



2026 KOMA Training

Welcome!



What is KOMA? (that's right folks, another acronym to remember)



“KOMA” stands for the Kansas Open Meetings Act.



Essentially, KOMA is a requirement that certain bodies have open meetings. “Open” means the meeting is conducted in a way that the public may observe or listen to the proceedings.

Note: KOMA doesn't apply to all boards, but if you are here, it is because KOMA applies to you.



The intent is to foster accountability through an open and accessible government by ensuring community-members can observe and participate in the decision-making processes of governing officials.

Why is this important?

(aka, why pay attention to yet another presentation? Spoiler alert: it's because you can get sued)

- KOMA may be enforced by anyone – private citizens, the county attorney, or the Attorney General. This means any member of the public has the right to bring suit for a KOMA violation. K.S.A. 75-4320a
- These suits may be brought against your board, or against you individually, and could also implicate the City.
- In KOMA cases, the defendant (that would be you) bears the burden of proof. (i.e., you are not presumed innocent). K.S.A. 75-4320a(b).
- **What is at stake?** In a KOMA action, a court may require completion of additional training, court-costs, and other expenses including attorney fees. (This can get expensive). K.S.A. 75-4320a(a)&(e).

Really, you CAN get sued.

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News Releases

Bucklin City Council fined for violating open meetings law

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FOR IMMEDIATE RELEASE

Monday, Oct. 27, 2025

Bucklin City Council fined for violating open meetings law

TOPEKA – (Oct. 27, 2025) – Bucklin City Council members will pay \$100 in civil penalties for violating the Kansas Open Meetings Act or KOMA, Kansas Attorney Kris Kobach today announced.

Under the terms of a consent order, council members are required to pay the civil penalty and attend additional training on the Kansas Open Meetings Act.

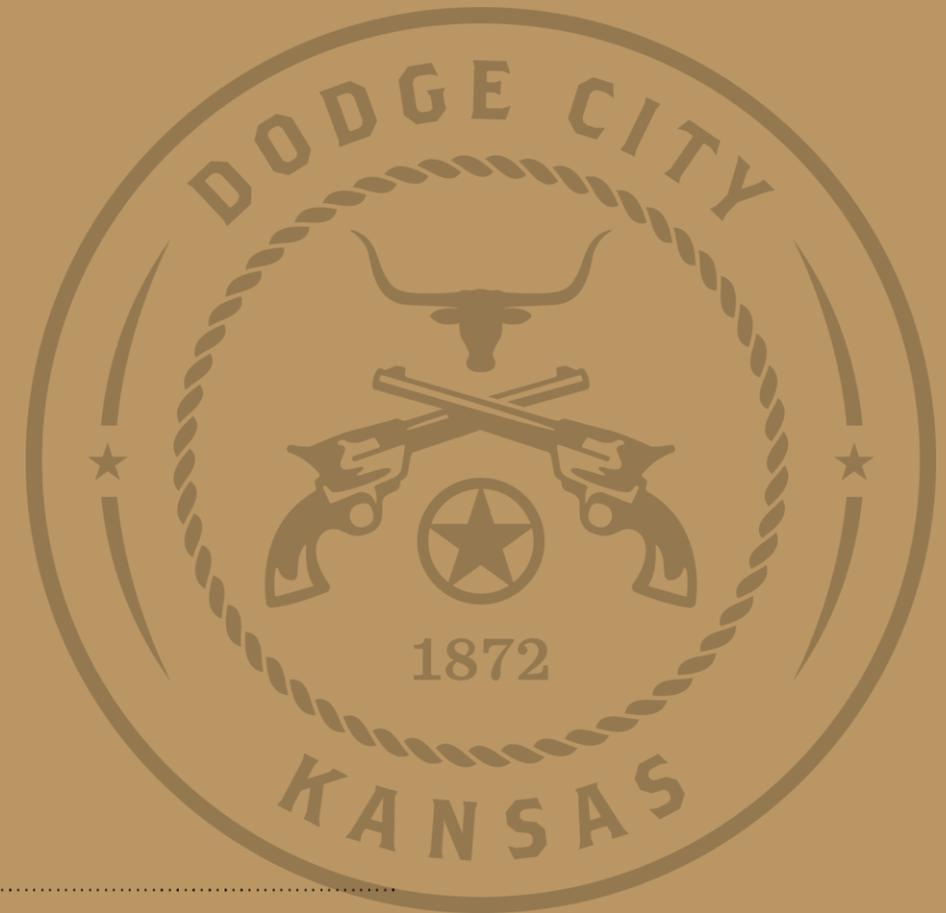
“Most governmental business must be conducted in view of the public in order to comply with KOMA,” First Assistant Attorney General for Open Government Enforcement David Van Parys said. “To the city council’s credit, they remained cooperative throughout our investigation and have promptly undertaken steps to ensure this type of violation does not reoccur.”

