



OFFICE OF THE ATTORNEY GENERAL
STATE OF OKLAHOMA

March 17, 2026

Via Email

Oklahoma Corporation Commission
c/o Daniel Boyle, Deputy General Counsel
daniel.boyle@occ.ok.gov

Re: Public Access Counselor Advisement – Complaint No. 2025-108

Dear Counsel,

This is an official advisement regarding the above-referenced complaint (“Complaint”) submitted to this office pursuant to 51 O.S.Supp.2025, § 24A.40. The Public Access Counselor (“PAC”) received the Complaint on January 7, 2026, from Gabriel Straus, a journalist with the Energy and Policy Institute. The Complaint alleges that the Oklahoma Corporation Commission (“OCC”) improperly denied a request under the Oklahoma Open Records Act (“ORA”) for the non-OCC emails of Commissioner Kim David. According to correspondence submitted with the Complaint, OCC claimed that it does not have access to Commissioner David’s non-OCC emails.

In accordance with 51 O.S.Supp.2025, § 24A.40(F), I conducted an initial review and determined the Complaint warranted a response from OCC. In its response, OCC argues that (1) it has complied with the ORA as to records that are within its possession, custody, and control, and (2) requests for Commissioner David’s non-OCC email must be directed to her, as she is an elected “public official” separate from the OCC.

Upon reviewing the records provided by OCC and consideration of OCC’s response, I have determined the following:

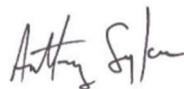
1. Title 51, section 24A.3(2)’s definition of public body includes “any . . . commission . . . supported in whole or in part by public funds or entrusted with the expenditure of public funds or administering public property.” Consequently, the OCC is a public body for the purposes of the Open Records Act.
2. Title 51, section 24A.3(4) defines a public official as “any official or employee of any public body as defined herein.” As a result, Commissioner David is a public official for the purposes of the Open Records Act because she is an official of the Oklahoma Corporation Commission.
3. Emails sent to or received by an OCC Commissioner, even through a personal account, are subject to the ORA to the extent that such emails are sent or received “in connection with the transaction of public business, the expenditure of public funds or the administering of public property.” *See* 2009 OK AG 12, ¶¶ 4-5 (quoting 51 O.S., § 24A.3(1)). Title 51,

section 24A.7(D) of the Oklahoma Statutes also states, “[N]othing in . . . [section 24A.7(D)] shall be construed to exempt from disclosure public records created using a private email address.”

4. Determining whether a specific record is connected with the transaction of public business, expenditure of public funds, or administration of public property involves a mix question of fact and law. *See* 2009 OK AG 12, ¶ 7.
2. OCC credibly claims that it conducted a thorough search and provided all responsive records within its possession, custody, or control or created by or received by Commissioner David on her governmental email address.
3. Under title 51, section 24A.5 of the Oklahoma Statutes, the records custodian for OCC must compile all responsive records to any request and provide such records to the requester promptly and reasonably. In compiling all responsive records, the records custodian must ask Commissioner David to provide *all* public records that she has created or received and are in her custody, possession, or control—include those in her private email— consistent with 2009 OK AG 12. As previously stated, whether Commission David’s emails from her private account constitute public records is a mixed question of fact and law.

Based on the information available to me at this time, I conclude that the Open Records Act requires OCC must ask Commissioner David for her non-OCC emails to the extent that they constitute public records as defined in title 51, section 24A.3(1) of the Oklahoma Statutes. Under title 51, section 24A.40(G), no further response to the above-referenced Complaint is required. If you have any questions, please do not hesitate to contact me at (405) 522-2771 or by email at opengov@oag.ok.gov.

Sincerely,



ANTHONY SYKES
Assistant Attorney General
Public Access Counselor

cc: Gabriel Straus (*via email*)