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ATTORNEY GENERAL OPINION NO. 83- 173

The Honorable Thomas F. Walker  
State Representative  
Seventy-Second District  
15 Circle Drive  
Newton, Kansas 67114

Re: State Departments; Public Officers, Employees --  
Open Meetings Act -- Notice of Regular Meetings

Schools -- Boards of Education; Organizations,  
Powers, Finances -- Notice of Regular Meetings

Synopsis: Annual notice of regular meetings of a school board established pursuant to K.S.A. 1982 Supp. 72-8205, satisfies the requirements of the Kansas Open Meetings Act. However, notice of special meetings must be provided separately prior to each special meeting of the school board. Individual notice is required and publication in a newspaper does not comply with Kansas law, although notice may be given in writing or orally via the telephone. Cited herein: K.S.A. 1982 Supp. 72-8205, K.S.A. 75-4317, K.S.A. 1982 Supp. 75-4318.

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Dear Representative Walker:

You inquire regarding the "notice" requirements of the Kansas Open Meetings Act, K.S.A. 75-4317 et seq. Specifically, you ask:

"A. In our regular July Board of Education meetings we establish dates for all of the rest of the regular meetings during the year. Does this action meet the requirement of notification?"

"B. Does publication, or inclusion in a story, in the official newspaper meet the requirements?"

"C. Does telephone notification meet the requirements?"

K.S.A. 1982 Supp. 72-8205 provides in relevant part:

"(a) The board shall meet at least once each month. At some time during the month of July of each year, the board shall adopt a resolution specifying a regular meeting time of the board and such resolution shall specify the regular hour of commencement of the meeting, as well as the day of the week and the week of the month. . . . Such resolution shall also specify the regular meeting place of the board and may specify that any regular meeting may be adjourned to another time and place."

The Kansas Open Meetings Act, specifically K.S.A. 1982 Supp. 75-4318(b) requires:

"(b) Notice of the date, time and place of any regular or special meeting of a public body designated hereinabove shall be furnished to any person requesting such information, except that:

"(1) If notice is requested by petition, the petition shall designate one person to receive notice on behalf of all persons named in the petition, and notice to such person shall constitute notice to all persons named in the petition; and

"(2) if notice is furnished to an executive officer of an employees' organization or trade association, such notice shall be deemed to have been furnished to the entire membership of such organization or association."

In Kansas Attorney General Opinion No. 77-337, Attorney General Schneider concluded:

"Any person who requests notice of the date, time and place of regular meetings of a governing body, the regular meetings of which are held on a designated date, . . . and at

a fixed time and place, is entitled to be furnished a single notice of such information, and need not be furnished individual notice prior to each regular meeting."

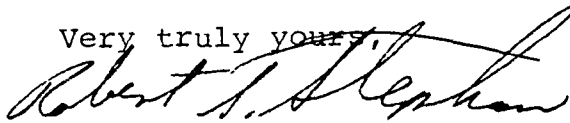
We affirm General Schneider's conclusion but would add the following caveats: (1) Notice is required to be provided to any person requesting it, regardless of the identity of the requester. See Kan. Att'y Gen. Op. Nos. 81-137 and 78-132. Enclosed. (2) The mere act of designating the date, time and place of the regular meeting does not satisfy the open meetings law requirements for notice. Notice must still be given to each requester by providing a list of the designated dates for the regular meetings. (3) Finally, individual notice of each "special" meeting is still required as the dates designated in July are for regular meetings and do not notify a requester of special meetings. Kan. Att'y Gen. Op. No. 77-337 at pg. 3.

You next inquire whether publication in a newspaper or inclusion in a news story would satisfy the notice requirement. It would not. The Kansas Open Meetings Act requires the giving of individual notice to each requester [except as authorized by K.S.A. 1982 Supp. 75-4318(b)(1) and (2)]. For a thorough discussion of this issue, see Smoot and Clothier, Open Meetings Profile: The Prosecutor's View, 20 W.L.J. 241, 265, 266 (1981).


Lastly, you inquire if notice by telephone is adequate. In our judgment it is. Kansas law does not specify written notice. Smoot and Clothier observed: "Presumably, oral notice in the form of personal contact or telephone conversation, or written notice, through the use of telegrams or letters, would be adequate." Id. at 267.

Therefore, it is our opinion that annual notice of regular meetings of a school board established pursuant to K.S.A. 1982 Supp. 72-8205, satisfies the requirements of the Kansas Open Meetings Act. However, notice of special meetings must be provided separately prior to each special meeting of the school board. Individual notice is required and publication in a newspaper does not comply with Kansas law, although notice may be given in writing or orally via the telephone.

Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS



Bradley J. Smoot  
Deputy Attorney General

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