

Kansas Open Records Act

The Kansas Open Records Act (KORA) grants you the right to inspect and obtain copies of public records created or maintained by public agencies in Kansas. The Open Records Act, K.S.A. 45-215, et seq., as amended, declares that it is the public policy of Kansas that, generally, “public records shall be open for inspection by any person unless otherwise provided.” Public records are defined as “any recorded information, regardless of form or characteristic, which is made, maintained or kept by or is in the possession of any public agency.” Public agencies include the state, political or taxing subdivisions or any office or officer, agency or instrumentality, which receives or expends public funds. The Kansas Bioscience Authority is an independent entity of the state, thus a public agency for the purpose of this act.

Your rights

You have the right to:

1. Request assistance from the agency’s freedom of information officer at any time.
2. Receive a response to your request within three business days of the date the request was received; the response may inform you that it will take additional time to produce the records.
3. There are three acceptable responses:
 - a. The record is provided
 - b. The request is under review and the records, if permitted, will follow
 - c. The request is denied with a detailed explanation why
4. Inspect and obtain copies of public records that are not exempted from mandatory disclosure by law.
5. File a complaint with the Kansas attorney general if you feel your request for public records is wrongfully denied.

Your responsibilities

- You may request existing records — written, photographic, or computerized. The Kansas Open Records Act does not require an agency to create records, answer questions or prepare reports.
- You must put your record request in writing, and you must provide proof of your identity, if requested.
- A requester may not remove a public record without the written consent of the custodian.
- You may not use any list of names and addresses in public records to solicit the purchase of services or property.
- Reasonable fees, not exceeding actual cost, may be charged for copies of records, mailing costs, and staff time spent in processing your request or helping you to access records.

Requesting a record

Regular office hours on all business days are from 8 a.m. to 5 p.m. Records may be inspected during those hours. The Kansas Bioscience Authority office is closed on Saturdays, Sundays and official holidays. We ask that you submit a written request to obtain copies of public records. No specific form is required. Please include the following information in your request: your name, mailing address, and a specific description of the records you are requesting. Make your request as specific as possible to expedite the process.

You may submit your written request by:

MAIL to:

Janice Katterhenry
Official Custodian
Kansas Bioscience Authority
25501 W. Valley Pkwy., Ste. 100
Olathe, KS 66061

FAX to: (913) 397-8003

E-MAIL to: katterhenry@kansasbioauthority.org with the subject line “Open Records Request.”

Record fees shall be charged in advance and work on the request will not commence until payment is received. Original agency records shall remain in the possession and control of an agency staff member during inspection and/or duplication.

Delayed and/or denied requests

All efforts will be made to process your request for public records as soon as it is received. However, some requests may be delayed or denied if:

- More information is needed in order to identify or retrieve the records; legal issues must be addressed to determine if the records may be closed or released; the requested records are archived or stored off site; or the volume of records requested is large and will take time to duplicate.
- Requests may be denied in whole or in part if the requested record does not exist; the requested record is exempt from mandatory disclosure by law; the request is unclear and more information is needed; the request “places an unreasonable burden in producing public records;” or the custodian of the records “has reason to believe that repeated requests are intended to disrupt other essential functions of the public agency.”

If the request is delayed you will receive a written explanation for the delay within three business days of the date your request was received. If your request is ultimately denied for any reason, you will also be notified of that fact within three business days or, if it takes longer to make that determination, as soon as that outcome is decided or known.

If you request records containing names and/or addresses, or other information that the law restricts in some way, you will be required to provide written and signed certification that you will not use those records for purposes prohibited or limited by state law.

Denial of a person's inspection or copying request must be explained in writing and a written citation to the laws being relied upon must be provided if the person requests such an explanation.

Copies of radio or recording tapes or disks, videotapes or films, pictures, slides, graphics, illustrations or similar audio or visual items or devices shall not be furnished unless such items or devices were shown or played at a public meeting of the Kansas Bioscience Authority or other public body.

Charges and fees

Fees shall be charged and paid by the requester in advance. These fees shall apply to the provision of access to or copying public records. Fees for copies shall not exceed the actual cost incurred by the agency, including the cost of staff time required to comply with a request. Fees for providing access to computer records shall include the cost of computer services, including staff time required.

In accordance with this provision and the Kansas Open Records Act, K.S.A. 45-215 et seq., the following fees shall be charged for providing access to or furnishing copies of public records:

- Staff time will be charged at the rate of pay for the person(s) whose time is used in order to assist and/or respond to a specific record request
- Copies of records produced at the KBA in excess of five pages, 25 cents per page
- Copies or records produced by outside vendor, actual cost
- Mailing of record, actual cost
- Certification of record, actual cost
- Any other costs actually incurred by the agency as a result of complying with a record request may be charged to the requester

Categorizing records

All public records may be categorized as follows:

1. Records that are open without restriction
2. Records that may be closed at the discretion of the official record custodian.
There are many types of records that may be closed. The three policy reasons may be described as:
 - Personal privacy
 - Security
 - Internal communications while policies are developed or administrative procedures are underway
3. Records that are closed by statute or other rule

Exceptions

The Kansas Open Records Act recognizes that certain records contain private or privileged information. The act lists several exceptions including, but not limited to:

- Student records
- Personnel records of public employees
- Medical treatment records
- Records protected by attorney/client privilege
- Records closed by the rules of evidence
- Records containing personal information
- Notes and preliminary drafts that have not been discussed at an open public meeting
- Criminal investigation records
- Records that do not exist at the time of the request
- Records that must be created in order to fulfill a request

A list of exceptions may be found in K.S.A. 45-221, but other state and federal statutes may also restrict access to certain records. One pertinent example is the Family Educational Rights and Privacy Act (FERPA) (also known as the Buckley Amendment) which protects student records.

Nothing in the act supersedes federal law, including FERPA.

If a record is only partially exempted from disclosure, the designated record custodian shall redact the exempted materials and make available the materials that are subject to disclosure.

Records that are exempt because they pertain to an identifiable individual are subject to disclosure only if the identity of the individual can be protected.

Additional information

Additional information about the Kansas Open Records Act can be obtained at <http://www.ksag.org/files/koraoutline2009.PDF>.

If you have questions about the act or the Kansas Bioscience Authority's policies under it, contact Janice Katterhenry, the Kansas Bioscience Authority's freedom of information officer, at (913) 397-8300 or katterhenry@kansasbioauthority.org.

The information contained in this document pertains to laws in effect on July 1, 2008.