



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

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ROBERT T. STEPHAN  
ATTORNEY GENERAL

September 17, 1986

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ATTORNEY GENERAL OPINION NO. 86- 133

Jean S. Sagan  
Associate General Counsel  
Kansas Board of Regents  
Suite 609, Capitol Tower  
400 SW Eighth  
Topeka, Kansas 66603

Re: State Departments; Public Officers and Employees —  
Public Officers and Employees; Open Public Meetings  
-- Notice and Agenda of Meetings

Synopsis: K.S.A. 1985 Supp. 75-4318(b) (1) provides that if a request for notice of meetings subject to the Kansas Open Meetings Act (KOMA) is made by petition, notice is required to be given only to a designated person. We conclude that the request for notice submitted for our opinion constitutes a petition for purposes of the KOMA. Individual notice, therefore, is not required to be given to each person on the list. If individual requests for notice are made, however, notice must be given either in writing or by telephone to each person. We note that, if a public body has regularly scheduled meetings, the notice requirement is met by providing a single notice containing a list of such meetings. Additional notice must be given, however, of any changes or special meetings.

Under the open meetings law a distinction is made between the requirements concerning notice and agenda. While notice must be furnished to the person requesting it, K.S.A. 1985 Supp. 75-4318(b),

an agenda must be made available to the requester if one is prepared, K.S.A. 1985 Supp. 75-4318(d). We affirm our previous opinion, No. 79-218, that a public body is not required to mail copies of an agenda if it can be obtained at a public place. Cited herein: K.S.A. 25-3601; 72-8801; 75-4317; K.S.A. 1985 Supp. 75-4318.

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Dear Ms. Sagan:

As Associate General Counsel for the Kansas Board of Regents, you request our opinion concerning the Kansas Open Meetings Act (KOMA), K.S.A. 75-4317 et seq. Specifically, you ask whether a particular request made to the Board of Regents (Board) to receive notice of the Board's meetings constitutes a request by petition or a series of individual requests.

You inform us that the Board has received a list of thirty-eight names and addresses, all written in the same handwriting (copy attached), accompanied by a letter from Mr. Charles E. Stevens of Hutchinson stating that these persons are requesting notice of all Board meetings and meetings of nine Board committees. We understand this list of names and addresses was obtained by soliciting persons door-to-door to sign a form (copy attached) requesting notice of meetings of various public bodies and specified committees of each.

Copies of each of the thirty-eight request forms signed by residents of Hutchinson were sent to this office. The Board, however, did not receive the individual forms. It received only a list of names and addresses of persons who had signed the forms. In your judgment this list constitutes a request by petition, requiring the Board only to send notice to Mr. Stevens as designee, and not to each person on the list. You state that the monthly agenda mailing for the Board's meetings is voluminous and express concern about the administrative expense that must ultimately be borne by the taxpayers.

K.S.A. 1985 Supp. 75-4318 provides, in pertinent part, as follows:

"(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 notice, 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;"

It has been said that "[t]he notice provision of any open meetings law is the primary instrument for effective application of the open meetings principle." Tacha, The Kansas Open Meetings Act, 25 U. Kan. L. Rev. 169, 190 (1977). Indeed, the right of public access is meaningless unless notice of the date, time and place of public meetings is made available to persons requesting it.

This office has issued several Attorney General opinions concerning the notice requirement under the KOMA. We have said that the act requires notice to be given to any person requesting it, regardless of the residency or identity of the requester. Attorney General Opinions No. 83-173; 81-137; 78-132. Posting or publishing notice in a newspaper does not comply with the statutory requirement as individual notice must be given to persons requesting it. Attorney General Opinions No. 83-173; 81-22. Oral requests for notice must be honored and notice may be given in writing or orally via the telephone. Attorney General Opinions No. 83-173; 81-22. No charge may be made for providing notice of public meetings. Attorney General Opinion No. 81-137. In Attorney General Opinion No. 77-337, it was stated that a public body can comply with the notice requirement by providing a single notice of numerous regularly scheduled meetings containing a list of such meetings and need not furnish individual reminders prior to each regular meeting. Special meetings, however, require individual notice.