After an investigation, the Kansas Attorney General’s Office determined that the Bucklin City Council members violated the KOMA by voting to approve a financial commitment of the city in a meeting conducted via text messaging. This improper conduct deprived the public of the right to observe and monitor city business.

###



KOMA applies to “Meetings” so, what is a “meeting”?



A meeting involves three things:

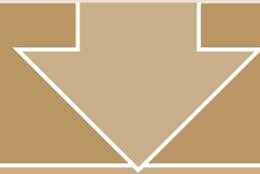
1. Interactive communication between
2. a majority of the members
3. discussing the business of the body.



1. Interactive Communication

“Interactive communication” can happen in person, over the phone, texting, on zoom, in an e-mail, you name it.

This means, you do not have to be in-person to be having a “meeting” or for KOMA to apply to that meeting.



“interactive communication” essentially means two-way communication.



Trick Question (because science says we learn better when we make errors)

- Let's say Austin, Briar, and Ciera are on a board of five total members covered by KOMA.
- Austin wants to talk to Briar and Ciera to find out whether they will vote for him in the upcoming election for chair. Austin knows he cannot text, call, e-mail or meet in-person with Briar and Ciera without it being “interactive communication.” To get around this, Austin asks his wife to text Briar and Ciera. Briar and Ciera respond saying they will vote for Austin.
- Has anyone violated the open meetings act? If so, who?

Answer:

- Yes. Austin, Briar, and Ciera have all violated the open meetings act.
- Austin's wife in this hypothetical is a "go-between" for Austin, Briar, and Ciera. Therefore, Austin, Briar, and Ciera have engaged in two-way communication ("interactive communication") and have violated the open meetings act.
- Austin violated KOMA by communicating through his wife.
- Briar and Ciera violated the open meetings act by responding.
- Note: Austin's wife's text, by itself, may not have been a violation, but because it elicited a response, it was part of "interactive communication" and violated KOMA.

“DO NOT REPLY ALL”



You may receive emails (or group texts) from your staff liaison, the City Manager, your chairperson, or anyone else attempting to give your entire group information simultaneously.



If you receive a message like this, do not reply-all. If you do, two-way “interactive” communication arguably has occurred, and you have violated KOMA.

“Interactive communication” practical takeaways

(alert: important slide here)



Governing body members should be careful not to hit *reply all* to an email sent to the entire governing body.



Governing body members should also be careful not to *CC* the entire governing body to an email to avoid unintentionally violating KOMA.



Governing body members should not participate in a “shadow” meeting by instant messaging or texting during a meeting.



When staff e-mails the governing body, they should use *Bcc* to prevent unintentional reply-all emails.

Reminder... A meeting involves three things:

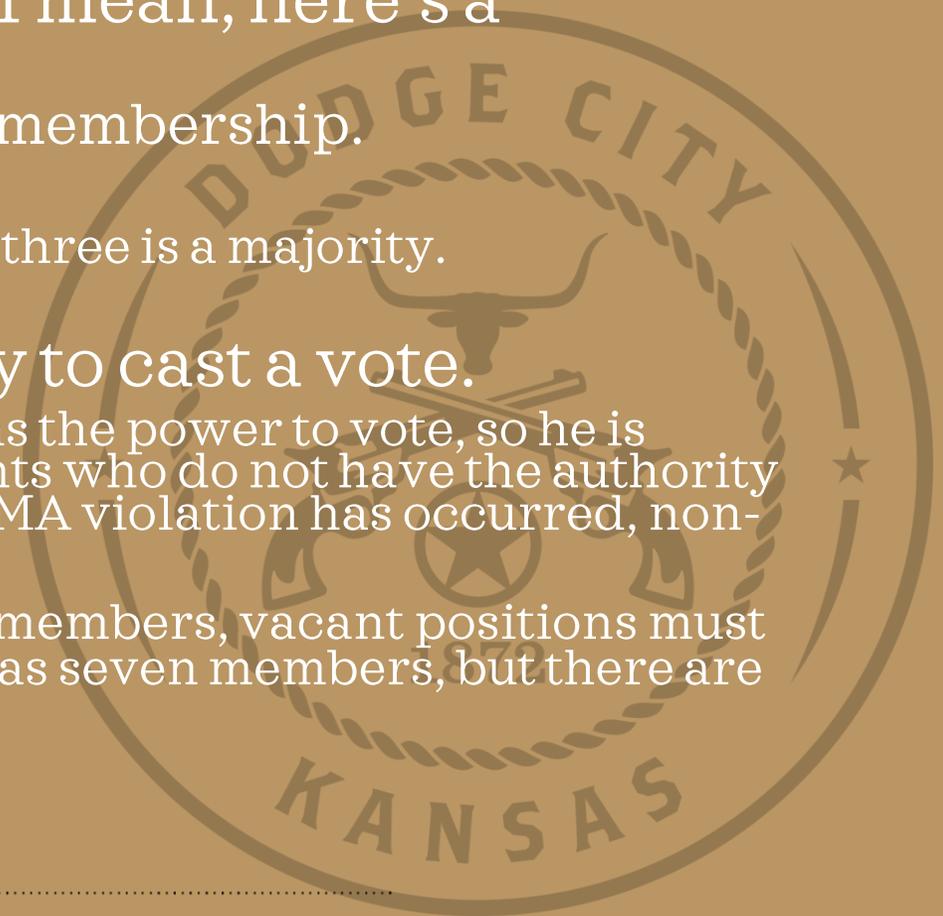
1. Interactive communication between
2. a majority of the members
3. discussing the business of the body.

