

2017



KANSAS ATTORNEY GENERAL

Derek Schmidt

**Kansas Open Meetings Act (KOMA)/
Kansas Open Records Act (KORA)
Annual Report**

Kansas Fiscal Year 2017
(July 1, 2016 – June 30, 2017)

Pursuant to K.S.A. 2017 Supp. 75-753

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STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

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Dear Fellow Kansans:

In 1868, the Kansas Legislature enacted law – still on the books today – commanding that county commissioners “shall sit with open doors, and all persons conducting in an orderly manner may attend their meetings.” From that simple beginning, the concept of open government has been deeply embedded in Kansas law. Today, the Kansas Open Meetings Act and the Kansas Open Records Act are the two principal laws governing the modern legal requirements for open government in Kansas.

Those statutes grant certain authority to, and impose certain duties on, the attorney general for their enforcement and for education and training about their requirements. K.S.A. 75-753 requires the attorney general to compile and publish information about complaints and investigations involving these two open government laws whether handled by the attorney general or by the county and district attorneys throughout the state. This report for fiscal year 2017 is the product of that statutory requirement.

The first two sections of this report list the Kansas Open Meetings Act and Kansas Open Records Act complaints resolved by the attorney general’s office during the reporting year, including a brief summary of the allegations and the disposition.

The third section contains the information provided by county and district attorneys throughout the state regarding both KOMA and KORA complaints they resolved during the reporting year.

The fourth section lists the enforcement actions taken by the attorney general’s office during the reporting year.

Finally, the fifth section provides a list of trainings conducted by staff from the attorney general’s office during the reporting year.

In addition to the information in this report, the Office of the Attorney General maintains substantial information about open government on our website. Information there contains a list of all enforcement actions taken by the attorney general pursuant to K.S.A. 45-251(e) and K.S.A. 75-5320d(e), formal attorney general opinions interpreting provisions of the KOMA and the KORA, information about the Open Government Training Advisory Group established pursuant to K.S.A. 75-761, and general information about the KOMA and the KORA.

We hope this information is helpful.

Sincerely,

A handwritten signature in black ink that reads "Derek".

Derek Schmidt
Kansas Attorney General

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Kansas Open Meetings Act Complaints

COMPLAINTS AGAINST STATE AGENCIES

Emporia State University

Complaint: The editor of school newspaper filed a complaint with this office alleging that ESU violated the KOMA when it failed to allow the public to attend Emergency Notification Team meetings.

Resolution: Upon review, it was discovered that the school newspaper had also retained the services of a private attorney to send a demand letter to ESU concerning the same facts and circumstances. The file was closed to permit ESU and the university to resolve the matter informally. Therefore, no further action was taken.

Kansas Public Employment Retirement System Investment Committee

Complaint: An individual filed a complaint with this office alleging that the committee violated the KOMA when it discussed confidential real estate matters in executive session.

Resolution: Upon further review of the law and the facts, the complainant determined to voluntarily withdraw the complaint. Therefore, no further action was taken.

Kansas Secretary of State

Complaint: An individual filed a complaint with this office alleging that the Secretary of State blocked him from commenting on an official Facebook page in violation of the KOMA.

Resolution: Upon review it was determined that the KOMA applied to the Secretary of State's Office, but that Facebook comments and posts by the Secretary were not a meeting within the meeting of the KOMA. Although the complainant also mentioned the KORA in his complaint form, after review, no violation of the KORA was identified. Because there was no violation of the KOMA, no enforcement action was required.

COMPLAINTS AGAINST CITIES

Augusta City Council

Complaint: Two (2) former members of the parks board filed a complaint with this office alleging that emails between the mayor and city council members soliciting nominees to replace three members of the Augusta Park Board were serial communications in violation of the KOMA.

Resolution: After investigation, including interviews of all the council members and the mayor, as well as review of all relevant emails, this office determined that the city council did not violate the KOMA. The mayor sent emails to all the council members using the blind carbon copy or "bcc" function on the email, so that the recipients could not identify who else had received the email(s). He did not share the responses he received from other council members, and there was no evidence that the council members discussed this subject amongst themselves outside of an open meeting. Although it was the mayor's opinion that council members might be willing to move in a particular direction, there

was no evidence of interactive communications that collectively reached a majority of the council or that any or all of them intended to reach an agreement on the topic of park board appointments. Based on the facts, the email exchanges did not constitute serial communications. Ultimately, after public discussion, including input from the two complainants, the council took binding action in an open meeting, first by amending the ordinance relating to park board appointments and removals, then by voting to replace three (3) existing members with three (3) new members. Because there was no violation, no further enforcement action was taken.

Larned City Council

Complaint: An individual filed a complaint with this office alleging that the city council violated the KOMA by failing to provide notice, including the time and place, of a special meeting.

Resolution: Upon review, the complainant appeared to be alleging that the city council failed to follow the special meeting requirements of K.S.A. 14-111 and the Larned Municipal Code with regard to notice of the special meeting, rather than alleging a violation of the KOMA. Additionally, the KOMA does not require notice of a meeting, including the time and place it is to be held, to be published. Rather, the KOMA requires notice to be provided an individual who has asked for such notice. This office requested the complainant to clarify the nature of the complaint and whether he had ever asked for notice of the meetings. The complainant did not respond to the request, therefore, no further enforcement action was taken.

Marysville City Council

Complaint: Three city council members individually filed complaints with this office self-reporting a possible violation of the KOMA involving the use of an executive session to discuss the appointment of a new city attorney.

Resolution: Upon investigation, this office determined that the city attorney requested the executive session to discuss her contract, and advised the city council this was a permitted use of an executive session. It was further determined that an appointed city attorney in a city of the second class is ordinarily a public officer and not a public employee because the position of city attorney is created by statute. The city attorney also exercises sovereign power by serving as the municipal prosecutor. Because the city attorney was clearly a public official and not a public employee, the city council was not permitted to discuss her contract in executive session using the personnel matters of nonelected personnel subject under the KOMA. Thus, the city council violated the KOMA. Under the KOMA, members of public bodies are individually liable for violation. Reliance on incorrect legal advice is not a defense to a violation of the KOMA. However, it may be considered as a factor in mitigation of any violation. Because the city council had a good faith, although mistaken, belief it could discuss the city attorney's contract in executive session, this office determined it would not pursue formal enforcement action.

Wakefield City Council

Complaint: An individual filed a complaint with this office alleging that the city council violated the KOMA by adding an executive session to a special meeting without providing notice to the members of the city council.

Resolution: Upon review, the complainant appeared to be alleging that the city council failed to follow the special meeting requirements of K.S.A. 15-106 and the Wakefield City Code

with regard to notice of the special meeting, rather than alleging a violation of the KOMA. Whether a city council failed to comply with its own city code or the requirements of K.S.A. 15-106 are outside the scope of the KOMA. The complainant also stated that this was “just one example of many violations.” This office requested the complainant provide additional information about any other alleged violations, however the complainant did not respond. Therefore, no further enforcement action was taken.

Wellington City Council

Complaint: On behalf of the city council, the Wellington city attorney filed a complaint with this office to self-report a violation of the KOMA that occurred when the mayor and a majority of the city council attended a town hall meeting and discussed city business without giving notice of the meeting to individuals who requested notice.

Resolution: Upon investigation, this office determined the city council violated the KOMA by holding a town hall meeting and discussing city business with a majority of the council present without providing notice to individuals who requested notice of city council meetings. Because the city self-reported the violation and expressed its willingness to receive training on the KOMA, this office determined to seek voluntary compliance through a Consent Order. The city council entered into a Consent Order on March 16, 2016. The requirements of the Consent Order were satisfied on October 17, 2016.

