



Oklahoma Conservation Commission

District Directors' Responsibilities:

A 10-Minute Guide Series

This is one in a continuing series of informational/discussion topics designed to help conservation district directors become more informed and knowledgeable about their responsibilities. It is suggested that board members review these guides before a board meeting and then have a ten minute discussion on them at a meeting.

Guide No. 16 - Oklahoma Open Records Act

Conservation Districts are required to comply with the Oklahoma Open Records Act. It is important that districts understand which records are open to the public, how long records must be maintained and what process should be used to allow the public review of district records.

The Oklahoma Open Records Act

The Open Records Act (51.O.S. 1991) requires "public offices" to keep and maintain public records for inspection and copying during regular business hours.

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 review of government records so that they may efficiently and intelligently exercise their inherent political power.

Conservation districts have a specific duty to keep and maintain complete records regarding the transaction of public business, the expenditure of public funds and the administration of public property. All records not specifically required by state or federal law to be kept confidential are required to be open for public inspection.

What is Considered a Record?

For purposes of the Oklahoma Open Records Act, a "record" means all documents, which may take many forms, including but not limited to, books, paper, photos, microfilm, data files, computer tape, disk, phonograph record, sound, film or video recordings, regardless of physical form or characteristic; that come within the custody and control of the Conservation District, in connection with any of its public activities or

expenditures. Examples might include video or audio recordings of board meetings and any e-mails created or received by the District in the transaction of its public business. Any of these "records", unless specifically exempted, must be made available upon public request.

District Responsibilities

The district board must adopt a resolution designating the individual responsible for releasing material in the files and a schedule of copying fees.

Public records must be open to any person for inspection, copying, and/or mechanical reproduction during regular business hours.

Conservation districts must provide prompt, reasonable access to public records. The requester can be asked for enough information to determine if a search fee should be charged because the records request is for a commercial purpose. Otherwise, in no event could a conservation district ever require a requestor to provide the reason for a request for access to records.

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Exemptions

A conservation district denying access to a record bears the burden of proving that a statutory exemption applies to the record. Unless a record falls within a statutory exemption, it must be made available for public inspection. Any reasonable segregable portion of a record containing exempt material shall be provided after deletion of the exempt portions.

Below are some of the materials **NOT** open for public inspections.

- ◆ Personnel records pertaining to hiring and disciplinary actions, employee evaluations and payroll deductions, and social security numbers.
- ◆ Personal notes, memory aids, drafts and personally created materials of public officials, prior to action such as making a recommendation or report.
- ◆ Records protected by a state evidentiary privilege such as attorney client privilege, and/or material prepared in anticipation of litigation.
- ◆ Minutes of executive sessions, which are lawfully closed to the public.
- ◆ Complaints or other personal communications received by public officials from citizens exercising their rights, and any prepared responses.
- ◆ Information which would give an unfair advantage to competitors or bidders, such as bid specs before issuance or sealed bids before opening.

If a district has a question about where a record is open for public inspection or not, they should call the Oklahoma Conservation Commission for a determination.

Copying and Search Fees

Under the Oklahoma Records Act, conservation districts may charge up to twenty-five cents per page for document copying. This fee applies for documents having the dimensions of 8.5 inches by 14 inches or smaller.

If the request is solely for commercial purposes (such as a Realtor requesting floodplain information for various legal descriptions) or if the request would clearly cause excessive disruption of daily business transactions, then the district may charge a reasonable "search fee" to recover the direct cost of a document search.

Any district that establishes fees must post a written schedule of the fees at its principal office and mail a copy to the County Clerk.

No fees are to be charged when the release of 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 district's business are honestly, faithfully, and competently performing their duties as public servants.

Penalties for Violation of the Open Records Act

The Open Records Act provides that a public official's "willful" violation of any provision of the Act is a misdemeanor punishable by a fine of up to \$500 or imprisonment in the county jail for a period not to exceed one year, or both.

A person who is improperly denied access to a record may bring a civil suit for declaratory or injunctive relief and may be awarded attorney fees if successful.

Records Disposition

There is a records disposition schedule in the District Handbook (Chapter 2-17) that provides guidance on how long records should be maintained.

More Information:

For more details on this subject, conservation districts should acquire a copy of the Oklahoma Open Records Act, which may be found in Title 51, Oklahoma Statutes, section 24A.1-29.

Prepared by :

*Oklahoma Conservation Commission
District Services Division*

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