

2020

Kansas Open Meetings Act Kansas Open Records Act Annual Report

Kansas Fiscal Year 2020
(July 1, 2019 – June 30, 2020)

Pursuant to K.S.A. 75-753



**KANSAS
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 state fiscal year 2020 is the product of that statutory requirement, and contains the following information:

- A list of 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 reports submitted by county and district attorneys throughout the state regarding both KOMA and KORA complaints they resolved during the reporting year.
- The enforcement actions taken by the attorney general’s office during the reporting year.
- A list of trainings conducted by staff from the attorney general’s office during the reporting year.
- Information on a regulation issued in 2020 in response to COVID-19.

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,

Derek Schmidt
Kansas Attorney General

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Kansas Open Meetings Act Complaints

COMPLAINTS AGAINST STATE AGENCIES RESULTING IN CORRECTIVE ACTION

There were no corrective actions taken against state agencies during FY 2020.

COMPLAINTS AGAINST CITIES RESULTING IN CORRECTIVE ACTION

Salina City Commission

Complaint: The Salina city manager filed a complaint with this office self-reporting that the city commission violated the KOMA by failing to provide notice of a joint city-county meeting to those who requested notice.

Resolution: Upon review, this office determined the city failed to provide notice of the joint city-county meeting due to human error. This error was not discovered until after the meeting was held, when two citizens notified the commission they did not receive notice. According to the commission, the preparation of a meeting agenda is the triggering event for providing notice. Because the county prepared the agenda for the joint meeting, the city's triggering event for providing notice did not occur. The city did issue a press release to all local media, and the *Salina Journal* published notice of the meeting on the Sunday and Monday before the joint meeting. The failure to provide meeting notice to those requesting it violated the KOMA. Following this violation, the city reviewed its internal procedures, and undertook a series of remedial actions, including training and the distribution of written guidance to all city staff and department heads about the KOMA's requirements, as well as the addition of an agenda item requiring affirmative confirmation that notice has been provided and clear instruction that meetings cannot proceed in the absence of such a confirmation. Because the commission readily admitted its failure to provide notice and took remedial measures designed to ensure this situation would not reoccur in the future, no further formal enforcement action was taken.

Salina City Commission

Complaint: An individual filed three complaints alleging that the commission violated the KOMA by failing to provide her with notice of a joint city-county meeting, a commission meeting in February 2018, and four other meetings from December 2017 to April 2018 for the Human Relations Commission and the Solid Waste Management Committee Study Sessions.

Resolution: Upon review, this office determined the individual was one of two individuals who reported that the commission failed to provide notice of the joint city-county meeting. This matter was resolved by the commission taking the remedial action described

related to the city manager's self-report of the violation. With regard to the February 2018 commission meeting, the individual reported the notice concern to the then-city manager, who took remedial action at the time. The individual made no other effort to report this concern to this office until filing her second complaint. The individual had not previously reported her concerns about an alleged lack of meeting notice for the four meetings held between December 2017 and April 2018. The city had since taken remedial actions related to the city manager's separate self-report to ensure notices were being provided to those requesting notice, and adopting other measures to ensure notices were provided in a timely manner, as well as to ensure a meeting would not proceed if notice was not provided. Because the commission readily admitted its failure to provide notice and took remedial measures designed to ensure this situation would not reoccur in the future, no further formal enforcement action was taken.

COMPLAINTS AGAINST COUNTIES RESULTING IN CORRECTIVE ACTION

Neosho County Commission and County Counselor Seth Jones

Complaint: An individual filed a complaint with this office alleging that the commission violated the KOMA by failing to comply with the statutory requirements for recessing into executive session.

Resolution: Upon review, this office first determined that matters related to a possible conflict of interest were outside the scope of the KOMA, and that the KOMA does not apply to individuals who are not members of the public body. Next, this office reviewed the commission's meeting minutes and determined that the commission's motions for executive session for "attorney-client privilege" fell short of the statutory requirements. To the extent that the motions violated the KOMA, they were technical violations in that the public body made a good faith effort to comply and was in substantial compliance with the KOMA. This office requested that the commission take remedial action, including establishment of an executive session checklist to ensure the statutory elements were met and attending at least one hour of KOMA training. The current commission and a former commissioner promptly complied with the request for remedial action. No formal enforcement action was taken.

Kingman County Commission

Complaint: A member of the media filed a complaint with this office alleging the commission violated the KOMA when it recessed into executive session using the trade secrets justification.

Resolution: Upon investigation, it was determined that the commission improperly recessed into executive session using the trade secrets justification to discuss vendor information submitted in response to a Request for Proposal concerning the law enforcement center. None of the vendors requested that trade secrets be protected and did not mark any of the documents to be discussed as trade secrets. Although the commission violated the KOMA, this office determined that its actions were not a deliberate

attempt to subvert the KOMA. The commission relied in good faith on advice from the county counselor, and after the selection, publicly posted to its website copies of the materials submitted in response to the RFP, including documents discussed during executive session. Moreover, there are no Kansas cases or Attorney General Opinions construing the trade secrets justification for executive session. Although this office concluded no formal enforcement action was required, the commission was requested to take at least one hour of KOMA training and provide written confirmation of attendance. The commission promptly complied with this request.

COMPLAINTS AGAINST OTHER AGENCIES RESULTING IN CORRECTIVE ACTION

Kansas Turnpike Authority

Complaint: An individual filed a complaint with this office alleging that the KTA violated the KOMA when it failed to provide notice of its meetings after he requested notice.

Resolution: This office contacted the authority about the complaint. It advised that after providing one meeting notice, it failed to provide additional notices. This occurred because the KTA had only received one other request for meeting notice, and thus staff lacked the necessary understanding and experience to ensure that notices were provided as required by the KOMA. Once this was discovered, the KTA provided notice to the individual of all upcoming meetings. It also took steps to review its internal policies and procedures related to providing notice; this review included drafting internal policies setting out the KOMA's requirements to help ensure compliance, and establishing regular training. The KTA also took steps to implement an automated direct notice process and public posting of meeting notices, even though such public notices are not required by the KOMA. This office monitored this matter for a brief period to ensure the KTA took the remedial action it described. Because the KTA readily admitted its mistake, provided notice to the individual, and took prompt remedial action to ensure future compliance with the KOMA, no formal enforcement action was taken.

USD 112 Board of Education (Central Plains)

Complaint: The school board attorney filed a complaint on behalf of the board to self-report that it improperly discussed matters in executive session in violation of the KOMA.

Resolution: Upon investigation, the board stipulated that it violated the KOMA by recessing into executive session on two occasions to discuss the potential sale of district real property, which is not a recognized justification under the KOMA. The board's motion also referenced "attorney/client privilege," but the board's attorney was not present for the executive session either in person or by some other means. The board also failed to comply with the statutory requirements for recessing into executive session when it failed to include the place the open meetings would resume. This office sought voluntary compliance with the KOMA through a Consent Order that required the board members to receive at least one hour of training on the provisions of the KOMA,

Kansas Open Meetings Act Complaints, continued

review and update its existing executive session policy, provide written confirmation of completion of training and review of its policy, and not engage in any future violations of the KOMA. One board member was not required to sign the Consent Order because she was absent from the meeting when the violation occurred. The board promptly complied with the requirements of the Consent Order.

Willowdale Township Board

Complaint: An individual filed a complaint with this office alleging that the board violated the KOMA by failing to hold a vote to accept ownership of the Talmage Community Center, firing one employee and hiring another “in secret” without seeking the best pool of qualified candidates, and deciding who should fill a township vacancy outside an open meeting.

Resolution: Upon investigation, it was determined that in 2010 the board voted in public to accept ownership of the Talmage Community Center. Next, it was determined that the KOMA does not establish any standards for who should or should not be hired or what process to follow to make hiring decisions. The employee was not fired in secret; regrettably, the employee suffered a medical condition and could no longer work. At an announced board meeting, the board hired an individual who previously ran the road grader and had a CDL, and thus qualified for the position. Finally, the board conceded that it did not hold an open meeting to make a recommendation to the commission to fill the vacant board position. The resigning board member contacted another individual, who agreed to fill the unexpired term. The resigning board member relayed that information to the other two board members and also sent a letter to the county clerk. The remaining two board members simply concurred with this action and submitted a letter to the county clerk to that effect. While the board’s actions violated the KOMA, it was not done in an attempt to avoid or evade the KOMA’s requirements. Rather, it had been some 19 years since the last vacancy on the board; the members simply were unsure what to do. After receiving notice of the complaint, the board’s attorney provided it with KOMA training. Additionally, the county administrator provided the board updated training and information on the procedures to be followed in the event of a board vacancy. This office declined to pursue formal enforcement action in part due to the lack of a requested remedy in the individual’s complaint, and because the board had already received KOMA training. This office strongly encouraged the board to take steps to receive refresher KOMA training on a regular basis.

REFERRALS TO COUNTY OR DISTRICT ATTORNEY OFFICES

- **Kansas Supreme Court Nominating Commission** (Shawnee County) – secret ballot; referred to Sedgwick County District Attorney due to conflict.
- **Woodson County Commission** (Woodson County) – executive sessions.
- **Morton County Health System** (Morton County) – notice to public and executive session.
- **USD 448 Board of Education (Inman)** (McPherson County) – board meeting recordings and meeting minutes not posted to website.

COMPLAINTS RESULTING IN A FINDING OF NO VIOLATION

Public Body or Agency	Alleged Violation(s)	Resolution
Ashland Hospital Board	KOMA – board did not discuss bid before voting	<p>The board did not violate the KOMA.</p> <p>The KOMA permits certain matters to be discussed during executive session. In other words, it does not require every matter to be discussed in an open meeting. The lack of a public discussion after an executive session does not violate the KOMA. All binding actions must take place in an open meeting.</p>
Brown County Commission	KOMA – commission deleted Facebook Live post	<p>The commission did not violate the KOMA.</p> <p>The KOMA does not contain any requirements concerning the retention of meeting recordings or Facebook Live broadcasts. Thus, the failure to maintain any such recordings is not a violation of the KOMA. Whether the commission has complied with any applicable records retention schedules or other resolutions it has adopted regarding records retention is beyond the scope of the KOMA.</p>
Caney City Council and City Manager	KOMA – citation for brush and debris pile; wanted to know what city council and city manager have discussed outside of meetings to target citizens	The complainant did not respond to a request for clarification or supporting documents.
City of Florence Mayor William Harris	KOMA – mayor’s meeting with city employees included two council members	The complainant did not respond to a request for clarification or supporting documents.