Wellington City Council

Complaint: On behalf of the city council, the Wellington city attorney filed a complaint with this office to self-report that a possible violation of the KOMA occurred when during a working session, the council called for an executive session and due to a public disruption, failed to vote on the motion it made, and then recessed into executive session.

Resolution: Upon review, this office determined that the city council violated the KOMA when it failed to hold a public vote on its motion to recess into executive session. Because the council attempted in good faith to comply with the KOMA, its meeting was open and in substantial compliance with the KOMA, and there was no evidence to show that its actions were a subterfuge to prevent the public from seeing or hearing what was happening, this office determined this was a technical violation and that formal enforcement action was not required. However this office did request the council take remedial action to include adoption of a checklist or other similar process/protocol, as well as the assignment of an individual to be responsible for ensuring that the council follows the checklist/process to avoid similar violations in the future. The council promptly complied with this request.

COMPLAINTS AGAINST COUNTIES

Atchison County Commission

Complaint: An individual filed a complaint with this office alleging that the commission violated the KOMA when it used serial communications to make a decision concerning the county lake and budget concerns.

Resolution: This office reviewed the email exchanges between the commissioners and determined that they did not engage in serial communications because there was no intent to reach an

agreement on a matter that would require binding action by the commission. Because there were no serial communications, the KOMA was not violated and no further enforcement action was taken.

Franklin County Rural Water District #1 Board

Complaint: An attorney for a board member filed a complaint with this office alleging that the board violated the KOMA by making decisions outside of an open meeting.

Resolution: This office requested the complainant's attorney submit the supporting documentation mentioned in the complaint. The complainant's attorney did not respond to the request, therefore, no further action was taken.

Leavenworth County Board of County Commissioners

Complaint: An individual filed a complaint with this office alleging that the commission violated the KOMA by taking binding action in an executive session.

Resolution: Upon review, this office determined the commission violated the KOMA by taking binding action in executive session to terminate a county employee and directing the county counselor to effect a settlement agreement with a second county employee. The investigation also revealed technical violations of the KOMA by failing to comply with the statutory requirements for making executive session motions, and failing to limit discussion to the subjects identified in the motion. This office sought voluntary compliance with the KOMA through a Consent Order based in part on the remedial actions taken by the commission while the investigation was pending, and its cooperation with the investigation. The commission entered into a Consent Order on September 15, 2016. The requirements of the Consent Order were satisfied on October 26, 2016.

Lincoln County Commission – District #3 Commissioner Alexis Pflough (Complaint 1)

Complaint: An individual filed a complaint with this office alleging that the commissioner violated the KOMA by making a Facebook post identifying matters allegedly discussed during an executive session.

Resolution: Upon review, it was determined that the KOMA does not contain any rules that prohibit a member of the public body from revealing what was discussed during an executive session. However other rights, such as the attorney-client privilege, may be implicated or waived by such a disclosure. Publicly discussing what occurred during an executive session may also call into question the need to discuss matters outside of public view. However, because there was no violation of the KOMA, no enforcement action was required.

Lincoln County Commission – District #3 Commissioner Alexis Pflough (Complaint 2)

Complaint: An individual filed a complaint with this office alleging that the commissioner violated the KOMA by making a Facebook post identifying matters allegedly discussed during an executive session.

Resolution: Upon review, it was determined that the KOMA does not contain any rules that prohibit a member of the public body from revealing what was discussed during an executive session. However other rights, such as the attorney-client privilege, may be implicated or waived by such a disclosure. Publicly discussing what occurred during an executive session may also call into question the need to discuss matters outside of public view.

However, because there was no violation of the KOMA, no enforcement action was required. Additionally, there was no basis to consider an ouster action or other removal from office as requested by the complainant.

Lincoln County Commission – District #3 Commissioner Alexis Pflough (Complaint 3)

Complaint: An individual filed a complaint with this office alleging that the commissioner violated the KOMA by making a Facebook post identifying matters allegedly discussed during an executive session. Additionally, the individual believed the commissioner was “rude + disrespectful to other county elected officials.”

Resolution: Upon review, it was determined that the KOMA does not contain any rules that prohibit a member of the public body from revealing what was discussed during an executive session. However other rights, such as the attorney-client privilege, may be implicated or waived by such a disclosure. Publicly discussing what occurred during an executive session may also call into question the need to discuss matters outside of public view. Additionally, the KOMA contains no requirements concerning how members of a public body interact with each other. Because there was no violation of the KOMA, no enforcement action was required. There was also no basis to consider an ouster action or other removal from office as requested by the complainant.

Lincoln County Commission – District #3 Commissioner Alexis Pflough (Complaint 4)

Complaint: An individual filed a complaint with this office alleging that the commissioner violated the KOMA by making a Facebook post identifying matters allegedly discussed during an executive session. Additionally, the individual was concerned that the commissioner recorded the commission meetings and posted the recording to Facebook without public notice that a recording was being made. Finally, the individual was concerned that the commissioner reviewed information on a phone or texted during commission meetings.

Resolution: Upon review, it was determined that the KOMA does not contain any rules that prohibit a member of the public body from revealing what was discussed during an executive session. However other rights, such as the attorney-client privilege, may be implicated or waived by such a disclosure. Publicly discussing what occurred during an executive session may also call into question the need to discuss matters outside of public view. The KOMA also does not prohibit recordings of public meetings. K.S.A. 75-4318(e) provides that “[T]he use of cameras, photographic lights and recording devices shall not be prohibited at any meeting . . . but such use shall be subject to reasonable rules designed to insure the orderly conduct of the proceedings at such meeting.” Finally, the KOMA contains no requirements concerning the use of a phone during an open meeting. Because there was no violation of the KOMA, no enforcement action was required.

Logan County Commissioners Uhrich and Hubert

Complaint: An individual filed a complaint with this office alleging that two commissioners violated the KOMA by discussing his employment outside of an open meeting and during an executive session, and possibly disclosed executive session discussions.

Resolution: After receiving the complaint, this office requested additional information from the complainant about the alleged communications. Upon review of all information provided by the complainant, this office was unable to conclude that there were any communications. Additionally, this office concluded that personnel matters of nonelected personnel is a proper subject for discussion during an executive session. The mere fact

that an employee's employment was discussed during an executive session is not a violation of the KOMA. Additionally, even if a commissioner revealed confidential personnel matters discussed during an executive session, such disclosures do not violate the KOMA. Because there was no violation of the KOMA, no enforcement action was required.

Woodson County Commission

Complaint: An individual filed a complaint with this office alleging that the commission violated the KOMA when it failed to use or follow a bidding process for tire disposal, did not properly delegate authority to act on matters related to tire disposal, and failed to maintain accurate or complete meeting minutes that referenced a discussion to bid out tire disposal.

Resolution: Upon review, it was determined that the failure to use or follow a county policy or ordinance established to govern bids and bidding for county work was outside the scope of the KOMA, as was whether the commission properly delegated authority to act. Additionally, the KOMA does not contain any requirements concerning the content of meeting minutes except with regard to motions for executive session. Members of a public body can determine the form and content of the meeting minutes. A failure to record all commission discussions or motions may not be a good business practice, but does not violate the KOMA unless it relates to executive sessions. Because there was no violation of the KOMA, no enforcement action was required.

Unified Government Commission of Wyandotte County/Kansas City, Kansas

Complaint: A commissioner filed a complaint with this office alleging that the UG violated the KOMA when it held two executive sessions in August 2015 to discuss security matters and instead discussed the costs associated with the Mayor's dignitary security.