K.S.A. 1985 Supp. 75-4318(b) provides that individual notice need not be given to each person listed on a petition requesting notice. The statute, however, does not define the term "petition." The question presented for our opinion is whether a list of names and addresses presented to a governmental body asking for notice of meetings constitutes a request by petition. Generally, under the various Kansas statutes concerning petitions, a petition is a document signed

by persons who, collectively, are requesting a governmental entity to take certain action or to refrain from certain action. See K.S.A. 25-3601 et seq., Cf. K.S.A. 72-8801.

K.S.A. 1985 Supp. 75-4318(b) provides that individual notice must be given to each person who requests such notice. Had each person on the list in question sent his or her signed form to the Board, it is clear that individual notice must be given to each person. However, the list of thirty-eight names and addresses, all in the same handwriting, was submitted to the Board by one person. It is reasonable to conclude that such a document is a petition and that the persons listed collectively designated the submitter to receive notice on their behalf. A list such as the one at hand presents no evidence that the persons named did in fact desire to receive individual notice. Such a list could easily be composed by copying names and addresses from a telephone book. Therefore, we conclude that a list of names and addresses presented to a governmental body in the manner described above is a petition under the KOMA and notice is effectively given by informing the person who sent the list. This is not to say, however, that persons cannot send their individually signed forms requesting notice to the governmental body in one package. In that case it can be seen that each person is requesting notice of meetings and thus notice must be given individually.

Under the open meetings law a distinction is made between "notice" and "agenda." K.S.A. 1985 Supp. 75-4318(d) provides as follows:

"Prior to any meeting hereinabove mentioned, any agenda relating to the business to be transacted at such meeting shall be made available to any person requesting said agenda."

Thus, according to the KOMA, notice must be furnished to the person requesting it while an agenda must be made available to the requester.

The KOMA does not require bodies subject thereto to prepare an agenda. If one is created, however, it must be made available to the public. Attorney General Opinion No. 81-15; Tacha, 25 U. Kan. L. Rev. at 191. In Attorney General Opinion No. 79-218, our opinion was requested regarding the method by

which a city is required to make available to the public copies of its agenda for meetings of its governing body. On page two of this opinion we stated:

"The statute itself provides little guidance regarding this question, and while this statute is to be given a liberal construction, we cannot say as a matter of law that the statutory phrase 'shall be made available to any person requesting said agenda' was intended to require the expenditure of tax dollars for the mailing of individual copies."

On page three we concluded:

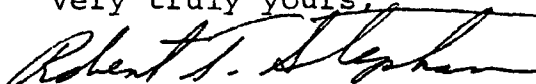
"Therefore, it is our opinion that the City of Wakefield may refuse to mail copies of an agenda for a public meeting to persons requesting such agenda where the agenda is readily available in a public place or can be obtained by submission of a self-addressed, stamped envelope to the city for mailing of the agenda."

Thus, the Board of Regents is not required to send an agenda to each person who requests notice of its meetings if the agenda is available at a public place, such as the Board's office.


In summary, K.S.A. 1985 Supp. 75-4318(b)(1) provides that if a request for notice of meetings subject to the KOMA is made by petition, notice is required to be given only to a designated person. We conclude that the request for notice submitted for our opinion constitutes a petition for purposes of the KOMA. Individual notice, therefore, is not required to be given to each person on the list. If individual requests for notice are made, however, notice must be given either in writing or by telephone to each person. We note that if a public body has regularly scheduled meetings, the notice requirement is met by providing a single notice containing a list of such meetings. Additional notice must be given of any changes or special meetings.

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Very truly yours,



ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS



Rita L. Noll  
Assistant Attorney General

RTS:JLM:RLN:crw  
Attachments

KANSAS BOARD OF REGENTS: Fiscal Affairs Committee, Facilities Committee, Academic Affairs Committee, Policy & Procedures Committee, Subcommittee on Special Programs, Presidential Assessment, Program Review Subcommittees, Presidential Search Committee for Kansas Technical Institute.

