

# *Open Records Law*

Outline

Q And A

*Presenters:*

Kathy Swift - Chase County

Diane Briestensky - Geary County

# OPEN RECORDS



What does KORA stand for?

Purpose of KORA

- A. Public Policy- public records shall be open for inspection unless otherwise provided
- B. KORA is to be liberally construed and applied to promote this policy

And what does that exactly mean?

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Keep in mind ----~ **we are not the records police – We are the custodian of our records~**

We are not here to stop people from seeing our open records ---- only those that are not open records!

KORA creates a statutory right for member of the public to inspect and copy public records.

The 2000 Legislative session brought many changes to KORA. One of those was to designate a Local Freedom of Information Office (FIO). In the counties, the county clerk is often the FIO.

Who is it in your county? \_\_\_\_\_

And what else is needed? \_\_\_\_\_

What should the brochure contain \_\_\_\_\_

What are the 3 duties of the FIO ?

- 1
- 2
- 3



**Responding to Open Records Requests**

Request can come in a variety of ways

Name some :

***Common sense and courtesy are the most valuable tools in handling requests.***

So which ones are open and which ones are open and which ones are closed in “our” Register of Deeds office?

***The 2003 – 2004 Legislative session brought big changes to the availability of military discharge records that are filed in Register of Deeds office. HB 2758 amended K.S.A. 45-221 to limit access to military discharges. Effective July 1, 2004 they were no longer be public record -----meaning “NOT AN OPEN RECORD”.***

***In 2012 Legislative session produced HB 2427 which allows certain public officials or employee to have information of home address or home ownership removed from public records.***

List ways to handle a DD214 Request (Walk in vs phone call)

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**DEATH CERTIFICATES**

How do you handle copies of death certificates?

Open or Closed Records? \_\_\_\_\_

Death Certificates -----K.S.A. 65-2416(b) and K.S.A. 65-2422(g) AG's 98-87 and 98-1

See info in this chapter

**Removal of name from public records K.S.A. 45-221(a)(51) and (52)**

How do handle removal of home address/ home ownership removed from public record?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Sample of form is included in this chapter

**K.S.A. 45-230 (C)**

Register of Deeds is not liable even if the person uses the list of names and addresses for purposes of selling goods or services if complied with subsection K.S.A. 45-230(c)

It is important to obtain

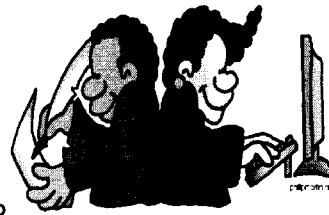
- 1. Written Request for Access
- 2. Written Certification

If you do not have a form, it is important that you do have one. (Samples are included in this chapter)

What information should be on the form?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

# RESEARCH



In what ways do you allow research of open records?

List ways you would handle a walk in request to see what is filed on a specific property?



## **COPY AND / OR ACCESS REQUEST 45-218(c) ; 45-218 (d)**



*The register of Deeds **shall** act on list as soon as possible, but not later than the end of the **third business day** following the date the request was received K.S.A. 45-218 (d)*

*Business day --any day other than Saturday, Sunday, or those declared holidays by county*

### **Permissible responses –**

*Access granted or requested copies provided*

*If access is not granted immediately or cannot be granted within the 3 business day, you shall give a detailed explanation for the delay and also the place and earliest time and date the record will be available. K.S.A. 45-218 (c)*

**OR**

*Request denied –and you shall provide **upon request** a written statement of the grounds for denial 45-218 (d) - Please note (the written statement of grounds of denial is due **ONLY if the requester has asks about the grounds of denial**)*