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Coffey County Board of County Commissioners	KOMA – serial communications; failure to discuss personnel matters in executive session.	<p>The commission did not violate the KOMA.</p> <p>Typically, the meetings of a public body occur in person. However, a meeting may also occur by means of a serial communication. This type of communication is subject to the KOMA’s requirement of openness. K.S.A. 75-4318(f) provides that “. . . interactive communications in a series shall be open if they collectively involve a majority of the membership of the public body or agency, share a common topic of discussion concerning the business or affairs of the public body or agency, and are intended by any or all of the participants to reach agreement on a matter that would require binding action to be taken by the public body or agency.” All four conditions contained in the definition of a serial communication must be met. Whether a series of communications is a violation of the KOMA is very fact specific, and each situation must be decided on its own facts.</p> <p>While the KOMA establishes rules for when a public body may hold a closed or executive session, the decision to hold an executive session is discretionary. Although other laws or policies concerning privacy, confidentiality or privilege may need to be considered when discussing an employee’s personal information or deciding to hold an executive session, the KOMA never requires a public body to recess into executive session.</p>

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Coffey County Commission	KOMA – serial communications; failure to provide public notice of a record	<p>The commission did not violate the KOMA.</p> <p>Typically, the meetings of a public body occur in person. However, a meeting may also occur by means of a serial communication. This type of communication is subject to the KOMA’s requirement of openness. K.S.A. 75-4318(f) provides that “. . . interactive communications in a series shall be open if they collectively involve a majority of the membership of the public body or agency, share a common topic of discussion concerning the business or affairs of the public body or agency, and are intended by any or all of the participants to reach agreement on a matter that would require binding action to be taken by the public body or agency.” All four conditions contained in the definition of a serial communication must be met. Whether a series of communications is a violation of the KOMA is very fact specific, and each situation must be decided on its own facts. Based on the facts, the elements of a serial communication were not met. Due to the nature of the communications, this office recommended the county review its purchasing and other processes to ensure county personnel did not communicate with commissioners outside an open meeting to obtain purchasing approval.</p> <p>Regarding an unrelated concern about the lack of public notice about the existence of meeting recordings, the KORA does not require a public agency to provide public notice that such records exist.</p> <p>This office recommended that the commission and county personnel who respond to KORA requests attend an upcoming training concerning the KOMA and the KORA.</p>

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Corning City Council	KOMA – failure to provide notice by requested means (cell phone)	<p>The city council did not violate the KOMA.</p> <p>The KOMA requires notice of the date, time and place of any regular or special meeting held by a public body to be provided to any person requesting such notice. This requirement is satisfied if notice of the meeting is provided to the individual requesting notice. Notice must be given a reasonable time prior to the meeting. What is reasonable will depend on the particular facts and circumstances of a specific case. Although notice must be given to an individual if requested, Kansas law does not specify <i>how</i> notice must be given. Thus, notice given in person, verbally or in writing to the individual who requested notice will satisfy the KOMA’s requirements. A public body may choose to provide notice in a specific manner as requested.</p>
Dighton City Council, Mayor and City Clerk of Dighton	KOMA – council member did not receive statutory notice of special meeting	<p>The city council did not violate the KOMA.</p> <p>The KOMA applies to public bodies and public agencies. It does not apply to individuals who are not members of a public body.</p> <p>The KOMA does not contain any rules or requirements concerning who must be invited to a meeting of the public body, including its own members. These matters may be governed by other statutes, or by resolutions or ordinances adopted by the public body. The public body or agency must provide notice of meetings to those requesting notice.</p>
Dodge City Community College Board of Trustees	KOMA – failed to list executive session on agenda; discussed improper matters during executive session	<p>The complainant did not respond to a request to sign a complaint form, and for clarification and additional information/supporting documentation.</p>

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Douglas County Commission	KOMA – failure to post public notice of meetings and agenda	<p>The commission did not violate the KOMA.</p> <p>Notice of the meetings of a public body must be provided to those requesting notice. Likewise, “any agenda relating to the business to be transacted at [a public] meeting shall be made available to any person requesting the agenda.” The KOMA does not impose a duty on a public body or agency to provide notice or an agenda to anyone unless they have been requested. The KOMA also does not require a public body to post public meeting notices or agendas on a website, in a newspaper, or by other similar methods.</p>
Ellsworth City Council	KOMA – disagreed with termination of city administrator	<p>The city council did not violate the KOMA.</p> <p>Mere disagreement with a policy decision made by the city council is not a violation of the KOMA. The city council is permitted to discuss matters in executive session. Binding action took place in an open meeting.</p>
Ellsworth County Commission	KOMA – commissioner voted by proxy for another commissioner	<p>The complainant did not respond to a request for clarification or supporting documents.</p>
Fort Scott City Commission and City Attorney Jeffrey Deane	KOMA – no public comment allowed and emailed public comment was not read into the record	<p>The commission did not violate the KOMA.</p> <p>The KOMA applies to public bodies and public agencies. It does not apply to individuals who are not members of a public body.</p> <p>The KOMA does not require that a public body accept public comments during its meeting. While a public body may adopt local practices that permit the public to comment, the KOMA does not provide this office with jurisdiction to enforce any such local policies.</p>

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Fort Scott City Commission and City Manager	KOMA – disagreed with approval of sewer rate increase	<p>The city commission did not violate the KOMA.</p> <p>The KOMA applies to public bodies and public agencies. It does not apply to individuals who are not members of a public body.</p> <p>Mere disagreement with a policy decision made by the city commission is not a violation of the KOMA. The city commission discussed and took binding action in an open meeting concerning the sewer rate increase.</p>
Fort Scott City Commission Mayor Mitchell	KOMA – unknown	The complainant did not respond to a request for clarification or supporting documents.
Fort Scott City Commissioner Lindsay Watts	KOMA – no public vote to create street advisory board	<p>The commissioner did not violate the KOMA.</p> <p>The KOMA requires a public body to take binding action in an open meeting. The commission took binding action to establish the street advisory board in an open meeting. The commission’s action complied with the KOMA. Because the commission complied with the KOMA when it created the street advisory board, the commissioner properly used her Facebook page to solicit for volunteers to participate in the newly created street advisory board.</p>
Fort Scott City Commissioners and City Attorney	KOMA – serial communications	The complainant did not respond to a request for clarification or supporting documents.
Frontenac City Council	KOMA – unauthorized action by council member	<p>The city council did not violate the KOMA.</p> <p>The KOMA does not prohibit a member of a public body from communicating with others in his or her individual capacity.</p>
Hiawatha Township	KOMA – unknown	The complainant did not respond to a request for clarification or supporting documents.

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Interagency Kansas Essential Functions Framework (KEFF)	KOMA – unknown	The complainant did not respond to a request for clarification or supporting documents.
Johnson County Board of County Commissioners	KOMA – disagreed with adoption of a Business Operations Agreement with Johnson County Law Library	<p>The commission did not violate the KOMA.</p> <p>Mere disagreement with a policy decision made by the commission is not a violation of the KOMA. The commission discussed and took binding action in an open meeting concerning whether to enter into the proposed agreement.</p>
Johnson County Community College	KOMA – serial communications	<p>The college did not violate the KOMA.</p> <p>While the college is subject to the KOMA, staff meetings of a covered entity such as the college are not. Employees of a covered entity are free to meet with each other or members of the public without such meetings being open in compliance with the KOMA.</p>
Johnson County Community College Board of Trustees	KOMA – unable to participate in meetings by telephone despite being provided call in instructions because board president would not pick up phone when she called in	<p>The board of trustees did not violate the KOMA</p> <p>The KOMA does not set out any requirements governing how a member of a public body may be allowed to participate in a public meeting. Although the board has adopted a policy that allows board members to participate in meetings via telephone, doing so carries the risk of failed, faulty or delayed connections. Moreover, determining whether the board complied with its own policies or any other such requirements for allowing board member participation in a meeting via telephone, is beyond the scope of the KOMA.</p>

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Johnson County Community College Board of Trustees	KOMA – used secret ballot to decide whether to hold a special meeting	<p>The board of trustees did not violate the KOMA.</p> <p>A public body cannot take binding action using a secret ballot. “Binding action” is the equivalent of “final action.” While binding action taken by a public body must comply with the KOMA, decisions on mere procedural matters are not final or binding actions within the meaning of the KOMA. Essentially, as long as the members of a public body do not debate or take part in an interactive exchange of ideas about the business or affairs of the body, determining whether to meet or what agenda items should be discussed does not constitute a meeting subject to the KOMA, and any responses made on a question of whether to hold a meeting do not constitute a secret ballot even where the responses are not shared with all members of a public body.</p>
Kanopolis City Council	KOMA – special meeting held at different time than specified in meeting notice	<p>The complainant did not respond to a request for clarification or supporting documents.</p>
Kansas Senate	KOMA – business conducted after Senate recessed to the sound of the gavel; meeting not accessible to the public after news media removed from public meeting in Senate Chambers	<p>The Senate did not violate the KOMA.</p> <p>The KOMA only applies when a body holds a meeting as defined by the KOMA. A meeting is defined as “any gathering or assembly in person or through the use of a telephone or any other medium for interactive communication by a majority of the membership of a public body . . . for the purpose of discussing the business or affairs of the public body.” If all three elements are not present, there is no meeting and the KOMA does not apply.</p> <p>The KOMA recognizes the Senate may adopt rules limiting its application. The Senate has adopted rules that carve out exceptions to the KOMA’s general rule of openness, including a rule that permits the exclusion of the public from the Senate gallery even while an open meeting is underway.</p>