We just discussed number one, interactive communication, and are now moving to number two, a majority of the members.

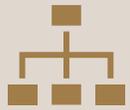


2. Majority of the Members

- “Majority” means... a majority. But because I’m a lawyer and want to make extra sure you know what I mean, here’s a definition:
 - “Majority” means more than one-half of the membership.
- Examples:
 - The City Commission has five members; therefore, three is a majority.
 - If your board has three members, two is a majority.
- “Members” are people with the authority to cast a vote.
 - For example, on our city commission, our mayor has the power to vote, so he is counted. Some of your boards may have participants who do not have the authority to vote. For purposes of determining whether a KOMA violation has occurred, non-voting participants are not “members.”
- **Vacant Positions:** When counting the number of members, vacant positions must be counted as well. For example, if the Library Board has seven members, but there are two vacancies, a majority remains four.



2025 Clarifications to KOMA



The Act now explicitly makes subcommittees subject to KOMA.



“When a subcommittee or other subordinate group is created by a public body or agency, whenever a majority of such subcommittee or other subordinate group meets, such subcommittee or other subordinate group shall be subject to the requirements of this act.” K.S.A. 75-4318



This means a majority of your *subcommittee* meeting also must follow KOMA.

Reminder... A meeting involves three things:

1. Interactive communication between
2. a majority of the members
3. discussing the business of the body.

We just discussed number two, a majority of the members, and are now moving to number three, discussing the business of the body.



3. Discussing the Business of the Body

A majority of the body having interactive communication is only a KOMA violation if the members are discussing the business of the body.

For example, all the members of the City Commission may gather for a BBQ at the mayor's house and talk all night, but as soon as the discussion turns to city business, a KOMA violation has occurred.

Serial communication (don't play telephone)

- Fewer than a majority of members may discuss business without violating KOMA.
- HOWEVER, serial communication is prohibited.

Three Elements of "Serial Communication:

One:

- Interactive communications collectively involve a majority of the public body or agency.

Two:

- A common topic is discussed concerning the business or affairs of the public body or agency, and

Three:

- There is intent by any or all of the participants to reach agreement upon a topic that requires binding action in an open meeting by the public body or agency.

Prohibited serial communication example

- Council members A, B, C, D, and E have an upcoming meeting regarding budget approval. Member A wants to vote against the budget and wants to convince other members to vote with him. A calls B and convinces B to vote against the budget. Member A then calls C and convinces Member C to vote against the budget.
- At the meeting, the Mayor calls for discussion of the budget. Member E expresses her support for the budget. No other members make statements or participate in discussion. The mayor calls for a vote. The budget fails when Members A, B, and C vote against the budget.

Answer:

- Element one: In our example, we have a five-member board with three of those members collectively communicating. Therefore, we have a majority.
- Element two: We also have a common topic of discussion: passing the budget.
- Element three: Also, the three members intend to reach an agreement on the budget, which is a matter requiring binding action in an open meeting.
- Therefore, A, B, and C have violated KOMA by participating in prohibited serial communication.

Was it serial communication?

