

**KOMA/KORA COMPLAINTS RECEIVED BY THE
ATTORNEY GENERAL'S Office
REPORT PURSUANT TO K.S.A. 2011 SUPP. 75-753**

July 1, 2010 through June 30, 2011

KORA COMPLAINTS

State Agencies

Kansas Department of Education

Contact: A record requestor was concerned about his privacy interests. A contact was made to this office.

Allegation: The complaint was that a record requestor learned that his name had been provided to another requestor.

Action Taken: This office contacted the Department of Education for the facts. After reviewing the circumstances, it was determined that no personal contact information was provided. A record request becomes a record that is subject to disclosure. There was no violation of personal privacy or KORA.

Kansas Department of Education

Contact: The Kansas Policy Institute requested records and was concerned about the proposed fees. An inquiry was made to this office.

Allegation: The Department of Education proposed fees exceeded the allowable cost recovery as provided by KORA.

Action Taken: This office contacted the Department of Education and clarified how employee costs could be calculated. The Department of Education recalculated the cost of staff time. No further action was taken. Fee disputes within the executive branch are resolved by the Secretary of Administration. No complaint was made to the Secretary of Administration to the best of our knowledge.

Kansas Department of Health and Environment

Contact: An individual requested names and addresses of all licensed and registered child care providers in Kansas. The request was denied. The requester asked this office to review the denial.

Allegation: The request was improperly denied.

Action Taken: The request was denied as a violation of then-current Kansas law, which prohibited the distribution of any records concerning child care facilities in the possession of the Department. This office conferred with the Department and agreed that the request was properly refused under existing law. However, the Department advised this office, which in turn advised the requester, that a change to the law would take effect shortly that would permit release of the records. It was suggested that the requester make a new request after the change in law took effect. No further action was necessary by this office and the matter was closed.

Kansas Governor's Office

Contact: A requestor made a records request to the Governor's Office and disagreed with the estimated fees. A contact was made to this office.

Allegation: The proposed fees were excessive.

Action Taken: The requestor was informed that fee disputes may be made to the Secretary of Administration. No further action was necessary by this office and the matter was closed.

Counties

Sedgwick County

Contact: An inmate requested a Docket Events Listing for a case from the District Court. The information was provided. The requestor believed the record was incomplete. A complaint was made to this office.

Allegation: The requestor believed the Docket Events Listing received was incomplete and asked that other items be added to it.

Action Taken: The requestor was advised that KORA does not require an agency to create a new record or alter an existing one. Therefore, there was no KORA violation. No further action was necessary by this office and the matter was closed.

Jewell County

Contact: An individual requested records from the Jewell County Sheriff. The records were provided but did not meet the requestor's expectations. A complaint was made to this office.

Allegation: The records provided in response to the request did not meet the requestor's expectations.

Action Taken: The requestor was advised that KORA only addresses whether a record is open or closed, and that it does not address concerns as whether a record is complete, accurate or what the requestor wants it to contain. The handling of this matter was not inconsistent with the law, and there was no violation. No further action was necessary by this office and the matter was closed.

Cities

City of Emporia

Contact: An individual requested records related to her address and to the Westar Industrial Plant in Emporia. A complaint was made to this office regarding the response.

Allegation: The response was not complete.

Action Taken: The Emporia City Attorney agreed to conduct another search for responsive records, but no additional records were found. Thus the response was complete, and no KORA violation occurred. No further action was necessary by this office and the matter was closed.

Referrals to County or District Attorney Offices

Please See the County KOMA/KORA Report for Details

- Appraiser's Office (Montgomery County) – failure to respond to KORA request. No information on resolution.

- Area Transportation Authority (Riley County) – failure to provide requested records. No information on resolution.
- City of Belle Plaine (Sumner County) – failure to provide an acknowledgment within the statutory period and providing documents that were not responsive to request. No information on resolution.
- Garden City Recreation Commission (Finney County) – failure to provide requested records. See county report for details.
- Kansas Department of Corrections (Shawnee County) – multiple claims of failure to provide requested records in a timely manner and concern regarding costs. No information on resolution.
- Riley County ATA Bus Service (Riley County) – failure to provide a copy of a letter concerning denial of service. No information on resolution.

KOMA COMPLAINTS

State Agencies

Pittsburg State University

Contact: A representative of a student publication complained that the Pittsburg State student government association was having closed meetings after their open meetings and asking press to leave.

Allegation: The closed meetings violate KOMA.

Action Taken: Upon evaluation of the KOMA statute and the status of the Pittsburg State student government association, it was determined that the association was not subject to KOMA. Therefore, there was no KOMA violation. No further action was necessary by this office and the matter was closed.

Counties

No KOMA complaints were made to the Office of the Attorney General during the reporting period.

Cities

Board of Zoning Appeals, City of Marion (Marion County)

Contact: An attorney for an individual contacted the Marion County Attorney concerning the possibility that a meeting took place among Board members in violation of KOMA. The attorney requested that the matter be referred to this office for investigation because of a potential conflict of interest.

Allegation: Several members of the Board gave identical affidavits in connection with a lawsuit regarding a past Board decision, implying that they had communicated with one another regarding the affidavits.

Action Taken: Upon investigation, it was determined that no KOMA violation had occurred because (1) there was no evidence that a majority of Board members gathered and thus there was no meeting; (2) while there were interactive communications in a series by a majority of the Board sharing a common topic on the business of the Board, there was no intent to reach agreement on a matter that required binding action by the Board, and thus KOMA did not apply; (3) there was no admission that the Board members discussed the upcoming hearing on the relevant matter, and discussion of past actions does not violate KOMA; and (4) KOMA does not apply to the Board's deliberation of matters relating to a decision involving its quasi-judicial functions, and thus deliberations about the case are exempt from the provisions of KOMA, although any final decision must be made in an open meeting. No further action was necessary by this office and the matter was closed.

Other Agencies

Unified School District No. 368 (Miami County)

Contact: An individual contacted this office concerning the actions of the Board of USD 368 and possible violation of KOMA.

Allegation: An email sent by U.S.D. 368's Superintendent seemed to indicate that that the Board had improperly made binding personnel decisions in executive session without formal action in an open meeting.

Action Taken: This office conducted the investigation, including reviewing sworn statements from the President and the Superintendent of the Board, as well as Board meeting minutes, and determined that at the time the email was sent, no binding decisions had in fact been made, and thus no violation of KOMA had taken place. No further action was necessary by this office and the matter was closed.

Referrals to County or District Attorney Offices

Please See the County KOMA/KORA Report for Details

- City of Coffeyville City Commission (Montgomery County) – possible violation of KOMA by a discussion after a postponed Commission meeting. See county report for details.
- Hays Library Board (Ellis County) – use of executive session to discuss inappropriate subjects and other KOMA violations. No information on resolution.
- Unified School District No. 284 School Board (Chase County; referred to Lyon County because of a conflict of interest in Chase County) – use of executive session to discuss agenda items that should have been discussed in open session. See county report for details.