Resolution: Upon investigation, this office determined by a preponderance of the evidence that the UG violated the KOMA by: (1) consistently failing to meet the statutory requirements for recessing into executive session because its motions did not always reflect the justification, subject matter and the time and place the open would resume; and (2) failed to return to an open meeting in a location accessible to the public to make a second motion for executive session. Based on the facts, this office determined these were technical violations of the KOMA because the UG was attempting to substantially comply with the KOMA, there was no evidence of prejudice or that the public's right to know was effectively denied, and no evidence the UG was attempting to circumvent or thwart the purposes of the KOMA. Based on the totality of the circumstances, this office determine that the UG did not violate the KOMA when it discussed security matters, including threat assessments and operational details related to the protection of elected officials performing public duties during an executive session where the discussion included a limited general discussion of the costs of such security that was closely intertwined with the operational aspects of such security. Although it was ultimately determined that the technical violations of the KOMA did not require formal enforcement action, this office requested the UG take remedial action including, at a minimum, establishment and use of a checklist or other similar protocol/process to ensure the statutory requirements for an executive session were met, and that all motions and votes for executive sessions or other binding action occur in an area accessible to the public

and media. The UG promptly complied with the request for remedial action, and no further enforcement action was taken.

COMPLAINTS AGAINST OTHER AGENCIES

Dodge City Community College Trustees Floris Jean Hampton, Morris Reeves, and Merrill Conant, M.D.

Complaint: An individual filed a complaint with this office alleging that three community college trustees violated the KOMA when they added items to the agenda of a special meeting, and that the Board of Trustees voted to approve a response on a matter without a quorum.

Resolution: This office requested the complainant submit the supporting documentation mentioned in the complaint. The complainant did not respond to the request, therefore, no further action was taken.

Kingman County Economic Development Council

Complaint: A KCEDC member filed a complaint with this office alleging that the council violated the KOMA when it discussed improper subject matters during executive session, adjourned the executive session to another time and place, and failed to give notice of the new meeting date and location.

Resolution: Upon investigation, this office determined by a preponderance of the evidence that the KCEDC violated the KOMA by: (1) failing to meet the statutory requirements for recessing into executive session because its motion did not reflect the justification, subject matter and the time and place the open would resume; (2) discussing non-confidential data relating to the financial affairs of corporations during an executive session; and (3) by voting during an executive session to reconvene the executive session at a later date. Based on the facts, this office determined these were technical violations of the KOMA because the KCEDC substantially complied with the KOMA, sought advice in advance of discussing the non-confidential data in executive session, and there was no evidence of prejudice, that the public's right to know was effectively denied, or that the KCEDC was attempting to circumvent or thwart the purposes of the KOMA. Based on the totality of the circumstances, this office determined that the KCEDC did not violate the KOMA when it recessed the executive session to another time and place because it quickly dispersed and did not hold the executive session as planned, and it was not required to give notice of the new meeting date and time to resume the executive session because no person requested such notice and the KOMA does not require general public notice of the meetings of public bodies. Although it was ultimately determined that the technical violations of the KOMA did not require formal enforcement action, this office requested the KCEDC to take remedial action including, at a minimum, establishment and use of a checklist or other similar protocol/process to ensure the statutory requirements for an executive session were met, that all motions and votes for executive sessions or other binding action occur in an area accessible to the public and media, and that it establish a process or procedure whereby they formally convened and adjourned their meetings, announced their return from executive session, and marked these events in its official meeting minutes. The KCEDC promptly complied with the request for remedial action, and no further enforcement action was taken.

USD 258 Board of Education (Humboldt)

Complaint: An individual filed a complaint with this office alleging that the board violated the KOMA by discussing board business after the meeting adjourned.

Resolution: This office requested the complainant provide clarification concerning the allegations raised in the complaint, as well as submit any supporting documentation. The complainant did not respond to the request, therefore, no further action was taken.

USD 305 Board of Education (Salina)

Complaint: An individual filed a complaint with this office alleging that the board violated the KOMA by making a binding decision to non-renew the superintendent's contract during executive session.

Resolution: Upon investigation, this office ultimately determined that the board did not make a binding decision during executive session. However, during a review of how the board conducted its executive sessions, it was determined that it engaged in a technical violation when it failed to comply with the KOMA's requirements for recessing into executive session. Additionally, it was determined that the board's policies, which it adopted to comply with the statutory executive session requirements, were vague and did not correspond to the statutory requirements. The office requested that the board take remedial action to resolve these concerns. The board promptly complied with this request, as well as with the suggestion that it seek out KOMA training. No further enforcement action was taken.

USD 361 Board of Education (Anthony-Harper)

Complaint: Several individuals filed a complaint with this office alleging that the board violated the KOMA when it did not follow the agenda for a special meeting.

Resolution: Upon review of the complaint, it was determined that the KOMA does not specify how specific an agenda or items listed on an agenda must be, and that nothing in the KOMA prohibits a meeting agenda from being amended during a meeting. There are special statutory rules that apply to school boards when they hold special meetings. Concerns about whether a school board complied with these special statutory rules fall outside the scope of the KOMA. No further enforcement action was taken.

USD 361 Board of Education (Anthony-Harper)

Complaint: Several individuals filed a complaint with this office alleging that the board violated the KOMA by failing to hold a public vote after reaching a consensus during executive session.

Resolution: Upon investigation, this office determined that the board reached a consensus during executive session to direct the superintendent to administratively transfer an elementary school principal to a high school principal position, but did not hold a public vote after returning to open meeting. The board mistakenly thought it had delegated the superintendent authority to make such administrative transfers. Additionally, the board's motion for executive session did not properly state all the statutory elements. Based on the facts, this office determined the board violated the KOMA. The board agreed to a Consent Order requiring each board member to pay a \$50.00 civil penalty. The board was also required to undertake a prompt review of its policies concerning executive sessions and not engage in any future violations of the KOMA. Prior to the completion of the

investigation, the board proactively sought and received KOMA training. The board entered into a Consent Order on April 14, 2017. The requirements of the Consent Order were satisfied on May 15, 2017.

USD 378 Board of Education (Riley County)

Complaint: Two individuals filed a complaint with this office alleging that the board violated the KOMA when it failed to provide them notice of meetings as requested or to notify them that meeting notices would be discontinued; improperly used executive sessions; and that meeting access doors were locked so they could not get into the building where the meeting was held. The complainants also alleged that the board violated the KORA when it delayed responding to a request for information.

Resolution: This office requested the complainants submit a complaint signed under penalty of perjury as required by K.S.A. 2016 Supp. 45-252. Complainants did not respond to the request, therefore, no further action was taken.

USD 428 Board of Education (Great Bend)

Complaint: An individual filed a complaint with this office alleging that the board violated the KOMA by taking binding action in executive session to revise its practices regarding adult monitoring and supervision on bus trips.

Resolution: Upon investigation, this office determined that the board did not take binding action during executive session. State law and school district policies make clear that the school superintendent had the authority to issue directives and take actions affecting the operation of schools, including actions related to monitoring and supervising students on school buses. The superintendent verbally issued directives and took actions, then presented updated policies for the board's consideration; the board adopted the updated policies after a public vote. Although the board did not violate the KOMA by voting in executive session, this office determined that the board engaged in a technical violation of the KOMA by failing to meet the statutory requirements for recessing into executive session when its motion did not contain a justification or the place where the open meeting would resume. Based on this finding, this office requested the board take remedial action to ensure it complied with the statutory elements for recessing into executive session in the future. The board promptly complied with this request for remedial action.