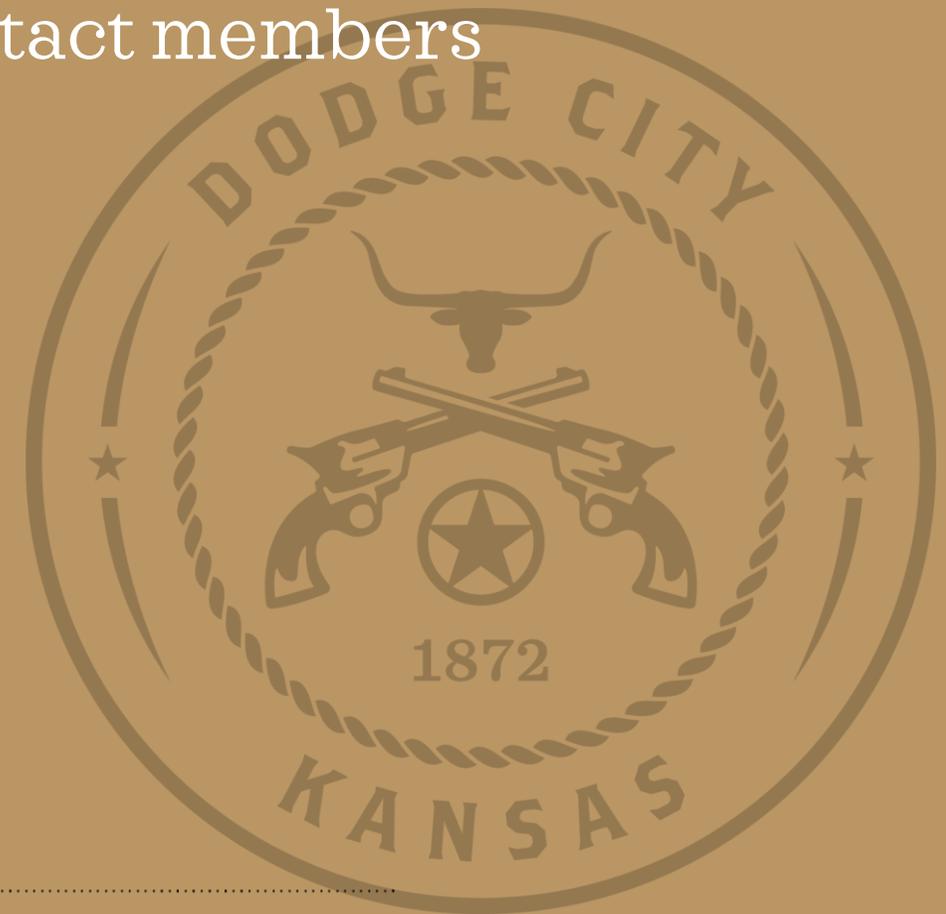
- **Reminder: Serial communication** occurs when:

1. Interactive communications collectively involve a majority of the public body or agency.
2. A common topic is discussed concerning the business or affairs of the public body or agency, and
3. There is intent by any or all of the participants to reach agreement upon a topic that requires binding action in an open meeting by the public body or agency.

