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October 30, 1986

ATTORNEY GENERAL OPINION NO. 86- 153

H. Philip Elwood
215 East 8th Avenue
Topeka, Kansas 66603-0593

Re: State Departments; Public Officers and Employees --
Public Officers and Employees; Open Public Meetings
-- Meeting Location

Synopsis: The Kansas Open Meetings Act (KOMA) provides that meetings of public bodies must be "open to the public." K.S.A. 75-4317. The key to determining whether the location of a meeting would subvert the statutory mandate of openness is accessibility of the meeting to the public. Assuming the notice requirements and other provisions of the KOMA are met, it is our opinion that the proposed meeting of the Kansas Dental Board to be held in Kansas City, Missouri would not violate the open meetings law. Cited herein: K.S.A. 74-1404; 74-1405; 74-1406; K.S.A. 75-4317.

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Dear Mr. Elwood:

As counsel for the Kansas Dental Board (Board) you request our opinion concerning the Kansas Open Meetings Act (KOMA), K.S.A. 75-4317 et seq. Specifically, you ask whether a meeting the Board proposes to hold out of state would violate the open meetings law.

You state that in March 1987 the University of Missouri School of Dentistry at Kansas City will hold an alumni meeting in Kansas City, Missouri. You also state that many of the dentists and dental hygienists licensed in the state of Kansas, including most of the dental and dental hygiene members of the Board, are graduates of that school. We are informed that the meeting is open to all dentists whether or not they are alumni and that the meeting is well-attended by Kansas dentists. Because all of the licensed members of the Board plan to attend the alumni meeting, the Board has proposed to hold a meeting of the Board in Kansas City, Missouri at that time.

The Kansas Dental Board licenses and regulates dentists and dental hygienists. K.S.A. 74-1406. The Board is comprised of three licensed dentists, one registered dental hygienist, and one representative of the general public. K.S.A. 74-1404. K.S.A. 74-1405(a) directs the Board to "hold two regular meetings each year at times to be fixed by the board, and special meetings at such other times as may be necessary."

Under the KOMA, meetings of public bodies must be "open to the public." K.S.A. 75-4317(a). The Act does not contain any requirement that a meeting must be held at a certain location or that it must be held in the state of Kansas. The open meetings law does state, however, that "[i]t is declared hereby to be against the public policy of this state for any such meeting to be adjourned to another time or place in order to subvert the policy of open public meetings" K.S.A. 75-4317(b). (Emphasis added.)

This office has issued several opinions concerning the location of meetings held by public bodies subject to the KOMA. In Attorney General Opinion No. 79-253 we stated that a city council did not violate the Act "by refusing to move a regular meeting of the body from its usual and normally adequate meeting place to more spacious quarters to accommodate an unusually large crowd of citizens." It is not mandatory that all members of a public body be physically present in the same location to hold a meeting. We opined in Attorney General Opinion No. 80-173 that a public meeting may be conducted via telephone conference call if the requirements of the open meetings law are met. We have also stated that a public body may hold monthly luncheon meetings in a restaurant if members of the public are not required to pay a fee, make a reservation, purchase a meal, or comply with any other

requirement in order to attend the meeting. Attorney General Opinion No. 80-148.

The common thread running through the above opinions and the key to determining whether the location of a public meeting would violate the open meetings law is accessibility of the meeting to the public. In Attorney General Opinion No. 82-133 we were asked if the Lawrence city commissioners could hold a meeting during a retreat in the Colorado mountains if persons who had requested notice of commission meetings were invited to attend. In that opinion we concluded that the proposed meeting would not be a meeting "open to the public" within the meaning of the Act:

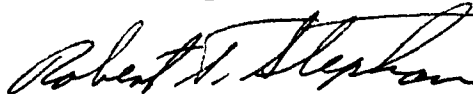
"Without question, it would be inconvenient and expensive for those wishing to attend the meetings of the Lawrence City Commission to be forced to travel hundreds of miles to the Colorado mountains to attend such meetings. Such expense and inconvenience is an effective bar to attendance by most, if not all, Lawrence residents, the only class of citizens of the 'public' at large keenly interested in the business and affairs of the city commission. . . . [F]or the public, in general, for whose benefit this law was enacted, such meeting would deny the access to government permitted by the Act."

We conclude that a meeting of the Kansas Dental Board to be held at the same time and location as the alumni meeting of the University of Missouri School of Dentistry would not violate the KOMA as public access to the meeting would be neither directly nor indirectly denied. The considerations of expense and inconvenience outlined above in our prior opinions do not operate as barriers to public access of the meeting in question. The proposed meeting would, in fact, make this governmental body more accessible to those persons most interested in the business conducted by the Board, licensed dentists and dental hygienists, who will be in Kansas City, Missouri at that time.

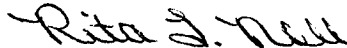
In summary, the Kansas Open Meetings Act provides that meetings of public bodies must be "open to the public."

K.S.A. 75-4317. The key to determining whether the location of a meeting would subvert the statutory mandate of openness is accessibility of the meeting to the public. Assuming the notice requirements and other provisions of the KOMA are met, it is our opinion that the proposed meeting of the Kansas Dental Board to be held in Kansas City, Missouri would not violate the open meetings law.

Very truly yours,



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