Sample of forms included in this chapter

# REDACTION

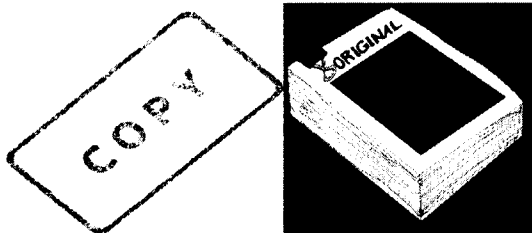
What is Redaction? \_\_\_\_\_

\_\_\_\_\_

How many redact? \_\_\_\_\_

What do you redact? \_\_\_\_\_

How do you handle copy requests ---- **redaction vs originals?**



## Copies and Fees

There is nothing stated in the open records act that state **“shall require a public agency to electronically make copies of public records by allowing a person to obtain copies of a public record by inserting , connecting or otherwise attaching an electronic device provided by such person to the computer or other electronic device of the public agency”**. K.S.A. 45-219 (g)

Important –

Do not allow members of the public to insert flash drives, discs or other device into public access terminals

However --- Do allow members of the public to print copies of documents they are able to inspect or access at public access terminals.

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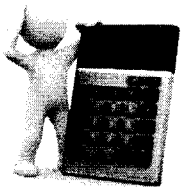
K.S.A. 45-219(a\_) “If copies are requested, the public agency may require a written request and advance payment of the prescribed fee”

Fees for copies shall not exceed actual cost, including cost of staff time. K.S.A. 45-219 (c)

Per K.S.A. 45-219 (c) “In the case of fees for providing access to records maintained on computer facilities, the fee shall include only the cost of any computer services, including staff time required”

Public agencies are not required to acquire programs to produce information.

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Are your fees reasonable?



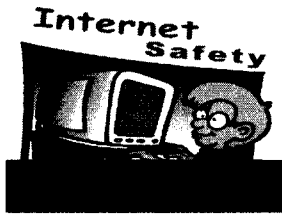


What are some of the copy fees for surrounding counties?

**Payment requested before copies made vs charge accounts** (counties may request copy fee money paid in advance)

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**ONLINE SERVICES ---- RESEARCH - SUBSCRIPTION FEES**



Who do you allow to have online access?

What are your fees and how are they structured?

Do you have an agreement?

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Other notes:



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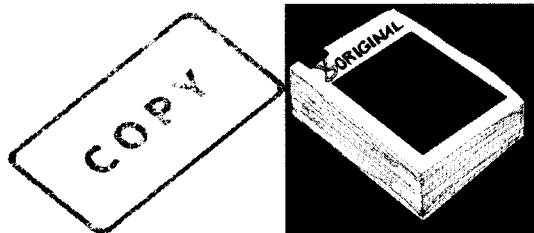
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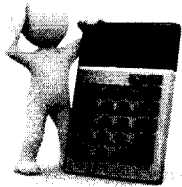
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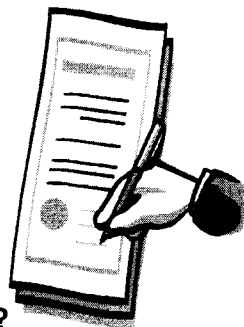
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ONLINE SERVICES ---- RESEARCH - SUBSCRIPTION FEES



Who do you allow to have online access?

What are your fees and how are they structured?



Do you have an agreement?

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Other notes:

# **Kansas Statutes Annotated**

**Updated Through the 2013 Legislative Session**

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**Statute Number:** 45-220  
**Chapter Title:** PUBLIC RECORDS, DOCUMENTS AND INFORMATION  
**Article Title:** RECORDS OPEN TO PUBLIC  
**Tax Type:** All  
**Brief Description:** Procedures for obtaining access to or copies of records; request; office hours; provision of information on procedures.