CITY OF DODGE CITY

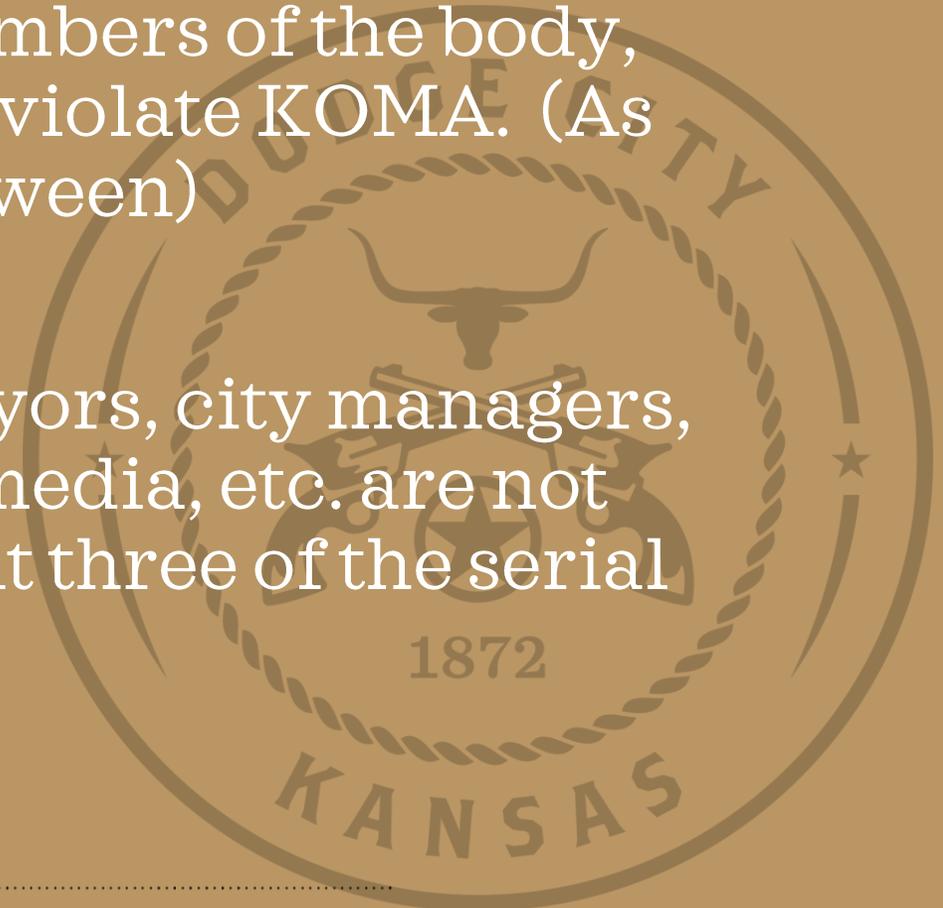
Question:

- Based on the elements of a serial communication, can a staff representative individually contact members regarding business of the body?



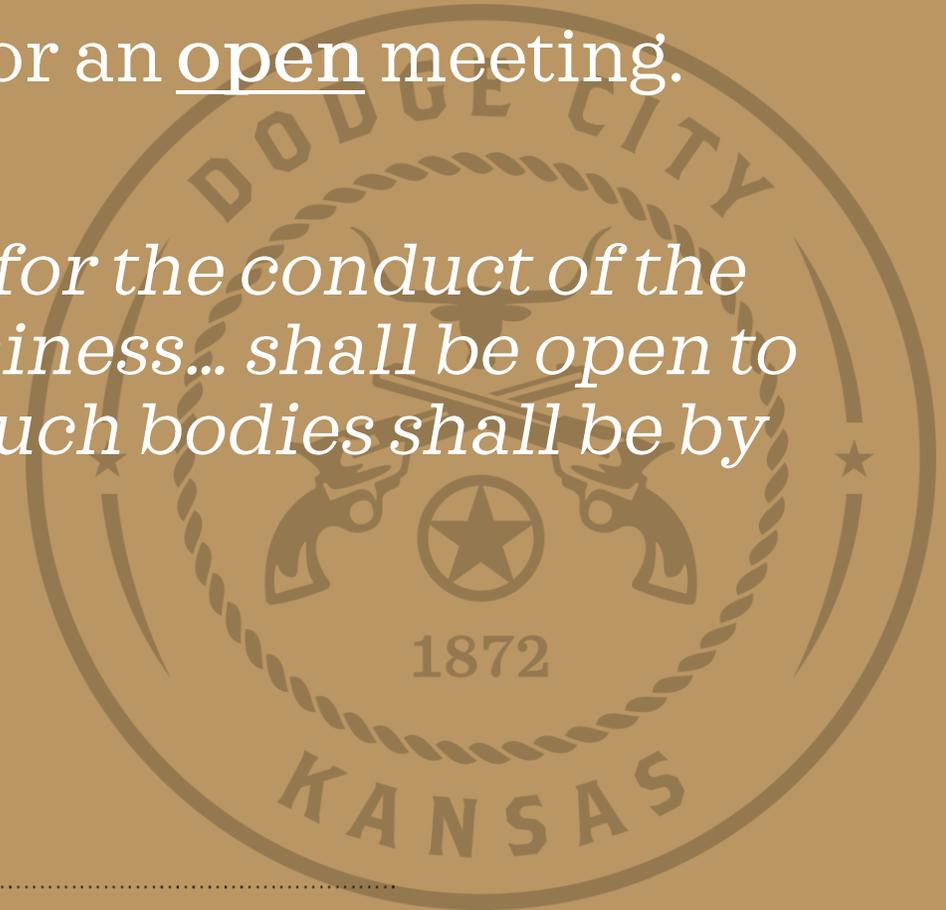
Answer:

- Yes, staff representatives, are not “participants” and therefore may contact individual members of the body, discuss business of the body, and not violate KOMA. (As long as they are not acting as a go-between)
- Staff representatives, non-voting mayors, city managers, city clerks, citizens, members of the media, etc. are not “participants” to consider for element three of the serial communication test.



