

612:1-17-1. Access to DRS records [AMENDED]

(a) **Rights.** The Oklahoma Open Records Act is codified in 51 O.S. 24A.1 through 24A.18. In general the purpose of this Act is to ensure and facilitate the public's right of access to, review and copying of governmental records. The scope of the records to be maintained is expanded under the Act to include completed records of all business and financial transactions. The description of records to be maintained specifically includes books, photographs, microfilm, computer tapes or disks, video records, or "other material regardless of physical form or characteristic".

(b) **Information not subject to release.** This Act does not apply to records specifically required by law, both Federal and State, to be kept confidential. In addition to restrictions on release of information protected by rules, records not to be disclosed include: records subject to privileges such as attorney-client and physician-patient; personal notes prepared for one's own use in making a decision or recommendation, except such material relating to budget requests prior to taking action; propriety information relating to bids prior to publication or opening, computer programs and software, appraisal for awarding contracts prior to the award; the prospective locations of private businesses if disclosure would give an unfair advantage (unless the location is otherwise part of a public record such as license application); personal communications with a public official in the exercise of Constitutional rights (to the extent necessary to protect the person's identity); student records except for director information; documents provided by Federal agencies which are subject to limitations on disclosure; and 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 in the research or the results of the research. The Act provides that personnel records may be kept confidential if they relate to a personnel investigation/disciplinary action or release would be a clearly unwarranted invasion of privacy.

(c) **Exception.** "Record" does not mean non-governmental personal effects, unless public disclosure is required by other laws or regulations, personal financial statements submitted to a public body for the purpose of obtaining a license, permit, or for the purpose of becoming qualified to contract with a public body.

(d) **Information subject to release.** Personnel records that are public include the application of a person who becomes an employee, gross receipt of public funds, dates of employment, title or position, and final disciplinary action. All other records not falling within the descriptions given in Subsection (b) of this Section, regardless of physical form, are releasable under the Open Records Act. It is possible that records will contain material that is both open and confidential. As an example, a client's records could have medical information from the

46 Veterans Administration. When this occurs, care should be taken to remove the
47 confidential material.

48

49 (e) **Access to records.** Access to records shall not be denied because another
50 division or public official is using or has taken possession of such records for
51 investigatory purposes or has placed the records in an investigation file.

52

53 (f) **Inquiries.** Persons requesting the review of copies of records are to submit
54 the request in writing. The written request must include: a description of the
55 requested records; how the records are to be used, such as in the public interest,
56 news media, research, commercial purposes, etc.; and the requestor's name and
57 address.

58

59 (g) **Fee exclusions and fees.** Provisions for copying and search fees are
60 contained in the statute, with these exceptions being noted: no copy fee is
61 charged to other public entities, to applicants, recipients or their representatives,
62 or employees or former employees seeking information from their case file or
63 employment records; and no search fee is charged to news media, schools,
64 authors, or "taxpayers seeking to determine whether those entrusted with the
65 affairs of its government are honestly, faithfully, and competently performing their
66 duties as public servants." The fees listed in (1) - (4) of this Subsection may
67 stand alone or be charged in combination. For example, a person may be
68 charged a search fee in addition to a fee for photocopying.

69

70 (1) **Fees for photocopying.** The Department has established a fee schedule
71 for documents having the dimensions of 8 1/2 x 14 inches or smaller; if less
72 than 10 pages, 25 cents per page, between 10 and 100 pages, 10 cents per
73 page, and over 100 pages, 5 cents per page, or a maximum of one dollar
74 (\$1.00) per copied page for a certified copy.

75

76 (2) **Fees for search.** Requests that are for a commercial purpose or clearly
77 would cause excessive disruption of office function will be charged a search
78 fee of \$25.00 per hour for staff time spent in the search.

79

80 (3) **Fees for other types of reproduction.** Requests for computer runs,
81 microfilming or reproduction other than photocopying, will be charged at the
82 cost to the Department of duplicating the information involved. Such requests
83 are to be forwarded to the State Office where the fee will be developed with
84 the appropriate division.

85

86 (4) **Payment of fees.** All fees are paid prior to delivering the copies, and if
87 the request is for search only, the fee is paid before the person is allowed to
88 review the material. All fees are paid by check or money order; cash is not
89 accepted. The fee payment is transmitted to the State Office, Attention
90 ~~Budget and Finance Unit~~ Financial Services Division. In addition, a receipt is

91 to be given upon payment. A copy of the manual material is maintained to
92 explain the fee schedules to interested persons.

93
94 (h) **Penalties and appeals.** As indicated, the law generally requires the
95 production and copying of records. A person may file suit or appeal to obtain
96 records. Also, an employee is subject to a criminal action and disciplinary action
97 for "willfully" withholding information that should not have been withheld. On the
98 other hand, no damages may be awarded for release of information. Clearly, the
99 law favors release. If a person wishes to appeal a denial of access to records,
100 within ten days of such denial a letter may be submitted to: Director of
101 Rehabilitation Services, Open Records Act Appeal, 3535 N.W. 58th Street, Suite
102 500, Oklahoma City, Oklahoma 73112.