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Kansas Senate	KOMA – press and public denied access to Senate proceedings	<p>The Senate did not violate the KOMA.</p> <p>To the extent allegations that the Senate removed the press raise constitutional concerns involving access of the press, such concerns cannot be resolved by invoking a statutory complaint process such as the one set out in the KOMA.</p> <p>The KOMA only applies when a body holds a meeting as defined by the KOMA. A meeting is defined as “any gathering or assembly in person or through the use of a telephone or any other medium for interactive communication by a majority of the membership of a public body . . . for the purpose of discussing the business or affairs of the public body.” If all three elements are not present, there is no meeting and the KOMA does not apply.</p> <p>The KOMA recognizes the Senate may adopt rules limiting its application. The Senate has adopted rules that carve out exceptions to the KOMA’s general rule of openness, including a rule that permits the exclusion of the public from the Senate gallery even while an open meeting is underway.</p>
Leavenworth County Commission	KOMA – no public vote; failure to provide notice	<p>The commission did not violate the KOMA.</p> <p>The KOMA requires notice of the date, time and place of a meeting to be provided to any person requesting such notice. The KOMA does not require that a public body give notice to the general public by publishing newspaper notices, airing radio notices, or by posting notices on the internet. This requirement is satisfied if notice of the meeting is provided to the individual requesting notice. Notice must be given a reasonable time prior to the meeting.</p> <p>Any failure to comply with notice and hearing requirements set out in zoning statutes is not the same as a failure to provide notice of meetings under the KOMA, and thus falls outside the scope of the KOMA.</p>

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Leonardville City Council	KOMA – impaired access to meeting by phone due to periodic faulty connection	<p>The city council did not violate the KOMA.</p> <p>K.A.R. 16-20-1 establishes certain requirements when holding a public meeting. K.A.R. 16-20-1(f) recognizes that an emergency declaration may prevent or impede the ability of the public to physically attend a public meeting. When this occurs, a public body complies with the KOMA by meeting in person and limiting public access if it meets certain requirements. Chief among these requirements is that the public body either broadcasts the meeting live on television or the internet, provides members of the public with the ability to access the meeting by telephone without cost, or uses any other method that permits the public to listen to or observe the meeting without cost. K.A.R. 16-20-1(f) does not require a public body to use every available medium for interactive communication when holding a public meeting during an emergency declaration. A public body must make the determination which of these alternative methods will best allow it to comply with the regulation and thus the KOMA.</p> <p>This office monitored the city council for a short period to ensure that it continued to make good faith efforts to permit the public to hear any meetings held by conference call or other similar method in compliance with K.A.R. 16-20-1. The council did so and this office was not required to take any further action.</p>
Lincoln County Board of County Commissioners	KOMA – two commissioners posted comments on Facebook, which is a meeting; no public notice of meeting; no minutes were taken	The complainant did not respond to a request for clarification or supporting documents.
Lincoln County Hospital Board of Trustees and CEO Steve Granzow	KOMA – contents of agenda provided to the public	The complainant voluntarily withdrew his complaint.

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
<p>Louisburg Library District #1, Miami County</p>	<p>KOMA – executive sessions; no meeting notification list; agendas; failure to comply with bylaws; incomplete meeting minutes posted to website; budget posted to website contains little detail; serial communications</p>	<p>The library district board did not violate the KOMA.</p> <p>There is no KOMA duty to provide notice unless it has been requested. The failure to comply with other rules, such as bylaws, that require notice to be provided in a certain way or time, is outside the scope of the KOMA.</p> <p>The KOMA does not require a public body to create an agenda; if it chooses to create an agenda, it must be made available to the requester before the open meeting begins. A public body is not required to mail copies of an agenda if it can be obtained at a public place.</p> <p>A public body’s alleged failure to comply with its own bylaws is outside the scope of the KOMA.</p> <p>The KOMA does not require that a public body maintain meeting minutes. It also does not establish content requirements for meeting minutes that a public body decides to keep. The only exception to this rule relates to motions for executive sessions. As long as a public body complies with the rules relating to recording motions for executive sessions, the mere fact that the minutes are a summary or do not contain details of consent agenda items does not violate the KOMA.</p> <p>Neither the KOMA nor the KORA contain any rules that require a public body to post budget information on the public body’s or agency’s website.</p> <p>The KOMA does not establish rules governing how detailed a public body’s discussions must be, or how much time such discussions should take. Limited public discussion of an issue during an open meeting, on its own, does not establish prohibited serial communications.</p> <p>The complainant did not respond to a request for clarification and additional information/supporting documentation related to his concerns about executive sessions.</p>

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Marion County Board of County Commissioners	KOMA – discussed an elected official during executive session called to discuss nonelected personnel	<p>The commission did not violate the KOMA.</p> <p>The KOMA permits a public body to hold an executive session to discuss nonelected personnel. Where the discussion involves communication and the work performance of an employee directly supervised by the public body, it must ensure that the discussion does not stray beyond the stated subject and justification described in the motion for executive session.</p>
Marion County Board of County Commissioners, Marion County Planning and Zoning Commission, and Marion County Clerk	KOMA – disagreed with actions taken by county commission and planning and zoning commission	<p>The county commission and the planning and zoning commission did not violate the KOMA.</p> <p>A county commission and a planning and zoning commission have broad authority to conduct business and take action. Whether those actions are consistent with any relevant statutory authority, ordinances or resolutions is outside the scope of the KOMA. The KOMA relates to the public’s ability to gain access to or notice of the meetings of public bodies.</p>
Nemaha County Commission	KOMA – county counselor and special attorney did not follow the KOMA; executive sessions; citizens not allowed to comment during commission meetings	<p>The commission did not violate the KOMA.</p> <p>The KOMA applies to public bodies and public agencies. It does not apply to individuals who are not members of a public body.</p> <p>A public body may recess into executive session using a reason recognized by the KOMA. The KOMA does not require that county residents be allowed to listen to the executive session or observe how it is being conducted. It also does not require a public body to permit the public to be present during negotiations conducted by its agents.</p> <p>The KOMA does not require that the public be allowed to speak or to have any items placed on the agenda. The statutory “right” is to attend and listen during the open meeting. The KOMA does not require a public body to engage in a “back and forth” discussion with members of the public.</p>

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
<p>Nemaha County Commission, County Attorney and Special Attorney</p>	<p>KOMA – county counselor and special attorney did not follow the KOMA; citizens not allowed to comment during commission meetings; executive sessions; citizens not allowed to be present during negotiations with wind farm</p>	<p>The commission did not violate the KOMA.</p> <p>The KOMA applies to public bodies and public agencies. It does not apply to individuals who are not members of a public body.</p> <p>The KOMA does not require that the public be allowed to speak or to have any items placed on the agenda. The statutory “right” is to attend and listen during the open meeting.</p> <p>A public body may recess into executive session using a reason recognized by the KOMA. The KOMA does not require that county residents be allowed to listen to the executive session or observe how it is being conducted or what is discussed. It also does not require a public body to permit the public to be present during negotiations conducted by its agents.</p>

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Nemaha County Commissioners	KOMA – public not allowed to speak to commissioners after public forums re wind farm; NextEra representatives received information that public did not; no public discussion before, during or after the vote on the wind farm term sheet; after vote, BOCC adjourned, special attorney explained term sheet, so vote must have taken place before the public meeting so he could prepare handouts; contents of the term sheet	<p>The commission did not violate the KOMA.</p> <p>The KOMA does not require that a member of the public body be available to speak to a constituent or provide responses to any constituent inquiry.</p> <p>The KOMA permits executive sessions. Commission’s attorneys could leave the executive sessions to speak with other attorneys or speak to them outside of an open meeting or outside the presence of the public to exchange information.</p> <p>The KOMA does not require a public body to allow the public to speak during an open meeting, answer the public’s questions, or otherwise allow public input before voting on any particular issue. The KOMA requires a public body to take all binding action in an open meeting.</p> <p>Attorneys are often privy to confidential information that allows them to be prepared. The fact that an attorney may have anticipated or even known how the commissioners intended to vote, is a function of the attorney-client relationship and not a violation of the KOMA.</p> <p>The KOMA does not establish any rules that govern the contents of documents that a public body considers or votes to adopt in an open meeting. Whether a particular document contains the expected contents is outside scope of the KOMA.</p>

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Nemaha County Commissioners, County Attorney and Special Attorney	KOMA – excluded from sessions involving county business with NextEra	<p>The commission did not violate the KOMA.</p> <p>The KOMA applies to public bodies and public agencies. It does not apply to individuals who are not members of a public body.</p> <p>The KOMA does not require a public body to negotiate in public. It also does not require that the public be allowed to speak or to have any items placed on an agenda. The statutory “right” under the KOMA is to attend and listen during the open meeting.</p> <p>A public body may recess into executive session using a reason recognized by the KOMA. The KOMA does not require that county residents be allowed to listen to the executive session or observe how it is being conducted. It also does not require a public body to permit the public to be present during negotiations conducted by its agents.</p>

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
<p>Neosho County Commission and County Counselor</p>	<p>KOMA – commission took binding action in executive session and announced what it was going to do after a motion but before a vote to approve; a commissioner took a five minute recess without first making a motion to recess; a commissioner signed a request for a department head to attend a seminar without voting to approve it first; a commissioner accepted bribes to vote for the wind farm project</p>	<p>The commission did not violate the KOMA.</p> <p>The KOMA applies to public bodies and public agencies. It does not apply to individuals who are not members of a public body.</p> <p>A public body may reach a “consensus” or general agreement on a matter requiring binding action during an executive session. However, it cannot take binding action in executive session. There is no exception to this requirement. Under the KOMA, taking binding action means voting publicly to approve or deny a particular request. A consensus may constitute binding action and violate the KOMA if a public body fails to take a formal public vote after reaching a consensus during an executive session. The commission held a public vote and did not act to implement its consensus before its public vote.</p> <p>The KOMA requires a public body to vote in public when taking binding action. It does not otherwise prohibit a public body or its individual members from taking a break or briefly suspending an open meeting for other purposes, such as to summon individuals to answer questions, take bathroom breaks, resolve public disruptions, take care of medical emergencies, or even take account of severe weather warnings. No binding action was needed for a commissioner or the commission to take a break.</p> <p>The complainant did not respond to a request for clarification and additional information/supporting documentation related to his concerns about approving a training request or other unspecified KOMA concerns.</p> <p>Allegations involving possible crimes are outside the scope of the KOMA. The county attorney has jurisdiction over any such matters.</p>

