

# **Kansas Open Meetings Act and the South Central Regional Psychiatric Hospital Advisory Panel**

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# Applicability

- K.S.A. 75-4318(a): “...[m]eetings of task forces, advisory committees or subcommittees of advisory committees created pursuant to a governor's executive order shall be open to the public in accordance with this act.”
- The South Central Regional Psychiatric Hospital Advisory Panel (“Advisory Panel”) is subject to the Kansas Open Meetings Act (“KOMA”).
- The executive order contemplates that the Advisory Panel may establish subpanels and correctly notes that any subpanels would also be subject to KOMA.

# What is a “meeting” within KOMA?

- "A 'meeting' means any gathering or assembly in person, through the use of a telephone, or any other means of interactive communication by a majority of the membership of a body or agency subject to this act for the purpose of discussing the business or affairs of the body or agency" (K.S.A. 75-4317a).
- Because the Advisory Panel consists of 14 members, a majority (and also a quorum under KOMA) is 8 members.

# What is not a meeting...

- A gathering of less than 8 members
- Communications (e.g., emails) between less than 8 members—with a caveat regarding serial communications, as described on a subsequent slide
- Social events where a majority of members may be present (e.g., weddings, funerals, parties), but that do not include a discussion of Advisory Panel business

# What *could* be a meeting...

- Multiple Advisory Panel members replying all on emails amongst all members regarding Advisory Panel business
  - Note: The only exception under KOMA for an item that could be discussed would be to determine a mutually acceptable meeting time.
- A majority of Advisory Panel members commenting on the same social media post
- Informal discussions (e.g., in the hallways before or after meetings) by a majority of members

# What *could* be a meeting, with less than 8 members...

Even if 8 members or less would meet at any particular time, KOMA can still be violated if interactive communications in a series would occur. Elements of serial communications that result in a “meeting” include:

- (1) Interactive communications collectively involving a majority of Advisory Panel;
- (2) A common topic is discussed concerning the business or affairs of the Advisory Panel; and
- (3) There is an intent by any or all participants to reach agreement upon a topic that requires binding action in an open meeting by the Advisory Panel.

# KOMA Meeting Requirements

- Meetings must be open to the public
- Notice of the date, time, and place of any regular or special meetings must be given to any person requesting such notices
- Prior to any meeting, any agenda (if one is created) shall be made available to any person requesting such agenda
- Cameras and recording devices shall be allowed, subject to reasonable rules which would allow orderly conduct of the meeting
- Executive sessions are allowed for limited purposes and should involve prior consultation with legal counsel both for advising on the propriety of executive session, the administrative functions, and the drafting of any applicable motion(s).

# Public Agenda; Remote Participation

- KOMA affords members of the public the opportunity to attend the meeting, but KOMA does not require that the public be allowed to speak during a meeting.
- KOMA allows members of the body to participate remotely.



# KOMA “Don’ts”

- Do not:
  - “Reply all” to emails involving all Advisory Panel members
  - Conduct votes by email
  - Comment on social media posts involving Advisory Panel business
  - Poll fellow Advisory Panel members or direct third parties to do the same (KOMA prohibits secret ballots)
- Violations of KOMA are subject to civil penalties of up to \$500.00. Violations can also result in voiding of the action that the body has taken.

# Sedgwick County Officials

- There are 5 Sedgwick County officials on the Advisory Panel.
- The Advisory Panel serves in an advisory capacity to the Governor, KDADS, and Sedgwick County.
- Meetings and actions of the Advisory Panel are established by the Governor's executive order.

# KOMA Quirks for Sedgwick County Officials

- For Sedgwick County officials, your roles within the County may sometimes involve a subset of yourselves discussing Advisory Panel business, whether in Board of County Commissioners meetings or other discussions not open to the public.
- In order to avoid potential serial communications in violation of KOMA and also the appearance of such serial communications, a good rule of thumb to err on the side of caution would be that you not communicate about Advisory Panel business with non-County Advisory Panel members outside of the Advisory Panel's open meetings.

# Additional Information

- KDADS has put together a Kansas Public Square site where the public can visit to get notices, agendas, and other information for the Advisory Panel's meetings: [South Central Regional Psychiatric Hospital Advisory Panel Meeting \(ks.gov\)](https://www.ks.gov/south-central-regional-psychiatric-hospital-advisory-panel-meeting)



# Questions?

**Thank you** to all of you for your time and efforts as members of this Advisory Panel!