**Keywords:**

**Body:**

45-220. Procedures for obtaining access to or copies of records; request; office hours; provision of information on procedures. (a) Each public agency shall adopt procedures to be followed in requesting access to and obtaining copies of public records, which procedures shall provide full access to public records, protect public records from damage and disorganization, prevent excessive disruption of the agency's essential functions, provide assistance and information upon request and insure efficient and timely action in response to applications for inspection of public records. (b) A public agency may require a written request for inspection of public records but shall not otherwise require a request to be made in any particular form. Except as otherwise provided by subsection (c), a public agency shall not require that a request contain more information than the requester's name and address and the information necessary to ascertain the records to which the requester desires access and the requester's right of access to the records. A public agency may require proof of identity of any person requesting access to a public record. No request shall be returned, delayed or denied because of any technicality unless it is impossible to determine the records to which the requester desires access. (c) If access to public records of an agency or the purpose for which the records may be used is limited pursuant to K.S.A. 45-221 or K.S.A. 2013 Supp. 45-230, and amendments thereto, the agency may require a person requesting the records or information therein to provide written certification that:

- (1) The requester has a right of access to the records and the basis of that right; or
- (2) the requester does not intend to, and will not: (A) Use any list of names or addresses contained in or derived from the records or information for the purpose of selling or offering for sale any property or service to any person listed or to any person who resides at any address listed; or (B) sell, give or otherwise make available to any person any list of names or addresses contained in or derived from the records or information for the purpose of allowing that person to sell or offer for sale any property or service to any person listed or to any person who resides at any address listed.

(d) A public agency shall establish, for business days when it does not maintain regular office hours, reasonable hours when persons may inspect and obtain copies of the agency's records. The public agency may require that any person desiring to inspect or obtain copies of the agency's records during such hours so notify the agency, but such notice shall not be required to be in writing and shall not be required to be given more than 24 hours prior to the hours established for inspection and obtaining copies. (e) Each official custodian of public records shall designate such persons as necessary to carry out the

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duties of custodian under this act and shall ensure that a custodian is available during regular business hours of the public agency to carry out such duties.

(f) Each public agency shall provide, upon request of any person, the following information:

(1) The principal office of the agency, its regular office hours and any additional hours established by the agency pursuant to subsection (c).

(2) The title and address of the official custodian of the agency's records and of any other custodian who is ordinarily available to act on requests made at the location where the information is displayed.

(3) The fees, if any, charged for access to or copies of the agency's records.

(4) The procedures to be followed in requesting access to and obtaining copies of the agency's records, including procedures for giving notice of a desire to inspect or obtain copies of records during hours established by the agency pursuant to subsection (c).

(g) Except for requests of summary data compiled from information submitted by multiple criminal justice agencies or as otherwise provided by law, requests for records submitted to the central repository or any other repositories supporting the criminal justice information system which are maintained by the Kansas bureau of investigation pursuant to K.S.A. 22-4704 and 22-4705, and amendments thereto, shall be directed to the criminal justice agency from which the records originated.

(h) As used in this section, the terms "central repository," "criminal justice agency" and "criminal justice information system" have the same meanings as defined in K.S.A. 22-4701, and amendments thereto.

History: L. 1984, ch. 187, § 6; L. 1984, ch. 282, § 3; L. 2003, ch. 126, § 2; L. 2013, ch. 72, § 1; July 1.

**Date Composed: 01/15/2014 Date Modified: 01/15/2014**

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# Kansas Statutes Annotated

## Updated Through the 2013 Legislative Session

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**Statute Number:** 45-230  
**Chapter Title:** PUBLIC RECORDS, DOCUMENTS AND INFORMATION  
**Article Title:** RECORDS OPEN TO PUBLIC  
**Tax Type:** All  
**Brief Description:** Unlawful use of names derived from public records.  
**Keywords:**

**Body:**

45-230. Unlawful use of names derived from public records. (a) No person shall knowingly sell, give or receive, for the purpose of selling or offering for sale any property or service to persons listed therein, any list of names and addresses contained in or derived from public records except:

(1) Lists of names and addresses from public records of the division of vehicles obtained under K.S.A. 74-2012, and amendments thereto;

(2) lists of names and addresses of persons licensed, registered or issued certificates or permits to practice a profession or vocation may be sold or given to, and received by, an organization of persons who practice that profession or vocation for membership, informational or other purposes related to the practice of the profession or vocation;