HUTCHINSON COMMUNITY COLLEGE: Board of Trustees

HUTCHINSON PUBLIC SCHOOLS: Secondary Superintendent's Council, Elementary Principals Council, Instructional Council, Executive Council, Board of Education

CITY OF HUTCHINSON: Hutchinson City Commission, Board of Zoning Appeals, Cemetery Board of Directors, Sports Arena-Convention Hall Advisory Committee, Housing Authority, Business Improvement District, Civil Service Commission, Board of Plumbing Examiners, Human Relations Commission, Board of Appeals & Examination, City Planning Commission, Library Board, Fun Valley Advisory Committee, Trees for Tomorrow Committee, Joint Subdivision Committee, Downtown Development Advisory Board

RENO COUNTY: Reno County Commission, Reno County Economic Development Council, Convention Visitors Bureau Advisory Committee, Reno County Planning Board, Reno County Board of Zoning Appeals, Reno County Health Department Advisory Board, Reno County Civil Service Board, Reno County Council on Aging - Advocacy Board, Horizons Mental Health Board of Directors, First Call for Help - Advisory Board, Hutchinson-Reno County Legal Aid Society, Reno County Youth Services Advisory Committee

CITY OF SOUTH HUTCHINSON: City Commission, Planning Commission

Under the provisions of K.S.A. 75-4318, I hereby request notice of the time, date and place of all meetings and a copy of the agenda unless otherwise deleted.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Street

\_\_\_\_\_  
City & State

\_\_\_\_\_  
Zip

All notifications will be sent to you at no personal expense.  
This can be submitted annually.

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Mr. Mason

- Kenneth Ray Aden 10050 West 18<sup>th</sup>
- M. O. Smith 522 West 22<sup>nd</sup>
- Waymen Kannelton 618 West 10<sup>th</sup>
- Joseph W. Brewer 1807 North Monroe
- Harold E. Foul 630 West 19<sup>th</sup>
- Charles W. Tucker Sr. 516 West 13<sup>th</sup>
- Charles W. Tucker Jr. RT #1 Hutchinson
- Dale W. Heide 2118 Harrison
- Duane D. Meister 624 West 22<sup>nd</sup>
- Dary W. Barr 708 East 8<sup>th</sup>
- Clarence S. Reed 306 South Elm St. Hutch.
- Marcus Demaret 208 East 9<sup>th</sup>
- Roy J. Brown 3905 North Lorraine
- John S. Halula 611 Catalina Drive
- Melba D. Kekey 3711 N. Wilson Road
- Dorell Richardson 3119 North Halstead
- Mr. + Mrs. Dean Vandervee 2514 Lundman Dr.
- Neil S. Still 33 Swains
- Frank Triffet 420 East 13<sup>th</sup>
- Carol A. Conlon 3321 Carnegie Place
- Karl B. Coney 718 East 23<sup>rd</sup>

These people per  
 requested the above  
 These request request  
 Mary Lee received at  
 the Walcott Bldg  
 Room 304  
 251 North Main  
 Hutchinson Kan

all of these names have  
 Hutchinson Kan address  
 Tel. 67502

- Pauline D. Allen 2107 North Jackson
- Chuter Coop 2207 North Vanburen
- Edwin J. Kessler 10 Whitmore Road
- Daniel U. Mead 10-Haley Drive
- Ralph Ward 7 Sunset Dr.
- Grant E. Cogzill 2206 North Harrison
- Henry C. Summers 2208 Taylor St
- Wayne L. Roberts 529 North Ford
- Margie C. Johnson 1211 North Main Apt #4
- Arthur Graves 69 Bomber Road
- J. D. Strawn 1025 Bakery Drive
- Lee Haral 508 West 19<sup>th</sup>
- Mary Lee Lutz 701 West 21<sup>st</sup>
- Leroy Summers 614 West 20<sup>th</sup>
- Lawrence N. Smith 708 West 22<sup>nd</sup>
- Bell Bornhilt 905 Wyoming Hutchinson Kan 67502
- Steve Tennant 13 Lawrence Hutchinson Kan 67502