USD 494 Board of Education (Syracuse)

Complaint: The editor of *The Syracuse Journal* filed a complaint with this office alleging that the board violated the KOMA by failing to give notice of a special meeting to those who requested notice of its meetings, and improperly using a waiver of notice.

Resolution: Upon further review of the law and the facts, the complainant determined to voluntarily withdraw the complaint. Therefore, no further action was taken.

USD 497 Board of Education (Lawrence)

Complaint: An individual filed a complaint with this office alleging that three board members violated the KOMA when they met with the public after a school board meeting and failed to provide public notice of the meeting.

Resolution: Upon review of the complaint, it was determined that a majority of the members of the board did not meet with members of the public, thus no notice of the meeting was required. Additionally, the KOMA does not require general public notice of meetings to be published. No further enforcement action was taken.

REFERRALS TO COUNTY OR DISTRICT ATTORNEY OFFICES

- Cowley College Board of Trustees (Cowley County) (complaint #1) – voting for trustee by secret ballot. A separate individual filed a similar complaint with the county attorney. At the request of the county attorney, the cases were consolidated for investigation by his office. *See* county report for details.
- Cowley College Board of Trustees (Cowley County) (complaint #2) – voting for trustee by secret ballot. A separate individual filed a similar complaint with the county attorney. At the request of the county attorney, the cases were consolidated for investigation by his office. *See* county report for details.
- USD 260 Board of Education (Sedgwick County) – use of executive sessions; notice of meetings; special meetings; and meeting minutes. The complainant filed an identical complaint with the Sedgwick County District Attorney’s Office, who agreed to proceed with its investigation. *See* county report for details.
- Trego Manor Board (Trego County) (Complaint #1) – improperly holding an executive session. *See* county report for details.
- Coffeyville City Commission (Montgomery County) – commissioners alleged to have improperly attended Zoning and Planning Board meeting and participated in meeting. *See* county report for details.
- Trego Manor Board and Trego County Commission (Trego County) – changed meeting dates without notice, denied access to meeting packets and records. *See* county report for details.
- Robinson City Council (Brown County) – improperly recessing into executive session. *See* county report for details.
- Trego Manor Board (Trego County) (Complaint #2) – failed to state subject matter and time open meeting was to reconvene when recessing into executive session. *See* county report for details.
- Trego Manor Board (Trego County) (Complaint #3) – binding action in executive session. *See* county report for details.
- USD 484 Board of Education (Wilson County) (Complaint #1) – unqualified elector/board member participated in executive session and binding vote to nonrenew teacher contract. *See* county report for details.
- USD 484 Board of Education (Wilson County) (Complaint #2) – failure to provide public notice of meeting; failure to comply with statute regarding school board special meetings. *See* county report for details.

Kansas Open Records Act Complaints

COMPLAINTS AGAINST STATE AGENCIES

Kansas Department for Children and Families

Complaint: An individual filed a complaint with this office alleging that DCF violated the KORA when it did not provide a timely response to a request for records.

Resolution: Upon investigation, this office learned that the complainant submitted a KORA request containing questions and a request for information, not records. Although the KORA does not require a public agency to answer questions or create a record to respond to a request, DCF nevertheless sent a timely initial response and searched for records that might be responsive to the complainant's questions and requests for information. This office determined there was a delay in providing records. However, the delay was attributable to the fact that the complainant was seeking statistical information that DCF did not utilize frequently, was not aggregated for public viewing, or that changed daily or even hourly. Additionally, some of the information could not be produced in an "on demand" report. DCF also spent well in excess of the original eight (8) hours estimated to respond to the request for information but did not charge additional fees. Based on the preponderance of the evidence, this office was unable to conclude that DCF knowingly violated any of the provisions of the KORA or that it intentionally failed to furnish information as required by the act. Therefore, no formal enforcement action was taken.

Kansas Department for Children and Families

Complaint: An individual filed a complaint with this office alleging DCF violated the KORA by improperly denying access to records.

Resolution: The complainant submitted the complaint via a letter. This office requested the complainant complete and submit a complaint form as required by K.S.A. 2016 Supp. 45-252(a). The complainant did not respond to this request. No further action was taken on the complaint.

Kansas Department for Children and Families – Child Protective Services

Complaint: An individual filed a complaint with this office alleging DCF violated the KORA when it failed to release records to the public concerning a child death.

Resolution: This office requested the complainant clarify the nature of the complaint and submit any supporting documentation. The complainant did not respond to the request, therefore, no further action was taken.

Kansas Department of Corrections

Complaint: An individual filed a complaint with this office alleging the KDOC violated the KORA when it did not respond to a request for records, then denied a second request for records.

Resolution: Upon investigation, this office learned that the KDOC did not receive the first records request from the complainant. With regard to the second request, the KDOC timely responded to it and provided some of the requested records, but denied the remainder because it did not have any responsive records and was not required to create a record to

respond to the KORA request. This office concluded the KDOC did not violate the KORA and no further action was required.

Kansas Department of Corrections

Complaint: An individual filed a complaint with this office alleging the KDOC violated the KORA when it denied a request for records.

Resolution: Upon review of the complaint, this office determined that the plain language of the KDOC's response indicated that the request was "under review" and had not been denied; the KDOC response also indicated that a follow up response to the request would be provided. This office concluded the complaint was premature and no further action was required.

Kansas Department of Health and Environment

Complaint: An individual filed a complaint with this office alleging that the KDHE violated the KORA when it did not provide records after its initial acknowledgment.

Resolution: Shortly after filing the complaint, the complainant contacted this office to advise KDHE had provided the records, and he wished to withdraw his complaint. After confirming that the complainant was satisfied with this result, the matter was closed, and no further action was taken.

Kansas Highway Patrol

Complaint: An individual filed a complaint with this office alleging the KHP violated the KORA when it failed to provide records in response to a verbal request for records.

Resolution: Upon investigation, this office learned the complainant verbally requested a copy of an investigative report, and was denied a copy. At the time of the request, it was not clear the complainant intended to invoke the KORA. Nevertheless, the KHP advised the complainant how to access a video and denied the complainant access to an investigative report, advising that the report was confidential. The complainant did not follow through with the instructions on how to obtain a copy of the video. After filing the complaint with this office, the complainant continued to email the KHP, and ultimately withdrew the records request. This office was unable to conclude that the KHP violated the KORA, therefore no formal enforcement action was taken.

Kansas Highway Patrol

Complaint: An individual filed a complaint with this office alleging that the KHP violated the KORA when it failed to provide records related to the arrest of a specific individual.

Resolution: Upon receiving information from the KHP, this office requested that it provide the complainant with an amended response that specifically addressed each request for records, and a more detailed response supporting any claimed exemption to disclosure, as well as how to access any responsive records. The KHP promptly complied, but did not receive a response to its letter. No further enforcement action was taken.

Kansas Secretary of State

Complaint: An individual filed a complaint with this office alleging that the KSOS failed to respond to an emailed request seeking specific voter information.