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Neosho County Commission and County Counselor Seth Jones	KOMA – limited public attendance at commission meeting during emergency declaration	The complainant did not respond to a request for clarification or supporting documents.
Neosho County Commission and Neosho County Road and Bridge Department / Mike Brown	KOMA – not allowed to speak at a public meeting	<p>The commission did not violate the KOMA.</p> <p>The KOMA applies to public bodies and public agencies. It does not apply to individuals who are not members of a public body.</p> <p>The KOMA does not require that the public be allowed to speak or to have an item placed on the agenda; the “right” is to attend and listen. Unless some other law requires it, whether to allow the public a chance to speak at public meetings is a policy decision.</p>
Osage County Fire District #1	KOMA – unknown	The complainant did not respond to a request for clarification or supporting documents.
Pawnee Rock City Council	KOMA – held special meeting without mayor	The complainant did not respond to a request for clarification or supporting documents.

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Phillips County Hospital Board	KOMA – serial communications	<p>The board did not violate the KOMA.</p> <p>Typically, the meetings of a public body occur in person. However, a meeting may also occur by means of a serial communication. This type of communication is subject to the KOMA’s requirement of openness. K.S.A. 75-4318(f) provides that “. . . interactive communications in a series shall be open if they collectively involve a majority of the membership of the public body or agency, share a common topic of discussion concerning the business or affairs of the public body or agency, and are intended by any or all of the participants to reach agreement on a matter that would require binding action to be taken by the public body or agency.” All four conditions contained in the definition of a serial communication must be met. Whether a series of communications is a violation of the KOMA is very fact specific, and each situation must be decided on its own facts.</p> <p>Although there were no serial communications based on the facts presented for review, this office requested that the board receive refresher training on the KOMA. The board promptly complied with this request.</p>
Redfield City Council	KOMA – held meetings without proper notice	<p>The council did not violate the KOMA.</p> <p>The KOMA does not require a public body or agency provide notice of its meetings to the public by posting notices in a newspaper or on a website, or to otherwise take steps to broadcast notice of the meeting(s) to the general public. A public body need only provide notice to any individual who has requested notice of its meetings. Notice means providing the date, time and place of any regular or special meeting. Notice must be provided a reasonable time before the meeting. What is reasonable will depend on the circumstances. The KOMA also does not require that a public body notify an individual when a specific topic will be discussed or to decide, ahead of time, whether a specific topic will be discussed and then provide interested persons with notice of that decision.</p>
Riley County Commission	KOMA – past failure to broadcast or live stream meeting	The complainant did not respond to a request for information or supporting documents.

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Salina City Commission	KOMA – serial communications	The complainant did not respond to a request for clarification or supporting documents.
Shawnee City Council members Eric Jenkins and Kurt Knappen	KOMA – serial communications	Complainant advised that he did not file the complaint and he would follow up with local law enforcement authorities.
Shawnee Mission School District’s Digital Learning Task Force	KOMA – superintendent created a subordinate group that does not permit the public to attend and observe the meetings	The Digital Learning Task Force did not violate the KOMA. Entities that are merely advisory and have no decision-making authority or are basically independent but have some connection by contract or other tie to a government entity, even though not created by some form of government action, are not subject to the KOMA. Where a public body creates a subordinate group, it is subject to the KOMA. The task force was created by an individual, not a public body. Moreover, the task force was merely advisory in nature and had no governmental decision-making authority.
Sheridan County Commissioner Wes Bainter	KOMA – unknown	The complainant did not respond to a request for clarification or supporting documents.

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
Toronto City Council	KOMA – failure to vote to accept two council members’ resignations; voting when there was not a quorum in violation of K.S.A. 15-106; mayor fails to enforce laws and ordinances in violation of K.S.A. 15-301; council member left the room before meeting was finally adjourned	<p>The city council did not violate the KOMA.</p> <p>The KOMA does not require that a public body vote to accept a resignation; members of public bodies are free to resign from office.</p> <p>Matters concerning compliance with K.S.A. 15-106 and 15-301 are outside the scope of the KOMA.</p> <p>The KOMA does not establish rules of order or parliamentary procedures for a city council meeting or require a motion to adjourn to end a meeting.</p> <p>The complainant did not respond to a request for clarification, additional information and supporting documentation about his other unspecified KOMA concerns.</p>
Unified Government Commission	KOMA – commission adjourned meeting early despite action items on agenda	<p>The UG Commission did not violate the KOMA.</p> <p>The KOMA does not establish rules governing how detailed a public body’s discussions must be, how much time such discussions should take, or how long its meetings must last. The commission completed all the active action items on the agenda; when those items were completed, the commission adjourned.</p>

Kansas Open Meetings Act Complaints, continued

Public Body or Agency	Alleged Violation(s)	Resolution
USD 112 Board of Education and Superintendent (Central Plains) (Bushton, KS)	KOMA – meeting continued after open meeting adjourned	<p>Two separate individuals filed identical complaints alleging the board improperly continued to meet after its open meeting ended.</p> <p>The board did not violate the KOMA.</p> <p>The KOMA applies to public bodies and public agencies. It does not apply to individuals who are not members of a public body.</p> <p>The KOMA only applies when a body holds a meeting as defined by the KOMA. A meeting is defined as “any gathering or assembly in person or through the use of a telephone or any other medium for interactive communication by a majority of the membership of a public body . . . for the purpose of discussing the business or affairs of the public body.” If all three elements are not present, there is no meeting and the KOMA does not apply. Because three members of a seven member board do not constitute a majority, all the elements of a meeting were not present.</p>
USD 112 Board of Education and Superintendent (Central Plains) (Bushton, KS)	KOMA – meeting continued after open meeting adjourned	The complainant did not respond to a request for clarification or supporting documents.
USD 239 Board of Education	KOMA – unknown	The complainant voluntarily withdrew his complaint.
Whiting City Council, Mayor and City Clerk	KOMA – failure to comply with statutory requirements for adoption of city budget	The complainant did not respond to a request for clarification or supporting documents.

Kansas Open Records Act Complaints

COMPLAINTS AGAINST STATE AGENCIES RESULTING IN CORRECTIVE ACTION

Kansas Department of Corrections

Complaint: An individual filed a complaint with this office alleging that the KDOC violated the KORA by failing to provide him with records concerning his disciplinary history.

Resolution: Upon review, it was determined that when the complainant filed his complaint, he adjusted the records he was seeking to records that were publicly available on the department's KASPER website. Based on this, the department agreed to provide these records. Because the KDOC agreed to provide the complainant with the records from his revised request, no formal enforcement action was taken.

Kansas Department of Corrections

Complaint: A individual filed a complaint with this office alleging that the KDOC violated the KORA by failing to provide records and improperly denying his request.

Resolution: Upon review, it was determined that the complainant was seeking bid tabs and awards for apparel and linens for the El Dorado Correctional Facility. The facility denied the request based on the provisions of K.S.A. 45-221(a)(28), which exempts from disclosure sealed bids and related documents until a bid is accepted or all bids are rejected. Due to some confusion, the KDOC did not realize that the complainant was seeking the bid tabs and awards for a bid that had already closed. Because KDOC agreed to provide the complainant with the records, no formal enforcement action was taken.

COMPLAINTS AGAINST CITIES RESULTING IN CORRECTIVE ACTION

City of Leonardville

Complaint: An individual filed a complaint with this office alleging that the city violated the KORA by failing to respond to his request for records within 72 hours.

Resolution: This office contacted the city attorney about the complaint, who acknowledged that the city received the individual's KORA request, but that his request was inadvertently overlooked due in part to how the individual wrote his letter. The first part of the letter (four paragraphs) focused on concerns about not immediately being provided a copy of a draft ordinance. In the very last sentence of the letter, the individual requested the city's records requests policy. When the city discovered this, it provided the individual with a copy of the policy the next day, even though the individual did not clearly state that he was making a KORA request. As a result of this complaint, the city attorney

Kansas Open Records Act Complaints, continued

advised that the city was taking steps to ensure future strict compliance with the KORA, including training. Because the city promptly took remedial action related to training, no formal enforcement action was taken.

City of Overland Park

Complaint: The city self-reported that it failed to respond to a KORA request within three business days.

Resolution: Upon review, this office determined that the city inadvertently failed to respond to the KORA request. The city apologized to the individual, provided some records, denied access to some records based on the provisions of K.S.A. 45-221(a)(10) concerning criminal records, and reported its violation to this office. This office requested that the city provide KORA additional training to staff and adopt additional internal procedures for handling KORA requests in the Clerk's Division. Because the city took prompt remedial action, including acknowledging its mistake, training, and providing the records consistent with the requirements of the KORA, no further formal enforcement action was warranted.

City of Salina

Complaint: An individual filed a complaint with this office alleging that the city violated the KORA by failing to provide all records he believed existed that were responsive to his request.

Resolution: Upon review, this office found that although the city overlooked some records when responding to the individual's KORA request, this was inadvertent and based at least in part on how the individual phrased his records request. The city identified the other records based on the information the individual provided in his complaint, and provided the records to him at no charge. Other records that were responsive to the individual's request were properly exempted from disclosure under the KORA or were not responsive to his request as submitted. Because the city agreed to provide the additional records it located without charge, no formal enforcement action was taken.

