be deemed confidential and shall be subject to full disclosure pursuant to the Oklahoma Open Records Act.

*Added by Laws 1988, c. 68, § 2, eff. Nov. 1, 1988. Amended by Laws 1999, c. 287, § 1, emerg. eff. May 27, 1999.*

#### **51 O.S. 24A.20. Access to Records in Possession of Public Body or Official for Investigatory Purposes.**

Access to records which, under the Oklahoma Open Records Act, would otherwise be available for public inspection and copying, shall not be denied because a public body or public official is using or has taken possession of such records for investigatory purposes or has placed the records in a litigation or investigation file. However, a law enforcement agency may deny access to a copy of such a record in an investigative file if the record or a true and complete copy thereof is available for public inspection and copying at another public body.

*Added by Laws 1988, c. 187, § 7, emerg. eff. June 6, 1988.*

#### **51 O.S. 24A.21. Fees Charged State Agency or Taxing Entity.**

The fees that may be charged by a public body pursuant to the provisions of paragraph 3 of Section 24A.5 of Title 51 of the Oklahoma Statutes shall not be charged when a state agency or taxing entity located within the boundaries of any district created pursuant to the provisions of the Local Development Act request a copy of the reports required by subsections A and B of Section 18 of this act.

*Added by Laws 1992, c. 342, § 21.*

#### **51 O.S. 24A.22. Confidential Nature of Public Utility Records.**

A. The Corporation Commission shall keep confidential those records of a public utility, its affiliates, suppliers and customers which the Commission determines are confidential books and records or trade secrets.

B. As used in this section, "public utility" means any entity regulated by the Corporation Commission, owning or operating for compensation in this state equipment or facilities for:

1. Producing, generating, transmitting, distributing, selling or furnishing electricity;
2. The conveyance, transmission, or reception of communication over a telephone system; or
3. Transmitting directly or indirectly or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public.

*Added by Laws 1994, c. 315, § 12, eff. July 1, 1994.*

**51 O.S. 24A.23. Confidential Nature of Information Provided to Department of Wildlife Conservation for Holding Permit or License to Extent Information Identifies Person.**

A. The Department of Wildlife Conservation shall keep confidential the information provided by persons, including the name and address of the person, applying for or holding any permit or license issued by the Department, to the extent the information individually identifies the person. The Department may use the information for Department purposes or allow the United States Fish and Wildlife Service to use the information for survey purposes only. The Department shall allow any public body to have access to the information for purposes specifically related to the public bodies function.

B. The provisions of subsection A of this section shall not apply to information provided by persons applying for or holding a commercial hunting or fishing license.

*Added by Laws 1996, c. 32, § 1, eff. July 1, 1996.*

**51 O.S. 24A.24. Confidential Investigatory Records and Notes of Office of Juvenile System Oversight.**

Unless otherwise provided by law, the Office of Juvenile System Oversight may keep its investigatory records and notes confidential, unless ordered by a court of competent jurisdiction to disclose the information.

*Added by Laws 1996, c. 247, § 42, eff. July 1, 1996.*

**51 O.S. 24A.25. Removal of Materials from the Public Record.**

Any order of the court for removal of materials from the public record shall require compliance with the provisions of paragraphs 2 through 7 of subsection C of Section 3226 of Title 12 of the Oklahoma Statutes.

*Added by Laws 2000, c. 172, § 4, eff. Nov. 1, 2000.*

**51 O.S. 24A.26. Intergovernmental self-insurance pools.**

An intergovernmental self-insurance pool may keep confidential proprietary information, such as actuarial reports, underwriting calculations, rating information and records that are created based on conclusions of such information that are developed through the operation of the intergovernmental self-insurance pool.

*Added by Laws 2000, c. 226, § 2, eff. Nov. 1, 2000.*

**51 O.S. 24A.27 - Confidential Vulnerability Assessments**

A. Any state environmental agency or public utility shall keep confidential vulnerability assessments of critical assets in both water and wastewater systems. State environmental agencies or public utilities may use the information for internal purposes or allow the information to be used for survey purposes only. The state environmental agencies or public utilities shall allow any public body to have access to the information for purposes specifically related to the public bodies function.