Resolution: Upon investigation, this office learned that during an upgrade to the KSOS email system, it experienced numerous problems receiving emails, with some emails flagged as quarantined or sent to a junk email folder. This office was independently aware that other state agencies involved in the email upgrade experienced the same problems. After receiving this complaint, KSOS staff determined that the complainant's email was sent to the "election" email address, and suffered this fate. Once it was discovered, KSOS staff responded to the inquiry. Part of the delay in responding may have been attributable to the fact that the email request was not sent to the "KORA" email address the KSOS established to receive KORA requests, and because the complainant did not contact the KSOS's office when no response was received. This office also determined that the complainant was seeking information or answers to questions, rather than records. The purpose of the KORA is to provide access to or copies of records, thus simply asking for information does not trigger the KORA's procedural protections. Additionally, the KSOS's office did not maintain some of the requested information. This office was unable to conclude that the KSOS violated the KORA, therefore no formal enforcement action was taken.

Kansas State University

Complaint: An individual filed a complaint with this office alleging that KSU violated the KORA with it declined to provide records involving email correspondence related to a draft of a scientific manuscript based on exemptions to the KORA concerning correspondence; notes, drafts, research data in the process of analysis and opinions; and personnel records.

Resolution: This office contacted KSU regarding the complaint. KSU responded that one of the individuals on the emails was acting in her private capacity as the editor in chief of a scientific journal published by a nonpartisan, nonprofit organization corresponding about a draft manuscript submitted to the journal. Thus, it was claimed that the emails between this individual and university personnel were correspondence, as well as notes, drafts, research data in the process of analysis and opinions, and personnel records that KORA did not require to be disclosed. After further review, KSU withdrew its claim that the records were personnel records, as none of the emails were located in a personnel file. In response to an inquiry, KSU stated that it did not perform a complete search for the records because it was already aware of the nature of some of the emails. It promptly conducted a complete search when requested to do so by this office, and produced unredacted copies of the records for review. This office independently reviewed the unredacted records and found that KSU's response in declining to release the records was consistent with K.S.A. 2016 Supp. 45-221(a)(14) and (20). The plain language of the KORA makes it clear that KSU may, but is not required to, disclose records that fall under these exemptions. No enforcement action was taken.

COMPLAINTS AGAINST CITIES

Abilene Police Department

Complaint: An individual filed a complaint with this office alleging that the police department violated the KORA when it denied a request for access to review records from a 1991 criminal case.

Resolution: Upon review, it was determined additional information was needed to clarify the complaint and whether the complainant intended to identify additional public agencies as being in violation of the KORA. This office requested the complainant to clarify the nature of the complaint and identify any additional public agencies the complainant believed violated the KORA. The complainant did not respond to the request, therefore, no further enforcement action was taken.

Basehor Municipal Court

Complaint: An individual filed a complaint with this office alleging that the municipal court violated the KORA when it improperly refused to permit access to records in a traffic case.

Resolution: Upon review, this office learned that the complainant verbally requested access to a Kansas Standard Arrest Report (KSAR). This office determined there was no violation of the KORA because the KSAR constitutes criminal history record information and is confidential pursuant to K.S.A. 22-4701, and thus not required to be disclosed. Because this office did not find a violation of the KORA, no enforcement action was taken.

City of Augusta

Complaint: On behalf of the City of Augusta, the city clerk filed a complaint with this office to self-reported that it violated the KORA when it failed to timely respond to a records request due to an employee's absence from work.

Resolution: Although the city violated the KORA, there was no evidence that the failure to respond was intentional. The city promptly responded the day it discovered its mistake and the requester did not file a complaint with this office. Although the city violated the KORA, this office determined that no formal enforcement action was warranted. However, this office requested that the city take remedial action to ensure this problem would not arise in the future, including establishing a written process to ensure that KORA requests were identified and acted on promptly in the absence of the individual who is primarily responsible for responding to KORA requests. The city promptly complied with this request, and no further enforcement action was taken.

City of Coffeyville

Complaint: An individual filed a complaint with this office alleging that the city violated the KORA when it denied a request for records concerning the relocation of a business. The individual also believed the response to the KORA request was not timely.

Resolution: Upon investigation, this office determined that each response to the complainant's KORA requests was timely. Additionally, this office determined that the city did not engage in any public discussion concerning any incentive package it may have considered, discussed with or offered a prospective business. Therefore, it was determined that a provision of the KORA applied that allowed the city to close the records. This provision permits a public agency to discretionarily close records pertaining to prospective location of a business where no previous public disclosure has been made of the business's interest in relocating has been made. Because the city did not consider whether any of the responsive records could be redacted, this office requested that it review the records for that purpose and provide any redacted records to the complainant. The city promptly complied. Because this office concluded that the city did not violate the KORA, no formal enforcement action was required.

City of Edgerton

Complaint: An individual filed a complaint with this office alleging that the city violated the KORA by failing to timely provide records in response to a records request.

Resolution: Upon investigation, this office determined that while there was a slight delay in providing the requested records, the delay was not unreasonable. Moreover, the city continued to verbally update the complainant on the status of her request. During its review of this matter, the city discovered additional records responsive to the request. Although this office concluded there was no violation of the KORA, it requested that the city review the additional records, and provide them to the complainant if the records were open under the KORA. The city promptly complied with this request.

City of Independence

Complaint: An individual filed a complaint with this office through an attorney alleging that the city violated the KORA when it improperly denied her access to certain records.

Resolution: Upon investigation, this office learned that the complainant submitted a KORA request concerning the transfer of ownership of a hospital. The city did not provide one record as it was an unexecuted document and did not seem to pertain to the request as stated. In response to a specific request for the document submitted at a later date, the city provided the document to the complainant. While the city may have engaged in an overly technical reading of the language of the request, this office determined that the KORA was not violated, and formal enforcement action was not warranted.

City of Independence

Complaint: An individual filed a complaint with this office through an attorney alleging that the city violated the KORA when it denied her request for the blank evaluative tool used to evaluate the city manager on the basis that it was a personnel record.

Resolution: Upon investigation, this office learned that blank evaluative tool used by the city to evaluate the city manager's performance was not "specifically created solely to assist in the evaluation" of the city manager, but was in fact publicly available on the internet and thus not subject to discretionary closure under the KORA. At the conclusion of the investigation, the city signed a Consent Order admitting it violated the KORA when it failed to provide a copy of the publicly available form to the complainant. The city agreed to pay a \$250 civil penalty, undergo KORA training, and provide a copy of the blank evaluative tool to the complainant in an expeditious manner. The city entered into a Consent Order on March 7, 2017. The requirements of the Consent Order were satisfied on May 30, 2017.

City of Meade

Complaint: An individual filed a complaint with this office alleging that the city violated the KORA when it failed to timely respond to his records request and improperly redacted information.

Resolution: Upon investigation, this office learned that originally the complainant made a verbal request for a copy of his personnel file. Because the KORA permits a public agency to require an individual to submit a request in writing, the city did so. Although not required to do so, the complainant requested his attorney submit a KORA request on his behalf. When the complainant submitted the written KORA request, the city promptly provided a

copy of the personnel file. The city advised that it discovered one email was missing from the personnel file as it was in the former clerk's email, and staff did not have access to that email account. When it was received, the email was forwarded to the complainant's attorney. Prior to the complainant's KORA request, another agency properly requested records concerning the complainant. Because the complainant's personnel file contained the name of another employee, that name was redacted and the remainder of the file was provided. The email containing instructions to remove the other employee's name was placed in the complainant's personnel file. This caused the complainant to believe information was improperly removed from his file. Based on the facts discovered during this investigation, this office concluded that the city did not violate the KORA, and no formal enforcement action was required.

City of Wichita and Sedgwick County

Complaint: An individual filed a complaint with this office alleging that the city and the county violated the KORA when he was denied a copy of each agency's Brady/Giglio list.