What makes a meeting “open”

- We’ve discussed at length what constitutes a “meeting.”
- Now, let’s discuss the requirements for an open meeting.
- KSA 75-4318(a) states: “*...all meetings for the conduct of the affairs of, and the transactions of business... shall be open to the public and no binding action by such bodies shall be by secret ballot...*”



“Open” = publicly available



You can hold a public meeting anywhere that is accessible to the general public (it doesn't have to be City Hall).



This is not a very strict requirement, essentially, the public must have access to the meeting. If the public has access to view the meeting, this requirement is satisfied.

A few quick points:

- **Recording Meetings:** Meetings do not have to be recorded, but a body subject to KOMA cannot prevent the public from using recording devices at meetings. (you can adopt policies to make said recording unobtrusive).
- **Notice of Meetings:**
 - While it is good practice to provide advance public notice of meetings, the statute only outlines rigid notice requirements for individuals who have requested notice.
 - Individuals requesting notice must receive notice of the date, time, and place of any regularly scheduled or special meeting within a reasonable time.
 - For any other notice of a meeting, “reasonable notice” is fine.

A few quick points, continued:

- **Agendas:** KOMA does not require an agenda be prepared in advance of a public meeting. Nor does it require an agenda which is prepared to be published. However, if an agenda is prepared, it must be made available to those who request it. Agendas may be amended during the meeting.
- **Remote Meetings:** If a meeting is held remotely, all members must be able to interact with and hear the other members AND the public must be able to have access to the meeting without cost.
- **Public Comment:** Public Comment not required. But if you DO have public comment, keep in mind free speech protections.

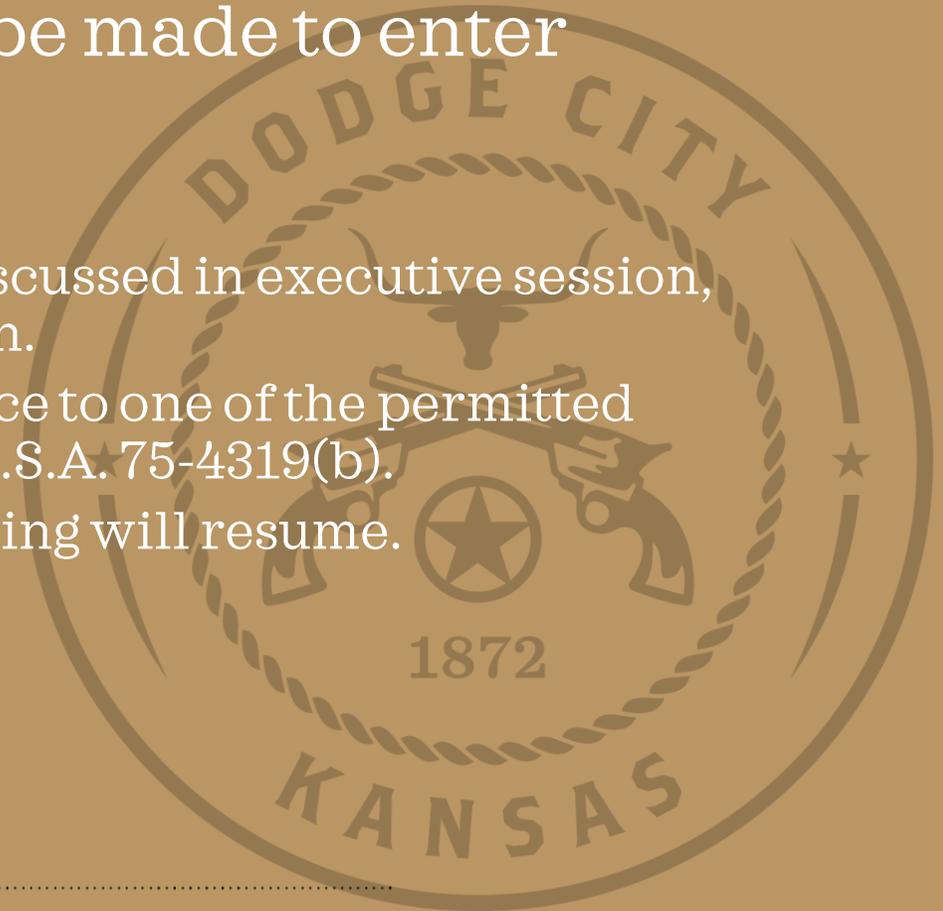
Executive Session (closed meetings)

Executive sessions = limited and specific exceptions to the open meetings rule.