(3) lists of names and addresses of persons applying for examination for licenses, registrations, certificates or permits to practice a profession or vocation shall be sold or given to, and received by, organizations providing professional or vocational educational materials or courses to such persons for the sole purpose of providing such persons with information relating to the availability of such materials or courses;

(4) lists of names, addresses and other information from voter registration lists may be compiled, used, given, received, sold or purchased by any person, as defined in K.S.A. 2011 Supp. 21-5111, and amendments thereto, solely for political campaign or election purposes;

(5) lists of names and addresses from the public records of postsecondary institutions as defined in K.S.A. 74-3201b, and amendments thereto, may be given to, and received and disseminated by such institution's separately incorporated affiliates and supporting organizations, which qualify under section 501(c)(3) of the federal internal revenue code of 1986, for use in the furtherance of the purposes and programs of such institutions and such affiliates and supporting organizations; and

(6) to the extent otherwise authorized by law.

(b) Any person subject to this section who knowingly violates the provisions of this section shall be liable for the payment of a civil penalty in an action brought by the attorney general or county or district attorney in a sum set by the court not to exceed \$500 for each violation.

(c) The provisions of this section shall not apply to nor impose any civil liability or penalty upon any public official, public agency or records custodian for granting access to or providing copies of public records or information containing names and addresses, in good faith compliance with the Kansas open records act, to a person who has made a written request for access to such information and has executed a written certification pursuant to subsection (c)(2) of K.S.A. 45-220, and amendments thereto.

(d) This section shall be a part of and supplemental to the Kansas open records act.

History: L. 2003, ch. 126, § 1; L. 2011, ch. 30, § 193; July 1.

**Date Composed: 01/19/2012 Date Modified: 01/19/2012**

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**GEARY COUNTY REGISTER OF DEEDS OFFICE**  
**200 E. 8<sup>TH</sup> ST. – P.O. BOX 927**  
**JUNCTION CITY, KANSAS 66441**

**Request for Military Discharge Records:**

**To view or obtain copies:**

K.S.A. 73-210 Certified copies without charge; and K.S.A. 73-210a Free recording by Register of Deeds; copies. HB 2758 Amends the Open Records Act, K.S.A. 2003 Supp. 45-221 adding exception No.47 concerning military discharges no longer being considered open records. Specifically, the exception reads as follows:

“Any information or material received by the register of deeds of a county from military discharge papers (DD Form 214) except to the military dischargee, the dischargee’s immediate family members and lincal descendants; the dischargee’s heirs, agents or assigns; a person who is a licensed funeral director and who has custody of the deceased dischargee; a department or agency of the federal government or political subdivision when required; when the form is required to perfect the claim of military service or honorable discharge or a claim of the dependent of the dischargee; and upon the written approval of the commissioner of veterans’ affairs, to a person conducting research.”

**PLEASE PRINT BELOW:**

1. Name of Requester: \_\_\_\_\_
2. Complete Address: \_\_\_\_\_  
\_\_\_\_\_
3. Phone Number: \_\_\_\_\_
4. Date Request Submitted: \_\_\_\_\_
5. Name of dischargee listed on DD214 you are requesting: \_\_\_\_\_
6. Reason for Request: \_\_\_\_\_
7. Number of copies requested (up to 5): \_\_\_\_\_

**PLEASE CHECK EACH BOX THAT APPLIES:**

- Dischargee (Self)
- Immediate family member or descendant of dischargee (state relationship) \_\_\_\_\_
- Dischargee’s heir, agent or assign (state which) \_\_\_\_\_
- Licensed Funeral Director \_\_\_\_\_
- Federal Government Agency (branch) \_\_\_\_\_
- State Government Agency (branch) \_\_\_\_\_
- Researcher (attach written permission from the commissioner of veterans affairs)
- Other (state agency name) \_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_ **DATE:** \_\_\_\_\_