B. For purposes of this section:

1. "State environmental agencies" includes the:

- a. Oklahoma Water Resources Board,
- b. Oklahoma Corporation Commission,
- c. State Department of Agriculture,
- d. Oklahoma Conservation Commission,
- e. Department of Wildlife Conservation,
- f. Department of Mines, and
- g. Department of Environmental Quality;

2. "Public Utility" means any individual, firm, association, partnership, corporation or any combination thereof, municipal corporations or their lessees, trustees and receivers, owning or operating for compensation in this state equipment or facilities for:

- a. producing, generating, transmitting, distributing, selling or furnishing electricity,
- b. the conveyance, transmission, reception or communications over a telephone system,
- c. transmitting directly or indirectly or distributing combustible hydrocarbon natural or synthetic natural gas for sale to the public, or
- d. the transportation, delivery or furnishing of water for domestic purposes or for power.

*Added by Laws 2003, HB 1146, c. 166, § 1, emerg. eff. May 5, 2003.*

**51 O.S. 24A.28 - Confidentiality of Information Relating to Terrorism**

The following information may be kept confidential:

- A. Investigative evidence of a plan or scheme to commit an act of terrorism;
- B. Assessments of the vulnerability of government facilities or public improvements to an act of terrorism and work papers directly related to preparing the assessment of vulnerability;

C. Records including details for deterrence or prevention of or protection from an act or threat of an act of terrorism;

D. Records including details for response or remediation after an act of terrorism;

E. Information technology of a public body or public official but only if the information specifically identifies:

1. Design or functional schematics that demonstrate the relationship or connections between devices or systems;

2. System configuration information;

3. Security monitoring and response equipment placement and configuration;

4. Specific location or placement of systems, components or devices;

5. System identification numbers, names, or connecting circuits;

6. Business continuity and disaster planning, or response plans; or

7. Investigative information directly related to security penetrations or denial of services; or

F. Investigation evidence of an act of terrorism that has already been committed.

G. Records received, maintained or generated by the Oklahoma Office of Homeland Security which include confidential private business information or an individual's private records.

H. Records received by the Oklahoma Office of Homeland Security from the United States Department of Homeland Security or records maintained or generated by the Oklahoma Office of Homeland Security involving the United States Department of Homeland Security.

I. The following information shall not be kept confidential:

1. Records related to federal grants administered by the Oklahoma Office of Homeland Security;

2. Records related to the receipt and expenditure of public funds; or

3. Records related to the financial performance or financial administration of the Oklahoma Office of Homeland Security.

J. For the purposes of this section, the term "terrorism" means any act encompassed by the definitions set forth in Section 1268.1 of Title 21 of the Oklahoma Statutes.

*Added by Laws 2003, SB 395, c. 175, § 2, emerg. eff. May 5, 2003; Amended by Laws 2005, SB 28, c. 399, § 1, emerg. eff. June 6, 2005.*

**51 O.S. 24A.29 - Protected Materials - Protective Orders - Orders Directing Withholding, Removal of Pleadings or Other Material From Public Record**

A. Unless confidentiality is specifically required by law, any order directing the withholding or removal of pleadings or other material from a public record shall contain:

1. A statement that the court has determined it is necessary in the interests of justice to remove the material from the public record and in those instances where such withholding is required by law, the order shall so indicate;
2. Specific identification of the material which is to be withheld, removed or withdrawn from the public record, or which is to be filed but not placed in the public record; and
3. A requirement that any party seeking to file protected materials place such materials in a sealed manila envelope clearly marked with the caption and case number, the word "CONFIDENTIAL", and stating the date the order was entered and the name of the judge entering the order.

B. No protective order entered after the filing and microfilming of documents of any kind shall be construed to require the microfilm record of such filing to be amended in any fashion, and no other accounting entries may be affected by such order.

C. The party or counsel who has received the protective order shall be responsible for promptly presenting the order to appropriate supervisory court clerk personnel for action.

D. All documents produced or testimony given under a protective order shall be retained in the office of counsel until required by the court to be filed in the case.

E. Counsel for the respective parties shall be responsible for informing witnesses and other persons, as necessary, of the contents of the protective order.

F. When a case is filed in which a party intends to seek an order withholding removing material from the public record, the parties shall be initially designated on the petition under a pseudonym such as "John or Jane Doe", or "Roe", and the petition shall clearly indicate that the party designations are fictitious. The party seeking confidentiality or other order withholding or removing the case, in whole or in part from the public record, shall immediately present application to the court, seeking instructions for the conduct of the case, including confidentiality of the records.

G. It shall be the duty of the party filing confidential materials with the court to remove the materials from the custody of the court clerk within sixty (60) days after dismissal or other disposition of the main case in which the materials were filed. If

the party fails to remove confidential documents, the court clerk shall be authorized to destroy without notice such materials after a period of one (1) year has elapsed since the dismissal or other disposition of the main case in which materials were filed.

*Added by Laws 2005, SB 967, c. 72, § 1, eff. November 1, 2005.*

Reference Copy