- **Important Executive Session Take-Aways:**
 - You can't just decide to have an executive session; it must be one of the specifically allowed reasons stated in K.S.A. 75-4319(b).
 - Exec session cannot be used merely to avoid public discussion.
 - Specific procedures must be followed to enter executive session.
 - City staff representatives should verify executive sessions with City Attorney.

Executive Session: Procedures

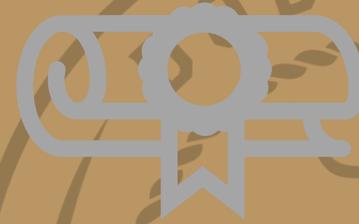
- An executive session may only take place once an open meeting is convened. A motion must be made to enter executive session.
 - Motion Requirements:
 1. A statement describing the subject to be discussed in executive session, without revealing confidential information.
 2. The justification for the meeting: a reference to one of the permitted topics for executive session contained in K.S.A. 75-4319(b).
 3. The time and place at which the open meeting will resume.



Executive Session: Attorney Consultation



You cannot use this exception if an attorney is not present.

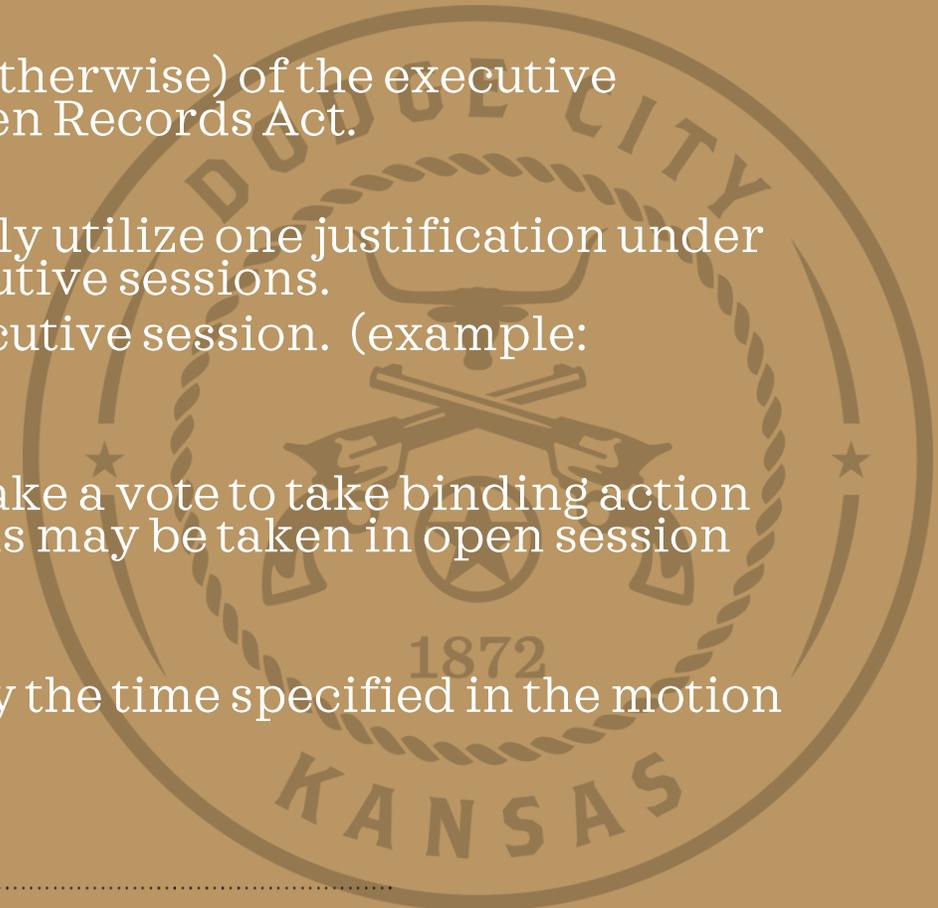


Non-members may only attend this session if they are considered part of the client organization, otherwise, privilege is waived.



