

IN THE DISTRICT COURT IN AND FOR OKLAHOMA COUNTY  
STATE OF OKLAHOMA

JENNIFER PALMER and OKLAHOMA  
WATCH, INC.,

*Plaintiffs,*

v.

STATE OF OKLAHOMA ex rel.  
OKLAHOMA STATE DEPARTMENT  
OF EDUCATION,

*Defendant.*

Case No.

**PETITION FOR RELIEF FOR VIOLATIONS OF THE**  
**OKLAHOMA OPEN RECORDS ACT**

Plaintiffs Jennifer Palmer and Oklahoma Watch, Inc. (“OK Watch”) (collectively, “Plaintiffs”), by and through undersigned counsel, bring this action against the State of Oklahoma by and through the Oklahoma State Department of Education (“OSDE” or “Defendant”) pursuant to the Oklahoma Open Records Act (“ORA”), Okla. Stat. tit. 51, §§ 24A.1, *et seq.* In support of their Petition, Plaintiffs state as follows:

**PARTIES**

1. Plaintiff Jennifer Palmer is an award-winning investigative journalist covering education for OK Watch. Over the course of a career spanning more than two decades, she has focused her journalism on government transparency and accountability.

2. Plaintiff Oklahoma Watch, Inc. is a nonprofit, tax-exempt, 501(c)(3) corporation that produces in-depth and investigative journalism as a public service for the benefit of all Oklahomans. OK Watch makes its content freely available to the public through various mediums, including its website (oklahomawatch.org), social media (@OklahomaWatch or Oklahoma\_Watch), and more.

3. Defendant Oklahoma State Department of Education is an executive agency controlled and directed by the Superintendent of Public Instruction. Okla. Stat. tit. 70, § 3-107.1. It is a “public body” subject to the ORA, within the meaning of Okla. Stat. tit. 51, § 24A.3(2).

### **JURISDICTION AND VENUE**

4. Jurisdiction is proper in this Court as a court of general jurisdiction pursuant to Okla. Const. art. VII, § 7.

5. Venue is proper in Oklahoma County pursuant to Okla. Stat. tit. 12, § 133.

### **STATEMENT OF FACTS**

6. On April 9, 2025, Ms. Palmer, acting on behalf of OK Watch, submitted an open records request (“ORR”) to OSDE seeking “documents reflecting the resignation of Kourtney Heard, including but not limited to written correspondence and/or emails.” *See* ORR 25-177 and follow-up communications (attached as Exhibit A).

7. OSDE did not respond to Plaintiffs’ ORR.

8. On April 23, 2025, Ms. Palmer followed up on her pending ORR via email to Kellie Keefe, open records custodian at OSDE, stating, “Hi Kellie. I wanted to clarify that on this request, I’m just asking for Ms Heard’s resignation letter. I worded this in a way that in case it was an email and not a ‘letter’ it would still turn up under the request. Please let me know if you have any questions. Thanks.” Ex. A.

9. Ms. Keefe did not respond to Ms. Palmer’s April 23 email; instead, on April 25, 2025, Ms. Palmer received the following communication denying her request from the email address “SDE.ORR@sde.ok.gov”:

Title 51 O.S. § 24A.7 provides that “[a]t the sole discretion of the public body, 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**.  
(emphasis added).

Furthermore, a public body has no obligation to release personnel records “[w]here disclosure would constitute a clearly unwarranted invasion of personal privacy[.]” See Okla. Public Employees Ass’n v. State of Okla. ex rel. Okla. Office of Personnel Mgmt, 2011 OK 68, ¶ 35, 267 P.3d 838, 861 (noting that “the policy of disclosure is purposed to serve the public interest and not to satisfy the public’s curiosity.”).

The email was unsigned and it is unknown which OSDE employee made the denial. The April 25 correspondence from SDE.ORR@sde.ok.gov to Ms. Palmer is attached as Exhibit B.

10. OSDE has previously released resignation letters in response to ORA requests without objection, protest, or redaction. As recently as February 24, 2025, Ms. Palmer obtained Dan Isett’s resignation letter from Defendant. Ms. Palmer and Defendant’s communications requesting and releasing Mr. Isett’s resignation letter pursuant to the ORA are attached as Exhibit C.

