



STATE OF KANSAS
OFFICE OF THE ATTORNEY GENERAL

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April 8, 2026

Scott Gordon, General Counsel
Kansas Board of Education
900 S.W. Jackson St.
Suite 102
Topeka, KS 66612

RE: KORA Complaint – Kansas Board of Education
Our File Numbers PP-25-000413, PP-25-000414, PP-26-000112, PP-26-000113, PP-26-000132, PP-26-000144

Dear Mr. Gordon:

We are writing to you in your capacity as General Counsel for the Kansas Department of Education. If you are no longer the General Counsel, we would appreciate it if you would forward this letter to the current General Counsel or other attorney who handles civil matters for the Board of Education.

Our office has received six (6) complaints alleging that the Kansas Board of Education violated the Kansas Open Records Act (KORA).¹ Kathryn Vander Griend (PP-25-000413, PP-26-000113, PP-26-000132 and PP-26-000144) submitted four (4) complaints alleging that Board failed to timely respond to her requests and that records were wrongfully withheld. As a requested remedy, Ms. Vander Griend selected to receive requested records.

Rachel Warren (PP-25-000414) submitted a complaint alleging that her request for records was improperly denied. As a requested remedy, Ms. Warren selected to receive requested records.

Dave Trabert (PP-26-000112) submitting a complaint alleging that the Board is charging excessive fees for KORA requests. As a requested remedy, Mr. Trabert selected “[o]ther: Require the agency to publish KORA fees that comply with state law, and issue refunds to anyone who was overcharged.”

We have enclosed a copy of the complaints and supporting documents for your review.

The KORA authorizes the Attorney General to investigate alleged violations of the law.² We are conducting an inquiry concerning this complaint. We hope that by working with you as the General

¹ K.S.A. 45-215 *et seq.*

² *See* K.S.A. 45-222, 45-223, 45-228, 45-251 and 45-253.

Counsel, we may complete our investigation quickly and without the use of more formal discovery methods authorized by statute, such as subpoenas or testimony under oath.

To assist us in our review of this matter, we would appreciate the Board's written response to the allegations raised in the complaints and described in the supporting documents.

In addition to the written response, please include the following:

1. Copies of any supporting documentation that the Board may have concerning this matter, including Complainants' original KORA request, any communication or correspondence with Complainants, and any internal communications between personnel in the Board about Complainants' requests for records.
2. A written description of any records that may be responsive to Complainants' KORA requests, including the total number of pages. **Please also provide a copy of these records in unredacted form for our review pursuant to K.S.A. 45-228(a) and (b).**³
3. A reference to and explanation for any claim that any exemption to disclosure set out in K.S.A. 45-221(a)(1) – (56) or in any other state or federal law, or supreme court rule, limits or prohibits access to the records Complainants are seeking in Complainants' KORA request.
4. K.S.A. 45-221(d) imposes additional obligations on public agencies when a public record contains material that is not subject to disclosure under the KORA. Specifically, it requires a public agency to separate the open material from the closed and make it available to the requester. Even when the record pertains to confidential matters, the public agency must make a determination whether it may disclose some portion of the requested records by redacting the confidential matters and releasing any remaining portions that are subject to disclosure. The burden of proof is on the public agency to support its denial of access to a public record. Please describe any efforts the Board has made, or that may be required, to redact the requested records. If you assert that redaction is not possible, explain why, with reference to any available legal support.
5. Explain the process the Board used to prepare and provide records in response to question number (2) above. Does the Board anticipate it will be required to use a different process to identify and prepare for release the records responsive to Complainants' KORA requests? If so, please describe the process and the reason for using the different process. Please also provide a detailed breakdown of the costs associated with fulfilling Complainants' requests. This breakdown should include:

³ K.S.A. 45-228 provides in relevant part that, "(a) In investigating alleged violations of [the KORA], the attorney general . . . may . . . (3) examine or cause to be examined any records or other documentary material of whatever nature relevant to such alleged violations; . . . (b) If a public agency claims in writing that any records or documents, or any portion thereof, obtained by the attorney general . . . pursuant to subsection (a) are exempt from disclosure for any reason, the attorney general . . . shall not further disclose that record or document, nor the contents thereof, unless ordered to do so by a district court enforcing [the KORA] in connection with such record or document. Such records and documents in the possession of the attorney general . . . shall not be subject to a request for inspection and copying under [the KORA] and shall not be subject to discovery, subpoena or other process. . . ."

- a. An itemized listing of the costs associated with locating and preparing the requested records for release, including the estimated amount of time to fulfill the request and an explanation for each step necessary to fulfill the request.⁴ Be sure to include information concerning how many employees or other individuals the Board would be required to assign to search for and prepare any records for production; the number of locations, email accounts, boxes or file cabinets required to be searched for responsive records; and the amount of time it would take to redact any records or portions of records that are not otherwise required to be disclosed under the KORA.
 - b. The hourly wage for each employee or individual required to fulfill this request and the total number of minutes or hours each would be required to spend fulfilling Complainants' requests.
 - c. An explanation for any other costs associated with fulfilling complainants' requests.
 - d. An explanation for costs associated with providing the records electronically, if any.
6. Any other information or documentation that is relevant to explain the actions taken by the Board in response to Complainants' requests.
 7. Is the Board willing to provide any responsive records to Complainants in order to resolve this complaint?
 8. Copies of the brochure required and adopted pursuant to the provisions of K.S.A. 45-227(a), as well as of any policy adopted by the Board describing the process or fees for accessing copies of public records, and the identity of the freedom of information officer for the Board.⁵

Once we have your response, we will review it to determine whether we need any additional information and what action, if any, this office should take to resolve this complaint.

The response to our request must signify it has been reviewed with, and approved by, any individual who provides information in response to the complaint. Such individual must also attest that the response is true and accurate. Although we are not requiring any official's or employee's response to be given under oath at this time, any statements they make will be treated as admissions under the provisions of K.S.A. 45-223, Civil penalties for violations, and K.S.A. 45-251, Civil remedies to enforce act by attorney general; consent order; finding of violation. Their responses, except as previously noted, may also be open in the event this office receives a request under the provisions of the Kansas Open Records Act, K.S.A. 45-215 *et seq.*

We would appreciate receiving a written response to this complaint on or before **Wednesday, April 29, 2026**. You may mail your response to the address on this letter or email it to the attention of the Open Government Enforcement Unit at OGEU@ag.ks.gov.

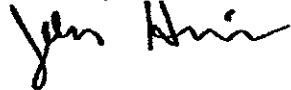
⁴ We note that the KORA permits a public agency to prescribe reasonable fees for staff time spent retrieving, reviewing, redacting and preparing the records to be provided to the requester. However, the fees shall not exceed the actual costs, including the cost of staff time. *See* K.S.A. 45-219(c)(1).

⁵ *See* K.S.A. 45-226.

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Thank you in advance for your cooperation in this matter. Please do not hesitate to contact me at john.harris@ag.ks.gov with any questions or concerns.

Sincerely,

A handwritten signature in black ink, appearing to read "John Harris". The signature is written in a cursive style with a large initial "J" and "H".

John Harris
Assistant Attorney General
Open Government Enforcement Unit

Enclosure