Resolution: Upon review, this office learned that the city and county timely denied the complainant's request because the records requested were personnel records and not required to be disclosed under the KORA; the city also advised the complainant it could not answer on behalf of the county. The county also separately advised the complainant that it did not maintain a Brady/Giglio list. Because this office did not find a violation of the KORA, no enforcement action was taken.

Wichita Police Department

Complaint: An individual filed a complaint with this office alleging that the WPD violated the KORA when it denied him access to all the records he requested.

Resolution: Upon investigation, this office determined that the WPD timely responded to the complainant's request. Some police reports were provided, but the WPD asserted that it would constitute an unreasonable burden to search for and produce the remainder of the records. The request was broad in scope, requiring a search of paper and electronic records for 850 employees for a 15 year period concerning an individual with significant contact with the WPD. Once records were located, the WPD estimated that it would require a full-time attorney working eight weeks to review all the records it located to determine if the records were responsive and if they could be redacted, and then performing the actual redactions. Based on the detailed information the WPD provided about the substantial time and effort to respond, as well as the impact responding to such a request would have on its 24/7 operations, this office determined that such a search would be an unreasonable burden within the meaning of the KORA. Based on the facts discovered during this investigation, this office concluded that the WPD did not violate the KORA, and no formal enforcement action was required.

Wichita Police Department

Complaint: An individual filed a complaint with this office alleging that the WPD violated the KORA when it denied him access to an unredacted copy of the requested records.

Resolution: Upon investigation, this office determined that the WPD timely responded to the complainant's request. The front page of the Standard Offense Report was provided, but the remainder of the records were redacted consistent with the KORA and prior Attorney General Opinions. The complainant also asked for a list of officers responding to an

incident; the WPD did not maintain a list. Based on the facts discovered during this investigation, this office concluded that the WPD did not violate the KORA, and no formal enforcement action was required.

COMPLAINTS AGAINST COUNTIES

Douglas County Clerk's Office

Complaint: An individual filed a complaint with this office alleging that the clerk's office violated the KORA by denying him access to records related to a school bond election; he identified the "Lawrence school" as denying him access to records, but provided contact information for the Douglas County Clerk's Office.

Resolution: Upon review, it was determined additional information was needed to clarify which public agency was the subject of the complaint and whether the records were requested under the KORA. This office requested the complainant to clarify these items. The complainant did not respond to the request, therefore, no further enforcement action was taken.

Johnson County Planning Department

Complaint: An individual filed a complaint with this office alleging that the planning department violated the KORA when it improperly refused to permit access to the requested records.

Resolution: Upon review, this office determined that the county timely responded to the complainant's KORA request, and continued to work with the complainant to clarify and narrow the request to meet the her time constraints and also to reduce the expected costs of the original broad request. The county returned fees paid in advance when the search for records took less than an hour and the complainant did not pursue the original broad request. Because this office did not find a violation of the KORA, no enforcement action was taken.

Linn County Appraiser's Office

Complaint: An individual filed a complaint with this office alleging that the appraiser's office did not provide all the records that he expected in response to his request.

Resolution: Upon review, this office determined that the appraiser's office timely responded to the complainant's KORA request even though it was addressed to the Kansas Department of Revenue; it responded because it maintained some of the requested records. After searching, it found some, but not all of the requested records. The appraiser's office provided the records it did locate to the complainant, who was not satisfied, because he believed there should be more records. The complainant sent a second letter asking questions and describing what he expected the appraiser's office to have and provide. The KORA only applies to records in existence at the time of the request, and does not require a public agency to answer questions that seek information. It also does not describe what records a public agency is required to maintain for business or other purposes. The appraiser's office provided the records it could locate after a reasonable search. In light of the foregoing, no further no enforcement action was taken.

Marion County Clerk

Complaint: An individual member of the media filed a complaint with this office alleging the clerk's office violated the KORA when it denied his request for a copy of a letter briefly mentioned during a Marion County Commission meeting; the clerk's office asserted it was a personnel record.

Resolution: Upon investigation, this office determine that the county denied access because the letter was a personnel record; it concluded the letter was a personnel record because it concerned a former employee and was written by a current employee raising uninvestigated allegations of sexual harassment. Additionally, the current employee objected to the release of the record. The county also stated that the letter was only briefly referenced during the open meeting, and there was no discussion of its contents. This office requested and received an unredacted copy of the letter for review. Following review, it was determined the letter was a personnel record, that release of the uninvestigated allegations of sexual harassment would have hampered the county's ability to investigate the allegations and harmed the former employee's reputation and standing in the community. Further, although the record was referenced during an opening meeting, it was not read aloud or discussed. Mere announcement of the record's name in an open meeting without any discussion of its contents does not require disclosure of a record otherwise permissibly closed under the KORA. Finally, although the KORA requires redaction, or separation of the open from closed material in a public record, such an effort here would have left the letter with isolated sentences or words unredacted and missing context. Given the nature of the allegations, this could have harmed the individual(s) involved, and possibly have permitted identification of the individual writing the letter, since the department involved was very small. Based on the totality of the circumstances the county did not violate the KORA by not releasing a redacted version of the letter. Because the county did not provide an explanation for why it did not attempt to redact the letter, this office contacted the county to remind them of their obligation to redact records. Additionally, it was discovered during the investigation that the county did not have a brochure explaining an individual's rights under the KORA as required. This office requested the county take remedial action to comply with all the requirements of the KORA in this regard. The county promptly complied with this request. No further formal enforcement action was taken.

Miami County Clerk's Office

Complaint: An individual filed a complaint with this office alleging that the clerk's office violated the KORA when it charged what he believed were excessive fees for replication of an oversize map.

Resolution: This office requested the complainant clarify the nature of the complaint and submit any supporting documentation. The complainant did not respond to the request, therefore, no further action was taken.

Neosho County Appraiser

Complaint: An individual filed a complaint with this office alleging the appraiser violated the KORA by failing to provide the requested records in a timely manner.

Resolution: This office consulted with the Neosho city attorney about the complaint, who advised the request was for an appraisal that was the subject of litigation and involved taxpayer

records. Because of this, and because the subject of the appraisal objected to the release of the 281 pages of records without significant redactions involving its financial information, there was a delay in providing the records. There was an additional delay due to miscommunication between the county and the complainant. A redacted version of the record was ultimately released to the complainant, who was satisfied with this result. In light of this, no further enforcement action was taken.

Sherman County Sheriff

Complaint: An individual filed a complaint with this office in 2016 alleging the sheriff's office violated the KORA when it failed to respond to a request for records made in 2009.

Resolution: Due to the length of time that elapsed before filing the complaint, this office was not able to conclude that the sheriff's office violated the KORA. The current sheriff offered to provide the requested records to resolve the concerns. Based on the facts, this office concluded there was no violation of the KORA and no formal enforcement action was required.

COMPLAINTS AGAINST OTHER AGENCIES

District Court of Johnson County, Judge Kevin Moriarty, ADA Don Hymer

Complaint: An individual filed a complaint with this office alleging that the court, judge and assistant district attorney violated the KORA when they denied him access to "case files."

Resolution: Upon review of the complaint, it was unclear if the complainant ever made a KORA request. The complainant did not respond to a request from this office to provide further information, including supporting documentation. Therefore, no further action was taken.

Exploited and Missing Child Unit (EMCU)

Complaint: An individual filed a complaint with this office alleging that the EMCU violated the KORA when it failed to respond to a request for records confirming the employment status of an employee.

Resolution: The EMCU is a joint task force of the Wichita Police Department and Sedgwick County. Upon review, this office learned that the complainant requested records about a detective who was a police department employee. The city provided a response to the request as required by the KORA. The county did not have any responsive records. Because this office did not find a violation of the KORA, no enforcement action was taken.