City of Frontenac

Complaint: A member of the media filed a complaint with this office alleging that the city violated the KORA by delaying a response until it could get a city attorney and charging unreasonable fees, and that these actions were a pretext for noncompliance.

Resolution: Upon investigation, it was determined the city's response that it needed to have the KORA request reviewed by a city attorney was not a pretext for noncompliance or designed to remove any evidence of any KORA violation. Rather, it was simply a reflection of the level of administrative chaos created by the city council's abrupt actions in firing the city's senior administrative personnel. The city's initial response did not explain why there would be a delay; although its letter lacked detail, it did make good faith attempts to seek assistance in providing a response. With regard to fees, the city initially believe it would require a "monumental undertaking" to respond to the KORA request and sought advance payment of \$3,500.00. The city's fee request provided virtually no explanation to show how it arrived at the requested fee or how it

was equivalent to the actual costs necessary to provide the individual with the records he requested. It was not clear that the city had even conducted a preliminary search for records. Following an outcry from the media, the city began to work on a revised fee request that included more details describing the efforts required to provide the records, concluding that it would cost \$520.00 to search for records. The city did not provide this revised fee request to the individual until after it was notified a complaint had been filed. This office concluded by a preponderance of the evidence that the city's fee request for \$3,500.00 was not reasonable and violated the KORA. This office issued a Finding of Violation requiring the city to cease and desist from any further violation of the KORA; review and amend as necessary its ordinance relating to the KORA; adopt, review or update any internal city policies that govern the city's response to KORA requests; establish and maintain a checklist for city staff to use when calculating costs; attend at least 1.5 hours of KORA training; and provide this office with a written report of compliance. The city promptly complied with the requirements of the Finding of Violation.

COMPLAINTS AGAINST COUNTIES RESULTING IN CORRECTIVE ACTION

Clay County

Complaint: An individual filed a complaint with this office alleging that the county violated the KORA by denying him access to certain reports kept by the sheriff's office.

Resolution: This office consulted with the county attorney about this complaint, who advised that at the time of the KORA request, the records being sought concerned an ongoing investigation and prosecution. The individual's request was denied based on K.S.A. 45-221(a)(10)(B) concerning criminal investigation records. However, at the time of the denial, the county attorney advised the individual that when the investigation was complete, and any cases closed, the county would provide the requested records. This office reviewed the requested records and concluded that, with one exception concerning the front page of the Kansas Standard Offense Report, they were criminal investigation records that were not required to be disclosed. Because the criminal case had been concluded by the time the individual filed his complaint, the county attorney agreed to provide the records to the individual upon advance payment of fees and clarification of what "reports" the individual was seeking. This office provided a written reminder to the county about the need to ensure that it provides any records that are clearly open, as well as considers its obligation to redact records as required by the KORA. This office also monitored this matter to ensure the records were provided to the individual. The individual declined to describe what records he wanted other than "reports." Although the individual would not cooperate, the county attorney identified what he believed was responsive to the request and asked for advance payment of \$8.00. The individual declined to pay the requested fee and instead asked for the case number; he further indicated that he no longer needed the records. The county attorney advised this office that if the individual requested the records in the future they would be provided upon payment of the \$8.00 fee. Because the county

Kansas Open Records Act Complaints, continued

attorney agreed to provide the records, no further formal enforcement action was taken.

Douglas County Attorney's Office

Complaint: An individual filed a complaint with this office alleging that the district attorney's office violated the KORA by providing records that were difficult to decipher.

Resolution: This office consulted with the district attorney's office about this complaint, who agreed to undertake additional efforts to locate legible records. The district attorney's office was able to locate an electronic version of the records that was easier to read and that did not have a shaded background like the original document provided to the individual. The district attorney's office also made a paper copy of the record available to the individual. Because the district attorney's office provided the individual with the records he was seeking in a legible format, no further formal enforcement action was taken.

Marion County Planning and Zoning Department

Complaint: An individual filed a complaint with this office alleging that the department violated the KORA.

Resolution: Because the individual did not explain why she believed the department violated the KORA, this office asked her to clarify her complaint and provide supporting documents. The individual responded to this inquiry, but did not explain how the county violated the KORA and did not provide any supporting documents. She further stated that she received the document she requested within hours of filing her complaint with this office and then forwarding to the county attorney the confirmation email received after filing her complaint with this office. Because the individual reported she had already received the record she was seeking, no formal enforcement action was taken.

Marshall County Clerk's Office

Complaint: A member of the media filed a complaint with this office alleging that the clerk's office violated the KORA by failing to respond to his records request.

Resolution: Upon review, this office found the clerk's office violated the KORA by failing to respond to the request. The clerk's office admitted it received the KORA request, but because the records had been seized by agents of the Kansas Bureau of Investigation (KBI) in April 2019, there were no records that could be provided in response to the request. It appears the clerk did not understand that she still needed to respond to the individual's KORA request. This office asked the county counselor to have the clerk respond to the KORA request, provide any records that it had to provide, or advise the individual that it did not have the records because they had been seized by the KBI. The county counselor also agreed the county would take remedial action to ensure the clerk's office had sufficient procedures in place to respond to KORA requests. The county promptly satisfied the remedial action request, and no formal enforcement action was taken.

**COMPLAINTS AGAINST OTHER AGENCIES
RESULTING IN CORRECTIVE ACTION**

Butler Community College

Complaint: An individual filed two complaints with this office alleging that the college violated the KORA by improperly denying his records request based on the provisions of K.S.A. 45-221(a)(20).

Resolution: In each of the complaints, the individual sought review of any responsive records by a neutral third party to ensure the college properly applied the exemption to disclosure to each of his requests. This office reviewed the responsive documents and generally concluded that the college properly applied the exemption to disclosure, but that it failed to consider whether any of the records could be redacted. This office requested that the college review and, where necessary, to redact the closed portions and release the remainder of the records. With regard to one category of records, the college ultimately determined that there were no records responsive to the request, thus it improperly applied the exemption to disclosure. With regard to a second category of records, the college discovered additional records that were privileged, but not discovered during the initial search for records. With regard to a third category of records, they included records that were to, from or copied to the individual; the college did not clarify whether the individual was interested in these records. Rather, the college excluded them from the request. This office requested that these records be re-reviewed to determine whether they could be released with or without redactions. The college expressed a willingness to work to resolve the individual's concerns without the need for further enforcement action. Following the issuance of the letter explaining the results of the investigations, the individual contacted the college and confirmed in writing that he was no longer interested in receiving copies of the records. No formal enforcement action was taken.

Eighteenth Judicial District Court

Complaint: An individual filed a complaint with this office alleging that the clerk's office violated the KORA by improperly denying his KORA request for the Record of Actions (ROA) in two specific cases.

Resolution: This office consulted with the clerk's office, who determined that the clerk who responded to the KORA request "made multiple errors." The errors occurred in part because the individual was requesting the ROAs in two protection from abuse/stalking cases. Some elements of these types of cases are sealed and thus not subject to the KORA. However, the ROA can be provided with some minor redaction. The clerk mistakenly assumed that the ROAs were not subject to the KORA, and then compounded this mistake by failing to follow internal procedures, including checking with a supervisor, before sending a response. When this mistake was discovered, the district court clerk personally emailed the individual to provide the records and apologize for the mistake. The individual responded by thanking the clerk for sending the records. As a result of this complaint, the clerk involved in this matter received

Kansas Open Records Act Complaints, continued

refresher training on the KORA, as well as office procedures for handling KORA requests. The clerk also obtained and distributed additional KORA training materials to all clerks who process KORA requests. Because the clerk's office promptly provided the records, apologized for the error, and provided additional KORA training, no formal enforcement action was taken.

Equus Beds Groundwater Management District #2

Complaint: An individual filed two complaints with this office alleging that the district violated the KORA by failing to provide all records and questioning the applicability of an exemption to disclosure.

Resolution: This office contacted the district's attorney, who ultimately agreed to provide the complainant with a redacted copy of an attorney contract/engagement letter, and to invite the complainant to listen to board meeting recordings. Due to this resolution, no formal enforcement action was taken.

REFERRALS TO COUNTY OR DISTRICT ATTORNEY OFFICES

- **Kansas Highway Patrol, Superintendent Herman Jones, and General Counsel Luther Ganieany** (Shawnee County) – failure to provide requested records; failure to provide reason for delay or denial per K.S.A. 45-218(d); referred due to conflict.

COMPLAINTS RESULTING IN A FINDING OF NO VIOLATION

Public Body or Agency	Alleged Violations	Resolution
Arkansas City, Kansas Police Department	KORA – failure to provide body cam recording	The complainant did not respond to a request for clarification and supporting documents.
Bourbon County Sheriff’s Office	KORA – failure to provide requested records; record destroyed or purged	<p>The sheriff’s office did not violate the KORA.</p> <p>A public agency must only produce records in existence at the time of the request, subject to any statutory restrictions. A public agency cannot provide records it does not have.</p> <p>One restriction or exemption to disclosure concerns criminal investigation records; a public agency is not required to disclose criminal investigation records. “Every audio or video recording made and retained by law enforcement using a body camera or a vehicle camera shall be considered a criminal investigation record as defined in K.S.A. 45-217. . . .” Ordinarily, a public agency cannot be compelled to produce criminal investigation records absent a court order. However, K.S.A. 45-254 establishes special rules providing for limited access to body worn camera and vehicle camera recordings. While not every individual is permitted to access such recordings, a person who is the subject of any such recording or any parent or legal guardian of a person under 18 years of age who is a subject of the recording “may make a request . . . to listen to any audio recording or to view a video recording made by a body camera or a vehicle camera. The law enforcement agency shall allow the person to listen to the requested audio recording or to view the requested video recording within 20 days after making the request, and may charge a reasonable fee for such services provided by the law enforcement agency.”</p>
City of Basehor	KORA – failure to provide records	The complainant did not respond to a request to provide clarification or supporting documents.

