

The Kansas Open Records Act

K.S.A. 45-215 *et seq.*

Office of the District Attorney Third Judicial District of Kansas



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The Kansas Open Records Act

K.S.A. 45-215 *et seq.*

Purpose

Public records shall be open for inspection by any person unless otherwise provided by this act, and this act shall be liberally construed and applied to promote such policy.

Public Records

A *public record* means any recorded information, regardless of form, characteristics or location, which is made, maintained or kept by or is in possession of: any *public agency*; or any officer or employee of a *public agency* pursuant to the officer's or employee's official duties and which is related to the functions, activities, programs or operations of any *public agency*.

A *public record* does NOT include any of the following:

- records which are owned by a private person or entity and are not related to the functions, activities, programs or operations funded by public funds;
- records which are made, maintained or kept by an individual who is a member of the legislature or of the governing body of any political or taxing subdivision of the state; or
- records of employers related to the employer's individually identifiable contributions made on behalf of employees for workers compensation, social security, unemployment insurance or retirement.

Public Agency

A *public agency* means the state or any political or taxing subdivision of the state or any office, agency or instrumentality thereof, or any other entity receiving or expending and supported in whole or in part by the public funds appropriated by the state or by public funds of any political or taxing subdivision of the state.

A *public agency* does NOT include: a private entity solely by reason of payment from public funds for property goods or services of such entity; or any municipal judge, judge of the district court, judge of the court of appeals or justice of the supreme court.

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Public Agency Requirements

In order to comply with the requirements of the Open Records Act, each public agency in Kansas shall:

- Appoint a Freedom of Information Officer;
- Adopt procedures for compliance with the Act;
- Provide suitable facilities for the purpose of inspection of public records;
- Allow for inspection of records during regular office hours and during any additional hours established by the agency;
- Act upon each request as soon as possible but not later than the third business day following the date the request is received;
- If requested, provide copies of public records;
- If a request for access to a public record is denied, upon request the custodian shall provide a written statement of the grounds for the denial citing specific provisions of law for the request;
- If access to the record cannot be provided within the third business day of the request, the custodian shall give a detailed explanation for the cause of delay and an estimation of time and place when the record will be available; and
- If duplicates of records are requested, the records, when practicable, shall be copied at the location where they are kept.

Fees

Public agencies are allowed to charge a fee for processing and providing access to records pursuant to the Open Records Act.

Fees for inspection or copies of public records shall not exceed the actual cost of furnishing.

Fees may include: cost of any staff time required for duplication; or cost of computer services or staff time required to allow inspection of records or computer files. Staff time includes time required to gather, review, photocopy and send records.

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Requirements on Requests

The agency may require a written request and advance payment for duplication costs.

The agency is not required to provide copies of radio or recording tapes or discs, video tapes or films, pictures, slides, graphics, illustrations or similar audio or visual items or devices unless such items or devices were shown or played to a public meeting of the governing body thereof, but the agency shall not be required to provide such items or devices which are copyrighted by a person other than the public agency.

The custodian may refuse access to a public record if the request places an unreasonable burden on the agency, or the custodian has reason to believe the request is intended to disrupt other essential functions of the agency.

Public agencies are only required to produce records that exist at the time of the request. Public agencies are not required to answer questions, create records, or provide records that are created in the future.

No person may remove original copies of public records from the office of any public agency without written permission of the custodian of the record.

Prohibited Use of Public Records

The Open Records Act prohibits using information obtained from an open records request for certain purposes. Public agencies may require you certify you will not use names and addresses for any prohibited purposes. If you refuse to certify as requested, the agency may refuse to provide access to or copies of the records.

Violations of the Open Records Act

Violations of the open records act are investigated by the County or District Attorney, or the Office of the Kansas Attorney General. If you believe a Public Agency has violated the Act you may file a complaint with the Attorney General or the local County or District Attorney.

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Records not subject to disclosure

Unless otherwise provided by law, the following are examples of records that are not required to be disclosed:

- Records that are prohibited from disclosure by State or Federal law;
- Records that are privileged under the rules of evidence;
- Medical, psychiatric, psychological or treatment records of identifiable patients;
- Personnel records other than name, position and actual compensation;
- Records that could identify undercover agents;
- Records of donations to public agency if anonymity was a condition of the donation;
- Criminal investigative records;
- Certain records of agencies involved in administrative adjudication or civil litigation;
- Certain records of emergency security information for an agency;
- Certain records of appraisals or feasibility studies for acquisition of property;
- Certain correspondence between public agencies and private individuals;
- Certain records pertaining to employer-employee negotiations;
- Certain records relating to software programs;
- Records related to applications for student financial assistance;
- Certain records prepared by a private person that are not property of the agency;
- Attorney work product;
- Census or research records;
- Certain correctional records;
- Notes, preliminary drafts or research;
- Sealed bids.

A complete list of exceptions under the Open Records Act can be found at K.S.A. 45-221.

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Inquiries

Requests for public records should be referred to Freedom of Information Officer for the agency in question. The Freedom of Information Officer for the Shawnee County District Attorney's Office is:

**Charles F. Kitt,
Deputy District Attorney - Chief of Staff**

The Shawnee County District Attorney has also developed procedures for individuals to obtain public records. Individuals seeking to obtain public records from the District Attorney's Office should contact Charles Kitt or visit the Shawnee County District Attorney's website (website and contact information below) .

Enforcement

If you believe a public agency has violated the Kansas Open Records Act, contact the Shawnee County District Attorney's Office or the Kansas Attorney General if the alleged violation occurred within Shawnee County. Individuals may also file a lawsuit to enforce the Open Records Act. Such a lawsuit must be filed in the county where the records in question are located.

Public agencies that violate the Open Records Act can be fined up to \$500 per violation, and the Court may award attorney fees for enforcement of the Act.