Fifth Judicial District Court

Complaint: An individual filed a complaint with this office alleging the court violated the KORA when it failed to permit him access to view/listen to audio court transcripts.

Resolution: This office reviewed the allegations, including the response previously provided by the Chief Judge to the complainant and determined that there was no violation of the KORA. Because this office did not find a violation of the KORA, no enforcement action was taken.

GO Topeka

Complaint: An individual filed a complaint with this office alleging that GO Topeka violated the KORA when it failed to permit him access to records.

Resolution: Upon further consideration, the complainant determined to voluntarily withdraw the complaint. Therefore, no further action was taken.

Kansas University Physicians, Inc.

Complaint: An individual filed a complaint with this office alleging that KUPI violated the KORA when it failed to respond to multiple requests for records.

Resolution: Upon investigation, this office determined that the complainant submitted his KORA requests to individuals who were not KUPI employees at the time the requests were submitted. Because of this, the KORA's requirements, including a response within three business days, were not triggered. This office declined to address whether or not KUPI was a public agency within the meaning of the KORA since its requirements were not triggered. Therefore, no further action was taken.

REFERRALS TO COUNTY OR DISTRICT ATTORNEY OFFICES

- Douglas County District Court and Judge Sally Pokorny (Douglas County) – denied access to records on appeal. *See* county report for details.

Counties Reporting KOMA/KORA Complaints

County	County or District Attorney	Report
Allen	Jerry B. Hathaway	No KOMA/KORA complaints to report
Anderson	Brandon L. Jones	No KOMA/KORA complaints to report
Atchison	Gerald R. Kuckelman	No KOMA/KORA complaints to report
Barber	Gaten T. Wood	No KOMA/KORA complaints to report
Barton	Amy Mellor	A KOMA complaint was filed against the Great Bend City Council concerning an executive session which the complainant believed had no relevance to the reason for which the executive session was called. After review, it was determined that no specific violations were contained within the complaint. No KORA complaints to report
Bourbon	Jacque Spradling	No report filed
Brown	Kevin M. Hill	No KOMA/KORA complaints to report
Butler	Darrin C. Devinney	No KOMA/KORA complaints to report
Chase	William F. Halvorsen	No KOMA/KORA complaints to report
Chautauqua	Ruth A. Ritthaler	No KOMA/KORA complaints to report
Cherokee	Jacob A. Conard	No KOMA/KORA complaints to report
Cheyenne	Leslie Beims	No KOMA/KORA complaints to report
Clark	Allison D. Kuhns	No KOMA/KORA complaints to report
Clay	Richard E. James	No report filed
Cloud	Robert A. Walsh	No KOMA/KORA complaints to report
Coffey	Christopher B. Phelan	No KOMA/KORA complaints to report
Comanche	Allison D. Kuhns	No KOMA/KORA complaints to report
Cowley	Larry R. Schwartz	No KOMA/KORA complaints to report
Crawford	Michael Gayoso Jr.	No KOMA/KORA complaints to report
Decatur	Steven W. Hirsch	No KOMA/KORA complaints to report
Dickinson	Andrea Purvis	No KOMA/KORA complaints to report
Doniphan	Charles D. Baskins	No KOMA/KORA complaints to report

County	County or District Attorney	Report
Douglas	Charles E. Branson	A complaint alleged the district court denied an individual access to records on appeal, including a home study. A letter was sent to the individual informing her that while the KORA generally requires public agencies in Kansas allow for the inspection of public records, her request did not fall under KORA since district court judges are not public agencies pursuant to K.S.A. 2016 Supp. 45-217(f)(2)(B).
Edwards	Mark Frame	No KOMA/KORA complaints to report
Elk	Joe E. Lee	No KOMA/KORA complaints to report
Ellis	Thomas J. Drees	No KOMA/KORA complaints to report
Ellsworth	Paul J. Kasper	No KOMA/KORA complaints to report
Finney	Susan H. Richmeier	No KOMA/KORA complaints to report
Ford	Kevin B. Salzman	No KOMA/KORA complaints to report
Franklin	Stephen A. Hunting	No KOMA/KORA complaints to report
Geary	Krista Blaisdell	No KOMA/KORA complaints to report
Gove	Mark F. Schmeidler	No report filed
Graham	Jill Elliott	No KOMA/KORA complaints to report
Grant	Jessica Akers	No KOMA/KORA complaints to report
Gray	Curtis E. Campbell	No KOMA/KORA complaints to report
Greeley	Charles F. Moser	No KOMA/KORA complaints to report
Greenwood	Joe E. Lee	No report filed
Hamilton	Robert H. Gale, Jr.	No KOMA/KORA complaints to report
Harper	David C. Graham	A KORA complaint was filed against the county clerk and a county commissioner by a candidate for county commission who requested all emails of a seated commissioner within a certain timeframe. The lawsuit was dismissed without prejudice.
Harvey	David E. Yoder	No KOMA/KORA complaints to report
Haskell	Lynn Koehn	No KOMA/KORA complaints to report
Hodgeman	Mark A. Cowell	No KOMA/KORA complaints to report
Jackson	Shawna R. Miller	No KOMA/KORA complaints to report
Jefferson	Josh Ney	No KOMA/KORA complaints to report
Jewell	Darrell E. Miller	No KOMA/KORA complaints to report

County	County or District Attorney	Report
Johnson	Stephen M. Howe	A complaint alleged that the USD 231 violated the KORA by denying access to records and information on attorney fees paid “to date for legal fees in the defense of the Gilhaus/Ziegler/Gerber lawsuit. On October 4, 2016, the district attorney’s office sent a letter to USD 231 indicating the school district acted inconsistently with KORA policy, statutory language and/or caselaw. Enclosed with the decision letter was a subpoena issued for the requested records.
Kearny	Kenny Estes	No KOMA/KORA complaints to report
Kingman	Matthew W. Ricke	No KOMA/KORA complaints to report
Kiowa	J. Scott James	No KOMA/KORA complaints to report
Labette	Stephen P. Jones	No KOMA/KORA complaints to report
Lane	Dale E. Pike	No KOMA/KORA complaints to report
Leavenworth	Todd Thompson	No KOMA/KORA complaints to report
Lincoln	Jennifer R. O’Hare	No KOMA/KORA complaints to report
Linn	James M. Brun	No KOMA/KORA complaints to report
Logan	Craig L. Uhrich	No KOMA/KORA complaints to report
Lyon	Marc Goodman	No KOMA/KORA complaints to report
Marion	Courtney D. Boehm	No KOMA/KORA complaints to report
Marshall	Laura Johnson-McNish	No report filed
McPherson	Greg T. Benefiel	No KOMA/KORA complaints to report
Meade	Laura H. Lewis	No KOMA/KORA complaints to report
Miami	Elizabeth H. Sweeney-Reeder	No KOMA/KORA complaints to report
Mitchell	Mark J. Noah	No KOMA/KORA complaints to report