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
City of Cheney	KORA – failure to provide requested records	The complainant did not respond to a request for clarification and supporting documents.
City of Edgerton, Kansas	KORA – excessive fees	This office declined further review of the complaint due to pending KORA litigation.
City of Peabody	KORA – failure to respond to a question seeking clarification of a payment	The city did not violate the KORA. The KORA does not require a public agency to answer questions asking for information or clarification. It also does not require a public agency to create records to respond to a records request or do research to respond to questions posed by a requester. A public agency must only produce records in existence at the time of the request, subject to any statutory restrictions.
City of Spring Hill, Kansas	KORA – failure to provide records in a timely manner	The complainant did not respond to a request for clarification and supporting documents.
City of Topeka	KORA – failure to provide requested records	The city did not violate the KORA. The KORA does not require a public agency to answer questions asking for information. A public agency must only produce records in existence at the time of the request, subject to any statutory restrictions.
City of Wichita	KORA – unknown	The complainant did not respond to a request for clarification and supporting documents.
Coffey County Clerk Angie Kirchner	KORA – improper redaction	This office declined further review of the complaint due to prior county attorney action/intervention to resolve the concern.

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
El Dorado Correctional Facility and Hutchinson Correctional Facility	KORA – failure to provide requested records	This office declined further review of the complaint due to pending litigation that included the complainant’s KORA concerns.
Geary County Health Department	KORA – unknown	The complainant voluntarily withdrew his complaint.

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
<p>Geary County Sheriff's Office, Capt. Hornaday, Maj. Anderson, Undersheriff Clark, and Steve Opat</p>	<p>KORA – failure to provide records; excessive fees</p>	<p>The sheriff's office did not violate the KORA. This office reminded the sheriff's office about the requirements of K.S.A. 45-218(d).</p> <p>The KORA applies to public agencies. However, an individual is not included in the definition of a public agency and cannot individually be held responsible for the actions of a public agency.</p> <p>The key to triggering the KORA's provisions is the receipt of a request for records that clearly indicates its provisions are being invoked. A public agency is not required to guess when someone is making a KORA request, or assume that every request for records is being made under the KORA.</p> <p>The KORA permits a public agency to seek advance payment of fees to make records available to a requester. It does not require a public agency to provide records free of charge. A public agency may charge a requester reasonable fees that do not exceed the actual costs of providing the records. What the actual costs are to respond to a KORA request will vary depending on all the factors involved in complying with the specific request. A public agency may recoup fees for time spent searching for, examining, redacting, copying, mailing, or otherwise making the records available. If the actual end cost is less, the public agency must refund the difference. If the actual cost of producing the records is more than the estimated fees, the public agency may seek payment of the additional costs. It is not required to hold open a request indefinitely awaiting payment of any estimated fees.</p>
<p>Geary County Sheriff's Office, Geary County Counselor</p>	<p>KORA – failure to provide records; unreasonable or excessive fees</p>	<p>The complainant did not respond to a request to sign a complaint form and provide supporting documents.</p>
<p>Johnson County Community College</p>	<p>KORA – failure to provide requested</p>	<p>The complainant did not respond to a request to provide a complete response to an earlier letter seeking additional information and clarification as to whether her complaint was being amended.</p>

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Johnson County Jail	KORA – denied access to records	<p>The jail did not violate the KORA.</p> <p>The key to triggering the KORA’s procedural rights and protections is the public agency’s receipt of a request for records that clearly indicates the KORA’s provisions are being invoked. The KORA does not require a public agency to answer questions asking for information. A public agency must only produce records in existence at the time of the request, subject to any statutory restrictions.</p> <p>The KORA provides that a public agency shall not be required to disclose certain records. The categories of records that may be discretionarily closed are set out at K.S.A 45-221(a)(1) through (55). Several of these exceptions to disclosure are designed to protect security related records. One such provision is found at K.S.A. 45-221(a)(12). A public agency is not required to provide a written statement of the grounds for the denial of a request unless a requester asks for the written statement.</p>
Jordan Bell, Hutchinson Correctional Facility	KORA – failure to provide complete copy of records	The complainant did not respond to a request for clarification and supporting documents.
Kansas Department of Corrections	KORA – failure to provide requested records	The complainant did not respond to a request for clarification and supporting documents.
Kansas Department of Vital Statistics	KORA – ordered death certificate and not mailed to address provided	<p>The department did not violate the KORA.</p> <p>The key to triggering the KORA’s provisions concerning the ability to access and obtain copies of records is the receipt of a request for records that clearly indicates its provisions are being invoked. A public agency is not required to guess when someone is making a KORA request, or assume that every request for records is being made under the KORA.</p>

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Kansas Highway Patrol	KORA – failure to provide requested records	The complainant did not respond to a request for additional information and supporting documents.
Kansas Highway Patrol	KORA – failure to provide requested records	The complainant did not respond to a request for clarification and supporting documents.
Kansas Juvenile Correctional Complex	KORA – unknown	The complainant did not respond to a request for clarification and supporting documents.
Kansas Prisoner Review Board and Ashley Maxwell, Administrator	KORA – denied access to records	<p>The board did not violate the KORA.</p> <p>The KORA applies to public agencies. However, an individual is not included in the definition of a public agency and cannot individually be held responsible for the actions of a public agency.</p> <p>The KORA applies to public records that are made, maintained, kept by or in the possession of a “public agency” as defined by the KORA. Under the KORA, a public agency is required to produce records in existence at the time of the request, subject to any statutory restrictions. The KORA does not require a public agency to create records to respond to a request, do research to respond to questions posed by a requester, answer questions, or respond to inquiries seeking only information.</p>
Kansas Real Estate Commission	KORA – failure to provide records associated with complaint filed against a licensee	<p>The commission did not violate the KORA.</p> <p>The key to triggering the KORA’s provisions concerning the ability to access and obtain copies of public records is the receipt of a request for records that clearly indicates that its provisions are being invoked. A public agency may require a requester to submit a written KORA request.</p>
Kansas Secretary of Corrections	KORA – failure to provide requested records	The complainant did not respond to a request to complete a complaint form.

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Lane Co. Cemetery District #1	KORA – unreasonable or excessive fees	The complainant did not respond to a request to provide clarification or supporting documents.
Leavenworth County	KORA – unknown	The complainant did not respond to a request for clarification and supporting documents.
Marion County Board of County Commissioners, Marion County Planning and Zoning Commission, and Marion County Clerk	KORA – unknown	The complainant voluntarily withdrew her complaint.
Marion County Board of County Commissioners, Marion County Planning and Zoning Commission, and Marion County Clerk	KORA – denied access to records	<p>The county did not violate the KORA.</p> <p>The KORA applies to public agencies. However, an individual is not included in the definition of a public agency and cannot individually be held responsible for the actions of a public agency.</p> <p>The KORA describes how the public may inspect or obtain copies of public records, unless they are closed by some other statute or rule. Even if a public agency has a record, not all records it maintains are required to be open. The KORA sets out some 55 exemptions to disclosure. One such exemption provides that a public agency shall not be required to disclose records that are privileged under the rules of evidence. One such rule of evidence concerns the attorney-client privilege. Where the privilege has been waived and the record discussed during an open meeting, the record must be released.</p>
Marion County Clerk	KORA – failure to provide records	The complainant voluntarily withdrew her complaint.

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Marion County Clerk	KORA – failure to respond within three business days	<p>The county did not violate the KORA.</p> <p>The KORA provides that a public body must act on a KORA request “as soon as possible, but not later than the end of the third business day following the date that the request is received.” The KORA does not require a response to be in the requester’s hands by 5:00 p.m. on the third business day. It only provides that the public agency must act on the request within three business days. Sending an email or a fax, or mailing a letter on the third business day complies with the KORA. A request for advance payment of fees as permitted by the KORA sent on the third business day is a timely response under the KORA.</p>
Marion County Clerk	KORA – unredacted records released to court; records released to court contain fabricated information; incorrect information supplied as evidence in court case	Declined to investigate complaint due to pending litigation that included the stated KORA concerns.

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Marion County Clerk Tina Spencer	KORA – records request denied	<p>The county did not violate the KORA.</p> <p>The KORA applies to public agencies. However, an individual is not included in the definition of a public agency and cannot individually be held responsible for the actions of a public agency.</p> <p>The KORA describes how the public may inspect or obtain copies of public records, unless they are closed by some other statute or rule. Even if a public agency has a record, not all records it maintains are required to be open. The KORA sets out some 55 exemptions to disclosure. One such exemption provides that a public agency shall not be required to disclose records that are privileged under the rules of evidence. One such rule of evidence concerns the attorney-client privilege. Where the privilege has been waived and the record discussed during an open meeting, the record must be released. If the records custodian cannot determine whether the privilege has been waived, the public agency is not required to release the record.</p>
Marion County Clerk Tina Spencer	KORA – denied access to records	<p>The county did not violate the KORA.</p> <p>The KORA applies to public agencies. However, an individual is not included in the definition of a public agency and cannot individually be held responsible for the actions of a public agency.</p> <p>A public agency cannot provide a requester with records it does not have or that are privileged.</p> <p>Any emails or other records a commissioner receives in his or her capacity as a commissioner that are not otherwise maintained by the county are not considered public records under the KORA.</p>

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Marion County Clerk Tina Spencer	KORA – records provided contained two social security numbers	<p>The county did not violate the KORA.</p> <p>The KORA applies to public agencies. However, an individual is not included in the definition of a public agency and cannot individually be held responsible for the actions of a public agency.</p> <p>It is not a violation of the KORA to receive the records that were requested. Whether there is a violation of any other state or federal law based on the release of unredacted social security numbers is outside the scope of the KORA.</p> <p>The Consumer Protection Division of the Attorney General’s Office and the County Attorney’s Office were provided information about the unredacted social security numbers. The complainant was cautioned about redistribution of any records containing unredacted social security numbers.</p>
Marion County Records Custodian	KORA – received records with unredacted social security numbers	<p>The county did not violate the KORA.</p> <p>The KORA applies to public agencies. However, an individual is not included in the definition of a public agency and cannot individually be held responsible for the actions of a public agency.</p> <p>It is not a violation of the KORA to receive the records that were requested. Whether there is a violation of any other state or federal law based on the release of unredacted social security numbers is outside the scope of the KORA.</p> <p>The Consumer Protection Division of the Attorney General’s Office and the County Attorney’s Office were provided information about the unredacted social security numbers. The complainant reported she destroyed the flash drive containing the records and threw it away while in a county office.</p>

