



First Amendment Audit Guidelines

- I. Interviewing and recording in OMES-occupied buildings
 - A. Individuals conducting First Amendment audits have the right to occupy and record activity in areas occupied by OMES employees that are traditional public forums during normal business hours.
 - B. Traditional public forums within OMES space would be all areas open to the general public. Examples are listed below.
 1. Will Rogers Building
 - a. All areas that are not access-controlled areas.
 - b. Reception.
 - c. Public meeting rooms except when used for executive sessions of a public body.
 - d. Concourse Theater when open for public meetings.
 - e. Boardroom located on third floor during public meetings and member education presentations.
 2. Data Center
 - a. Reception area.
 - C. Individuals conducting First Amendment audits have the right to ask questions. Such right to ask questions does not impose a duty on OMES employees to respond to the questions asked. OMES employees should not feel pressured to answer any question.
 1. If an employee does respond to the questions or decides to participate in the interview, such employee remains bound by the Oklahoma Ethics Rules.
 2. Ethics Rule 2.9 requires state officers or employees who engage in political activities to do so on their own time. Employees should be cautioned to avoid using the First Amendment audit as a forum to express personal political opinions or agendas.
 3. If an employee whose duty station is within an area open to the general public and does not feel comfortable being present during a First Amendment audit, the employee's supervisor may temporarily reassign the employee to another location during the audit.

II. First Amendment audits in public meetings

- A. Individuals conducting First Amendment audits have the right to be present at all public meetings held in accordance with the Oklahoma Open Meeting Act.
- B. Individuals may record public meetings.
- C. A public body is not required under the Oklahoma Open Meeting Act or the First Amendment of the U.S. Constitution to provide individuals an opportunity to express views or interview members of the public body. *Oklahoma Attorney General Opinion 02-26*.
- D. A public body may voluntarily choose to allow public comment. If the agenda for the public meeting states that the comments be limited to items on the agenda, any interview questions would be outside the scope of the agenda and in violation of the Oklahoma Open Meeting Act. A public body choosing to allow public comment has the right under the Oklahoma Open Meeting Act and the First Amendment of the U.S. Constitution to place reasonable "time, place and manner" restrictions on public comments, such as limiting comments to five minutes per person, or requiring speakers to sign up prior to the start of the meeting. Please see the OMES Legal Team for more information.

III. Encountering or becoming aware of a First Amendment audit at an OMES-occupied building

- A. Notify the OMES public information officer immediately.