County	County or District Attorney	Report
Montgomery	Larry Markle	<p>A complaint alleged the Coffeyville City Commission violated the KOMA in the manner in which the commission selected members of the Coffeyville Planning Commission. A thorough investigation of the matter was conducted. After reviewing numerous written statements from various commissioners and Planning Commission members, the county attorney concluded there was no KOMA violation. The county attorney advised the complainant of the results of the investigation in writing.</p> <p>The city manager self-reported a possible violation of the KOMA by the Coffeyville City Commissioners and mayor regarding an impromptu meeting at the Youth Activity Center about the Coffeyville Water Crisis. After reviewing several statements from the parties involved, the county attorney concluded that there was no violation. The county attorney advised the city manager of the results of the investigation in writing.</p>
Morris	Laura E. Allen	No KOMA/KORA complaints to report
Morton	Eric L. Witcher	No KOMA/KORA complaints to report
Nemaha	Brad M. Lippert	No KOMA/KORA complaints to report
Neosho	Linus A. Thuston	No KOMA/KORA complaints to report
Ness	Kevin B. Salzman	No KOMA/KORA complaints to report
Norton	Melissa Schoen	No KOMA/KORA complaints to report
Osage	Brandon L. Jones	No KOMA/KORA complaints to report
Osborne	Paul S. Gregory	No KOMA/KORA complaints to report
Ottawa	Jason C. Parks	No KOMA/KORA complaints to report
Pawnee	Douglas W. McNett	No report filed
Phillips	Melissa M. Schoen	No KOMA/KORA complaints to report
Pottawatomie	Sherri Schuck	No KOMA/KORA complaints to report
Pratt	Tracey T. Beverlin	No KOMA/KORA complaints to report
Rawlins	Charles A. Peckham	No report filed
Reno	Keith E. Schroeder	No KOMA/KORA complaints to report
Republic	Justin Ferrell	No report filed
Rice	Remington Dalke	No KOMA/KORA complaints to report
Riley	Barry R. Wilkerson	No KOMA/KORA complaints to report
Rooks	Danielle N. Muir	No KOMA/KORA complaints to report

County	County or District Attorney	Report
Rush	Tony W. Rues	No KOMA/KORA complaints to report
Russell	Daniel W. Krug	No KOMA/KORA complaints to report
Saline	Ellen H. Mitchell	No KOMA/KORA complaints to report
Scott	Rebecca J. Faurot	No KOMA/KORA complaints to report
Sedgwick	Marc A. Bennett	<p>A KOMA complaint alleged the USD 260 Board of Education implemented a new policy regarding restroom usage by transgender students in meetings not open to the public. No evidence was found to establish the reported violation of KOMA by the Board meeting in secret or through interactive communications.</p> <p>A complaint alleged the USD 259 Board of Education violated the KOMA as follows: (1)The Board’s 2/23/17 motion to go into executive session violated the KOMA because the 8-day executive session did not occur during a recess; (2) the meeting on 2/18/17 violated KOMA because requestors of notice were not given notice of the meeting; (3) the vote to appoint a new superintendent on 2/21/17 was a binding action in a meeting not in compliance with KOMA and therefore voidable under K.S.A. 75-4320(a). Following investigation, it was determined there was insufficient evidence to show the Board acted with improper intent. Given lack of statutory definitions and lack of controlling case law regarding a multi-day executive session, such session cannot clearly be said to violate KOMA. Therefore, no basis to void appointment. Formal action regarding KOMA violation found regarding lack of justification statement not warranted under existing circumstances.</p>
Seward	Russell W. Hasenbank	No KOMA/KORA complaints to report
Shawnee	Mike Kagay	A KORA complaint alleged the Kansas African American Affairs Commission failed to respond to a written request for a copy of its 2016 minutes. Upon review, it was determined that the Commission did not respond due to an oversight because its meeting minutes were also posted online for review. The Commission and the complainant were notified that no further action was deemed necessary and the matter was closed.
Sheridan	Harry Joe Pratt	No KOMA/KORA complaints to report
Sherman	Charles F. Moser	No KOMA/KORA complaints to report
Smith	Tabitha Owen	No KOMA/KORA complaints to report
Stafford	Michael C. Robinson	No KOMA/KORA complaints to report
Stanton	David C. Black	No KOMA/KORA complaints to report
Stevens	Paul F. Kitzke	No KOMA/KORA complaints to report
Sumner	Kerwin L. Spencer	No KOMA/KORA complaints to report

County	County or District Attorney	Report
Thomas	Rachel Lamm	No KOMA/KORA complaints to report
Trego	Christopher Lyon	No KOMA/KORA complaints to report
Wabaunsee	Timothy Liesmann	No KOMA/KORA complaints to report
Wallace	Charles F. Moser	No KOMA/KORA complaints to report
Washington	Elizabeth Baskerville Hiltgen	No KOMA/KORA complaints to report
Wichita	Laura L. Lewis	No KOMA/KORA complaints to report
Wilson	Kenley Thompson	No report filed
Woodson	Zelda Schlotterbeck	No KOMA/KORA complaints to report
Wyandotte	Mark A. Dupree, Sr.	No KOMA/KORA complaints to report

Enforcement Actions

The following enforcement actions were taken by the attorney general's office and their requirements were satisfied during the 2017 fiscal year, pursuant to K.S.A. 45-251(e) and K.S.A. 75-4320d(e). Copies of the enforcement actions may be found at <http://ag.ks.gov/open-government/enforcement-actions>.

Wellington City Council

2016-OG-0001

Consent Order Entered into March 16, 2016

Requirements Satisfied October 17, 2016

Kansas Open Meetings Act; Notice of Meetings

Leavenworth County Commission

2016-OG-0002

Consent Order Entered into September 15, 2016

Requirements Satisfied October 26, 2016

Kansas Open Meetings Act; Executive Sessions

City of Independence

2017-OG-0001

Consent Order Entered into March 7, 2017

Requirements Satisfied May 30, 2017

Kansas Open Records Act; Failure to Provide Record

Board of Education of Unified School District 361, Anthony-Harper

2017-OG-0002

Consent Order Entered into April 14, 2017

Requirements Satisfied May 15, 2017

Kansas Open Meetings Act; Executive Sessions

Trainings Provided

Date	Event	Location	Attendees
8/15/2016	KOMA/KORA Training - 2016 Roadshow	Larned, Pawnee County	15
8/17/2016	KOMA/KORA Training - 2016 Roadshow	Mulvane, Sedgwick County	40
8/19/2016	KOMA/KORA Training - 2016 Roadshow	Topeka, Shawnee County	50
8/23/2016	KOMA/KORA Training - 2016 Roadshow	Concordia, Cloud County	15
8/24/2016	KOMA/KORA Training - 2016 Roadshow	Olathe, Johnson County	40
10/5/2016	KOMA/KORA Training - Kansas Board of Veterinary Examiners	Wamego, Pottawatomie County	10
10/7/2016	KORA Training - League of Kansas Municipalities	Overland Park, Johnson County	70
11/2/2016	KORA Training - KAPIO (Kansas Association of Public Information Officers)	Merriam, Johnson County	45
12/5/2016	KOMA Training - Kansas Legislature Orientation	Topeka, Shawnee County	59
12/15/2016	KORA Training - KLETC (Kansas Law Enforcement Training Center) New Sheriff orientation	Hutchinson, Reno County	40
2/17/2017	KORA Training - KBA Administrative Law CLE	Topeka, Shawnee County	45
3/3/2017	KORA Training - LERA (Law Enforcement Records Association)	Fairway, Johnson County	35
3/16/2017	KOMA/KORA Training - CCMFOA (City Clerks and Municipal Finance Officers Assn. of Kansas)	Wichita, Sedgwick County	50
3/23/2017	KOMA/KORA Training - AG's office	Topeka, Shawnee County	130
4/13/2017	KOMA/KORA training - Neosho County Community College	Chanute, Neosho County	40
5/24/2017	KORA/KOMA and the SOK Attorney-KBA Lunch & Learn	Topeka, Shawnee County	25
TOTAL			709



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