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Mental Health America of the Heartland	KORA – failure to provide unredacted copy of records	<p>Mental Health America of the Heartland is not a public agency within the meaning of the KORA, and thus was not required to provide any records.</p> <p>Under the KORA, no entity is included solely because it receives public funds for property, goods or services of such entity. Although most private entities are not subject to the KORA, some nonprofit organizations may be included if they perform traditional governmental functions. Nonprofit organizations do not fall under the KORA where public funding is the only link and there is a lack of significant governmental control or ties. In determining whether a nonprofit organization is subject to the KORA, we consider whether: (1) the entity was created by a governmental entity or statute, (2) it is providing a traditionally governmental service, (3) the extent of its public funding, and (4) there is a specific service provided for the funds. Based on the facts presented, MHAH was created and is operated by private individuals, does not provide a strictly governmental service, and any public funds it receives are used to provide services to its clients. Moreover, it was not clear that MHAH received any public funds from the State of Kansas or a political or taxing subdivision of the state.</p>
Osage County Fire District #1	KORA – unknown	The complainant did not respond to a request for clarification and supporting documents.
Osage Township Board	KORA – failure to provide records in three business days	<p>The board did not violate the KORA.</p> <p>The key to triggering the procedural requirements and protections of the KORA is the receipt of a request that clearly invokes its provisions. A public agency cannot comply with the KORA if it does not receive a request that makes it clear that the requester is invoking the KORA and its procedural provisions.</p>

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Phillips County Health Systems / Phillips County Hospital	KORA – failure to provide records	<p>An individual filed two separate complaints raising the same concern about two different KORA requests.</p> <p>The hospital board did not violate the KORA.</p> <p>Under the KORA, while an individual has a right to obtain copies of public records, there is no right to obtain the records in the least expensive manner. Likewise, the KORA contains no language requiring records be provided in their native format. A public agency retains the discretion to determine the format in which the records are produced.</p>
Phillips County Health Systems / Phillips County Hospital	KORA – failure to provide records	<p>The hospital board did not violate the KORA.</p> <p>A requester may inspect public records during the regular office hours of the public agency and during any additional hours established by the public agency in accordance with the KORA. A public agency is not required to accommodate a request to inspect records outside of its regular business hours.</p>
Phillips County Health Systems / Phillips County Hospital	KORA – failure to provide records	<p>The hospital board did not violate the KORA.</p> <p>The KORA does not require a public agency to provide copies of drafts in response to a request. K.S.A. 45-221(a)(20) provides that a public agency shall not be required to disclose, among other records, preliminary drafts, “except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of an open meeting.” If the draft is not publicly cited or identified in an open meeting or an agenda, it is not required to be released.</p> <p>The KORA provides that “. . . [I]f the request for access is denied, the custodian shall provide, upon request, a written statement of the grounds for denial. Such statement shall cite the specific provision of law under which access is denied and shall be furnished to the requester not later than the end of the third business day following the date that the request for the statement is received.” If a request is not made, no written statement is required.</p>

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Phillips County Health Systems / Phillips County Hospital	KORA – failure to provide records in format requested	<p>The hospital board did not violate the KORA.</p> <p>The KORA does not require that records be provided in their native format. A public agency retains the discretion to determine the format in which the records are produced. A public agency is not required to cite the KORA exemption justifying a denial of a request if it is ready and willing to provide the requested records without redaction.</p>
Phillips County Hospital Board	KORA – failure to provide requested record	This office declined further review of the complaint due to pending KORA litigation.
Rawlins County Extension	KORA – failure to provide names of individuals on ballot	This office declined further review of the complaint due to prior county attorney action/intervention to resolve the concern.

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Saint Marys Police Department	KORA – denied access to records	<p>The police department did not violate the KORA.</p> <p>With certain exceptions, the KORA does not require criminal investigation records to be disclosed. Criminal investigation records include “records of an investigatory agency or criminal justice agency as defined by K.S.A. 22-4701, and amendments thereto, compiled in the process of preventing, detecting or investigating violations of criminal law. . . .” While criminal investigation records may be discretionarily closed, this section of the KORA provides criteria for judicial review of a public agency’s decision not to disclose such records in response to a KORA request. Under this exemption to disclosure, a public agency cannot be compelled to disclose criminal investigation records unless an action is first brought for that purpose and a court finds disclosure meets the conditions of K.S.A. 45-221(a)(10)(A)-(F). Essentially, the statute sets out factors to weigh in considering the public interest in disclosure versus any harm that may arise from disclosure.</p> <p>The one exception to the rule concerning criminal investigation records relevant here involved the Kansas Standard Offense Report. Prior Attorney General Opinions have found that only the front page of the KSOR is open because it contains information of a general nature that is not a criminal investigation record and thus must be open for public inspection and copying. The front page contains the date, time and location of the reported offense, the nature of the crime, and the name and other contact information concerning the victim, witness or other person reporting the incident. The remainder of the KSOR is considered to be a criminal investigation record.</p>

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Senator Jim Denning	KORA – hiding public comments on official Facebook page	<p>The senator did not violate the KORA.</p> <p>The KORA applies to public agencies. However, an individual is not included in the definition of a public agency and cannot individually be held responsible for the actions of a public agency.</p> <p>The definition of “public record . . . shall not include: . . . (B) records which are made, maintained or kept by an individual who is a member of the legislature. . . .” The senator is a member of the Kansas Legislature, as well as the Senate Majority Leader. As such, any records he makes, maintains, or keeps are not public records within the meaning of the KORA, and thus are not open to the public.</p> <p>The alleged failure to comply with any recent court rulings is outside the scope of the KORA.</p>
Shawnee County Jail	KORA – failure to provide requested records; destroyed records	The complainant did not respond to a request for clarification and supporting documents.
Shawnee Mission School District	KORA – failure to provide requested records	<p>The district did not violate the KORA.</p> <p>The KORA does not require a public agency to create records to respond to a records request. A public agency must only produce records in existence at the time of the request, subject to any statutory restrictions.</p>

Kansas Open Records Act Complaints, continued

Public Body or Agency	Alleged Violations	Resolution
Spring Hill Police Department and Spring Hill Municipal Court	KORA – failure to provide requested records; LEOs altered tow records; failure to post city ordinances for a tow dispute on city website	The complainant did not respond to a request to provide clarification or supporting documents.
The University of Kansas / Kansas Athletics Incorporated	KORA – improperly redacted records	This office declined further review of the complaint due to pending KORA litigation.
Unified Government of WyCo/KCK	KORA – failure to provide requested records	The Unified Government did not violate the KORA. The KORA does not require a public agency to answer questions asking for information or to create records to respond to a KORA request. A public agency must only produce records in existence at the time of the request, subject to any statutory restrictions.
USD 237 (Smith Center)	KORA – failure to provide requested records	The complainant did not respond to a request for clarification and supporting documents.
Winfield Correctional Facility	KORA – failure to provide requested records	The facility did not violate the KORA. The key to triggering the KORA’s provisions concerning the ability to access and obtain copies of records is the receipt of a request for records that clearly indicates its provisions are being invoked. A public agency is not required to guess when someone is making a KORA request, or assume that every request for records is being made under the KORA.

NOTE: In addition to the foregoing, the Office of the Attorney General received 20 complaints using the KOMA/KORA complaint form that did not state a violation of the KOMA or the KORA.

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 report filed
Atchison	Sherri Becker	No KOMA/KORA complaints to report
Barber	Daniel O. Lynch	No KOMA/KORA complaints to report
Barton	M. Levi Morris	No report filed
Bourbon	Jacque Spradling	No KOMA complaints to report A citizen alleged a violation of the KORA when he wanted, but did not receive records. The filing did not include a records request, and therefore the KORA was not implicated.
Brown	Kevin M. Hill	No KOMA/KORA complaints to report
Butler	Darrin C. Devinney	No report filed
Chase	William F. Halvorsen	No KOMA/KORA complaints to report
Chautauqua	Ruth A. Ritthaler	No KOMA/KORA complaints to report
Cherokee	Nathan Coleman	No KOMA/KORA complaints to report
Cheyenne	Leslie Beims	No KOMA/KORA complaints to report
Clark	Joseph H. Milavec	No KOMA/KORA complaints to report
Clay	Joel P. Mason	No KOMA/KORA complaints to report
Cloud	Robert A. Walsh	No report filed
Coffey	Wade H. Bowie II	No KOMA/KORA complaints to report
Comanche	Cindy Long (Allison D. Kuhns during the reporting period)	No KOMA/KORA complaints to report
Cowley	Larry R. Schwartz	No KOMA/KORA complaints to report

Counties Reporting KOMA/KORA Complaints, continued

County	County or District Attorney	Report
Crawford	Reina J. Probert	No KOMA/KORA complaints to report
Decatur	Steven W. Hirsch	No KOMA/KORA complaints to report
Dickinson	Andrea Purvis	No report filed
Doniphan	Charles D. Baskins	No KOMA/KORA complaints to report
Douglas	Susanne Valdez	No KOMA/KORA complaints to report
Edwards	Mark Frame	No report filed
Elk	Jill Renee Gillett	No KOMA/KORA complaints to report
Ellis	Robert A. Anderson, Jr.	No KOMA/KORA complaints to report
Ellsworth	Paul J. Kasper	No KOMA/KORA complaints to report
Finney	Susan H. Richmeier	No report filed
Ford	Kevin B. Salzman	No KOMA/KORA complaints to report
Franklin	Brandon L. Jones	No KOMA/KORA complaints to report
Geary	Krista Blaisdell	No KOMA/KORA complaints to report
Gove	Mark F. Schmeidler	No KOMA/KORA complaints to report
Graham	Jill Elliott	No KOMA/KORA complaints to report
Grant	Kelly Premer Chavez	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	Jill Gillett	No KOMA/KORA complaints to report
Hamilton	Robert H. Gale, Jr.	No KOMA/KORA complaints to report
Harper	Richard Raleigh	No report filed
Harvey	Jason R. Lane	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