11. On May 1, 2025, counsel for Plaintiffs issued a litigation notice to Defendant pursuant to Okla. Stat. tit. 51, § 24A.17(C). This matter has been filed at least ten (10) business days following said notice.

### **CAUSE OF ACTION**

#### ***Violation of the ORA for Records Responsive to Plaintiffs’ Request***

12. The allegations contained in all preceding paragraphs are re-alleged and asserted here.

13. The purpose of the ORA 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.” Okla. Stat. tit. 51, § 24A.2.

14. Accordingly, the ORA provides that “[a]ll records of public bodies and public officials shall be open to any person for inspection, copying, or mechanical reproduction during regular business hours.” *Id.* § 24A.5.

15. “Unless a record falls within a statutorily prescribed exemption in the [ORA], the record must be made available for public inspection.” *Citizens Against Taxpayer Abuse, Inc. v. City of Oklahoma City*, 2003 OK 65, ¶ 12, 73 P.3d 871, 875.

16. “The public body urging an exemption [to disclosure] has the burden to establish the applicability of such exemption” or exception. *Id.*

17. “Because of the strong public policy allowing public access to governmental records,” the ORA’s provisions must be construed “to allow access unless an exception clearly applies.” *Okla. Ass’n of Broads., Inc. v. City of Norman*, 2016 OK 119, ¶ 15, 390 P.3d 689, 694.

18. The records sought by Plaintiffs’ Request are records of public bodies, public officials, and/or law enforcement agencies as defined by the ORA. Okla. Stat. tit. 51, § 24A.3.

19. Defendant possesses records responsive to Plaintiffs’ Request.

20. There is no legal basis for Defendant’s failure or refusal to disclose the requested records. If there was no internal personnel investigation, Defendant cannot raise a defense under § 24A.7. Under the ORA, “[a]ll personnel records not specifically falling within the exceptions ... shall be available for public inspection and copying including, but not limited to, records of ... [a]ny final disciplinary action resulting in loss of pay, suspension, demotion of position or termination.” Okla. Stat. tit. 51, § 24A.7.

21. Even if there were an internal personnel investigation, Defendant has abused its discretion in withholding this resignation letter, while releasing others. Although the ORA permits an agency to withhold records that “relate to internal personnel investigations,” including those

concerning “demotion, discipline or resignation,” said discretion is not unlimited and withholding records of a final disciplinary action that results in termination is not permitted. *Ross v. City of Owasso*, 2020 OK CIV APP 66, ¶¶ 12–13, 481 P.3d 278, 282–83; Okla. Stat. tit. 51, § 24A.7(A)(1), (B)(4).

22. Disclosure of the requested records is intended to, and reasonably likely to, enable Plaintiffs, who are members of the news media, to evaluate whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants.

23. The public interest in the requested records outweighs any reason for denial.

24. Defendant has violated the ORA by unlawfully withholding the records requested by Plaintiffs. Defendant will continue to be in violation of the ORA absent declaratory and injunctive relief from this Court.

### **RELIEF REQUESTED**

WHEREFORE, Plaintiffs respectfully request that the Court:

A. Declare, pursuant to the Court’s authority and Okla. Stat. tit. 51, § 24A.17(B), that the records sought by Plaintiffs are open records available to the public for inspection and copying in accordance with the ORA;

B. Declare that disclosure of the requested records is in the public interest and that the public interest outweighs any reason for denial;

C. Declare that Defendant’s refusal and failure to provide the requested records is an unlawful violation of the ORA;

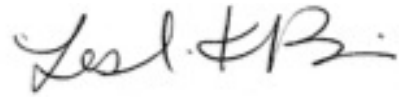
D. Grant an injunction pursuant to Okla. Stat. tit. 51, § 24A.17(B), or issue a writ of mandamus pursuant to Okla. Stat. tit. 12, §§ 1451–1462, requiring Defendant to immediately disclose all records requested by Plaintiffs under the ORA in this matter;

E. Award Plaintiffs’ reasonable costs and attorney fees in this action, pursuant to Okla. Stat. tit. 51, § 24A.17(B)(2); and

F. Grant such other and further relief as the Court deems just and proper.

Dated: May 22, 2025

Respectfully submitted,



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