Counties Reporting KOMA/KORA Complaints, continued

County	County or District Attorney	Report
Jefferson	Josh Ney	No KOMA/KORA complaints to report
Jewell	Darrell E. Miller	No KOMA/KORA complaints to report
Johnson	Stephen M. Howe	<p>On May 31, 2019, the office received a KOMA complaint from an individual alleging that the Johnson County Community College Board of Trustees violated KOMA during their April 2019 Board meeting. On August 22, 2019, the office advised the individual the board did not violate the KOMA.</p> <p>On August 31, 2018, the office received a KORA complaint made by an individual alleging that the Gardner/Edgerton School District, USD 231, violated KORA when it denied him access to certain records that were discussed during an open meeting. The complaint was forwarded to this office by the Attorney General to investigate. On August 15, 2019, the office advised the individual and the district that there were no actionable violations of KORA.</p> <p>On January 16, 2019, the office received a KORA complaint from an individual alleging that the Olathe School District, USD 233, rejected a request for video recordings and time clock and pay records of district classroom staff. The office determined the district violated the KORA when it withheld the employment records; on September 5, 2019, the office sent a letter to staff counsel for the district demanding the records be released. The district did not violate the KORA regarding the requested video recordings.</p>
Kearny	Eloy Gallegos	No report filed
Kingman	Matthew W. Ricke	No KOMA/KORA complaints to report
Kiowa	Chay Howard	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	Burton Harding	No KOMA/KORA complaints to report

Counties Reporting KOMA/KORA Complaints, continued

County	County or District Attorney	Report
Logan	Craig Uhrich	No report filed
Lyon	Marc Goodman	No KOMA/KORA complaints to report
Marion	Joel Ensley	No report filed
Marshall	Meghan K. Voracek	No KOMA/KORA violations to report
McPherson	Gregory T. Benefiel	No KOMA/KORA complaints to report
Meade	Clay Kuhns	A KOMA complaint alleged that the Meade District Hospital Board improperly recessed into executive session. The complaint was referred to Attorney General's Office due to a conflict. (The disposition for this case will be reported in the FY 2021 Annual Report.) No KORA complaints to report
Miami	Elizabeth H. Sweeney-Reeder	A KOMA complaint alleged the Louisburg Library Board restricted access to its meetings, did not provide notice and that there were possible executive session violations. Violation found. Settlement Agreement regarding KOMA violation; the board agreed to attend training on both the KOMA and the KORA. A KORA complaint alleged the Louisburg Library Board did not make its agendas, minutes and budget available, and that copy costs were too much. No violation found.
Mitchell	Mark J. Noah	No KOMA/KORA complaints to report
Montgomery	Lisa D. Montgomery	No KOMA/KORA complaints to report
Morris	Laura E. Viar	No KOMA/KORA complaints to report
Morton	Adam T. Carey	No KOMA/KORA complaints to report
Nemaha	Brad M. Lippert	No KOMA/KORA complaints to report
Neosho	Linus A. Thuston	No report filed
Ness	Kevin B. Salzman	No KOMA/KORA complaints to report
Norton	Melissa M. Schoen	No KOMA/KORA complaints to report

Counties Reporting KOMA/KORA Complaints, continued

County	County or District Attorney	Report
Osage	Jack J. Hobbs	No report filed
Osborne	Paul S. Gregory	No KOMA/KORA complaints to report
Ottawa	Richard A. Buck	No KOMA/KORA complaints to report
Pawnee	Douglas W. McNett	No KOMA/KORA complaints to report
Phillips	Melissa M. Schoen	No KOMA/KORA complaints to report
Pottawatomie	Sherry Schuck	No KOMA/KORA complaints to report
Pratt	Tracey T. Beverlin	No KOMA/KORA complaints to report
Rawlins	Isaac LeBlanc	No report filed
Reno	Thomas R. Stanton	No KOMA/KORA complaints to report
Republic	Justin Ferrell	No KOMA/KORA complaints to report
Rice	Remington S. Dalke	No KOMA/KORA complaints to report
Riley	Barry R. Wilkerson	Due to a conflict, the county attorney, as a member of the Riley County Law Board, self-reported a possible KOMA violation involving serial communications to the Kansas Attorney General's Office due. (The disposition for this case is reported in the "Complaints Resulting in a Finding of No Violation" section of this report.) No KORA complaints to report
Rooks	Danielle N. Muir	No KOMA/KORA complaints to report
Rush	Tony W. Rues	No KOMA/KORA complaints to report
Russell	Daniel W. Krug	No KOMA/KORA complaints to report
Saline	Jeff Ebel	No KOMA/KORA complaints to report
Scott	Rebecca J. Faurot	No KOMA/KORA complaints to report

Counties Reporting KOMA/KORA Complaints, continued

County	County or District Attorney	Report
Sedgwick	Marc A. Bennett	<p>A KOMA complaint alleged the Valley Center Recreation Commission (VCRC) violated the open meetings act by holding executive sessions during three meetings to discuss needs that were not authorized by statute and participated in a mediation session that was not open to the public. Violations of the KOMA found. VCRC had already undertaken remedial training on the requirements of the KOMA and the KORA, therefore no further action was taken.</p> <p>A KOMA complaint alleged that the three members of the Sedgwick County Board of County Commissioners violated the KOMA by reaching a determination outside of an open meeting concerning an employment action to be taken regarding the county manager. After an investigation, no violation was found.</p> <p>A KORA complaint alleged that the City of Eastborough refused to provide an investigative report. Although the City cited the wrong KORA exception to justify withholding a personnel record, the withholding was lawful under the personnel records exception.</p>
Seward	Russell W. Hasenbank	No KOMA/KORA complaints to report
Shawnee	Michael Kagay	<p>No KOMA complaints to report.</p> <p>A KORA complaint alleged the Kansas Highway Patrol failed to provide an adequate response to a request for public records, and that the response was ultimately untimely. It was determined the KHP provided a timely response within three days of the request, indicating the request was being processed and a further response would be provided in the near future. The KHP ultimately provided the requested records, or a valid exception for non-disclosure, within two weeks. While the KHP did not provide an exact date on which the subsequent response would be provided, the response was within a reasonable time and the records provided did satisfy the request.</p>
Sheridan	Harry Joe Pratt	No KOMA/KORA complaints to report
Sherman	Charles F. Moser	No KOMA/KORA complaints to report

Counties Reporting KOMA/KORA Complaints, continued

County	County or District Attorney	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 report filed
Sumner	Larry L. Marczynski II	No report filed
Thomas	Christopher Rohr	No report filed
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	John G. Gillett (Larry Markle during the reporting period)	The Neodesha City Commission self-reported that it violated the KOMA when it held a special meeting to consider appointing a new city commissioner to a vacancy on the board. While the actual appointment of a new commissioner did take place in open meeting, the city commission went into executive session prior to the decision citing the nonelected personal exception to the KOMA. In fact, the position to be filled was an elected position. The commission entered into a settlement agreement, and attended a KOMA training. No KORA complaints to report
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 2020 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>.

City of Frontenac

2020-OG-0001

Finding of Violation Issued on February 18, 2020

Requirements Satisfied June 22, 2020

Kansas Open Records Act; Unreasonable Fees

USD 112 Board of Education (Central Plains)

2019-OG-0001

Consent Order Entered on December 18, 2019

Requirements Satisfied March 23, 2020

Kansas Open Meetings Act; Executive Sessions

Regulations

In response to the COVID-19 emergency, the attorney general's office adopted Kansas Administrative Regulation (K.A.R.) 16-20-1 to ensure the meetings of state and local governments remain open to the public during a period of emergency declaration when meeting in person is not possible due to social distancing and/or emergency restrictions on gathering in person. K.A.R. 16-20-1 provides requirements government bodies must follow to maintain compliance with the KOMA when using a medium for interactive communication, such as WebEx, to conduct open meetings.

The regulation is available on the Attorney General's website at <https://ag.ks.gov/open-government>.

Trainings Provided

Date	Event	Location	Attendees
7/17/2019	KOMA/KORA Training – Public Training	Wichita	25
7/19/2019	KOMA/KORA Training – Public Training	Colby	30
7/24/2019	KOMA/KORA Training – Public Training	Kansas City	15
7/25/2019	KOMA/KORA Training – Public Training	Independence	20
7/26/2019	KOMA/KORA Training – Public Training	Topeka	30
8/16/2019	Kansas African American Affairs Commission	Topeka	14
9/18/2019	Kansas Department of Labor - KOMA/KORA Training	Topeka	28
9/19/2019	Kingman County Sheriff's Office - KORA Training	Kingman	15
10/17/2019	Pittsburg Police Department - KOMA/KORA training	Pittsburg	48
10/29/2019	Kansas Department for Children and Families CLE	Topeka	100
11/18/2019	Coffey County Commission - KOMA Training	Burlington	40
12/17/2019	City of Salina - KOMA/KORA Training	Salina	43
1/17/2020	Kansas Agriculture and Rural Leadership (KARL) - Topeka Program - KOMA/KORA Presentation	Topeka	30
1/30/2020	Kansas Department of Administration Small Agency Human Resources Contacts Meeting - KOMA/KORA Training	Topeka	35
3/12/2020	Kansas City Clerks and Municipal Finance Officers Association (KCCMFOA) Annual Meeting - KOMA/KORA Training	Manhattan	50

*Note: Trainings were not provided during after March 12, 2020, due to COVID-19.



Open Government Enforcement Unit

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