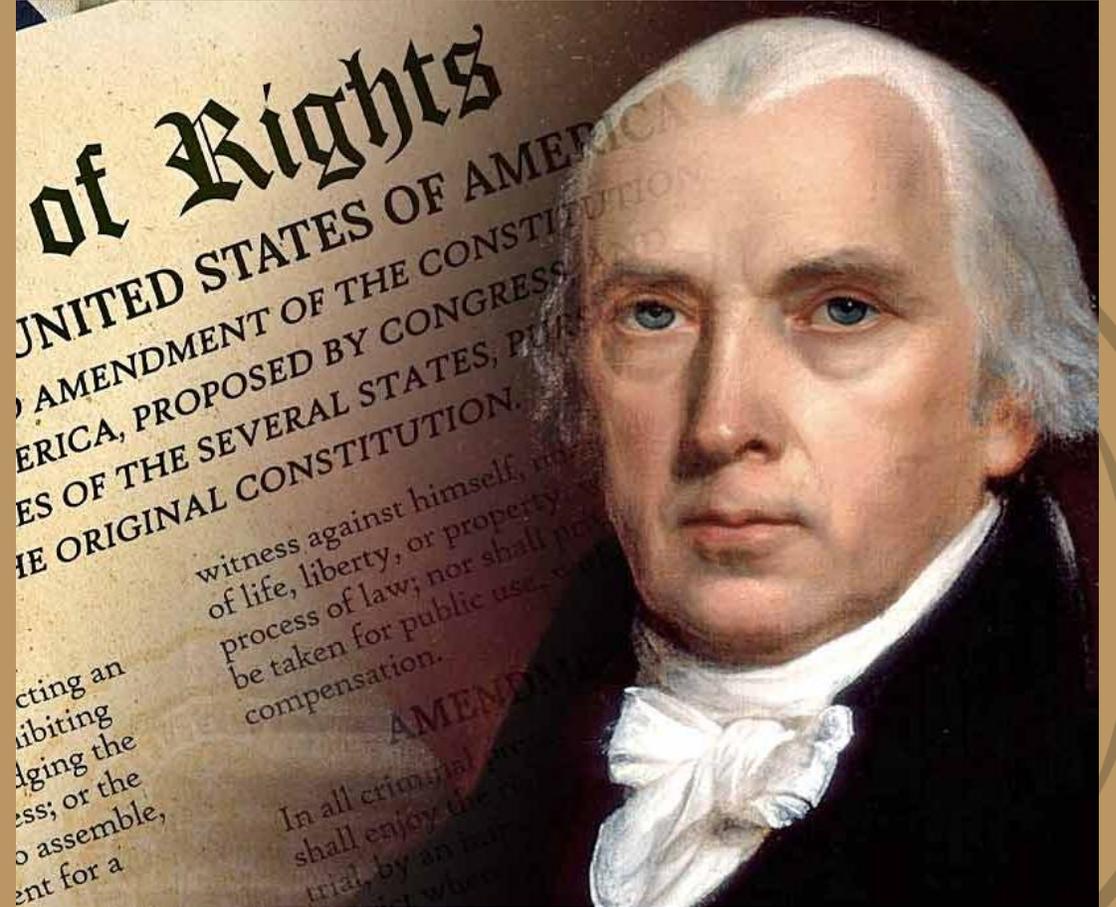
Executive Session: Continued

- **Who may attend an executive session?**
 - It is up to the body to decide who should be involved in the meeting; in order to protect the privacy of the session, attendees other than the members should be limited to only those absolutely necessary.
- **Should minutes be taken?**
 - Absolutely not. Any official recording (written or otherwise) of the executive session becomes a record subject to the Kansas Open Records Act.
- **May more than one topic be discussed?**
 - The motion to recess into executive session may only utilize one justification under the statute. Different justifications = separate executive sessions.
 - Multiple subjects under one justification = one executive session. (example: attorney client privilege).
- **May votes be taken in executive session?**
 - A governing body may reach a consensus, but not take a vote to take binding action while in executive session. Votes on binding actions may be taken in open session immediately following an executive session.
- **How long may an executive session last?**
 - The length of an executive session is limited only by the time specified in the motion to recess.



The First Amendment and KORA

- “Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances.” – U.S. Constitution, Amendment I



First Amendment, Continued.

If you are in this training, you are on a body that is a covered entity under KOMA. Almost certainly, this also means you must follow constitutional principles when restricting speech, as you are acting with the voice of a government.

Restrictions on speech are subject to strict-scrutiny.



Strict Scrutiny = any content-based restrictions must be narrowly tailored to serve a compelling government interest, and viewpoint-based restrictions are prohibited.



Reasonable **time, place, and manner** restrictions are allowed so long as they are narrowly tailored to serve a significant governmental interest.

First Amendment, Continued

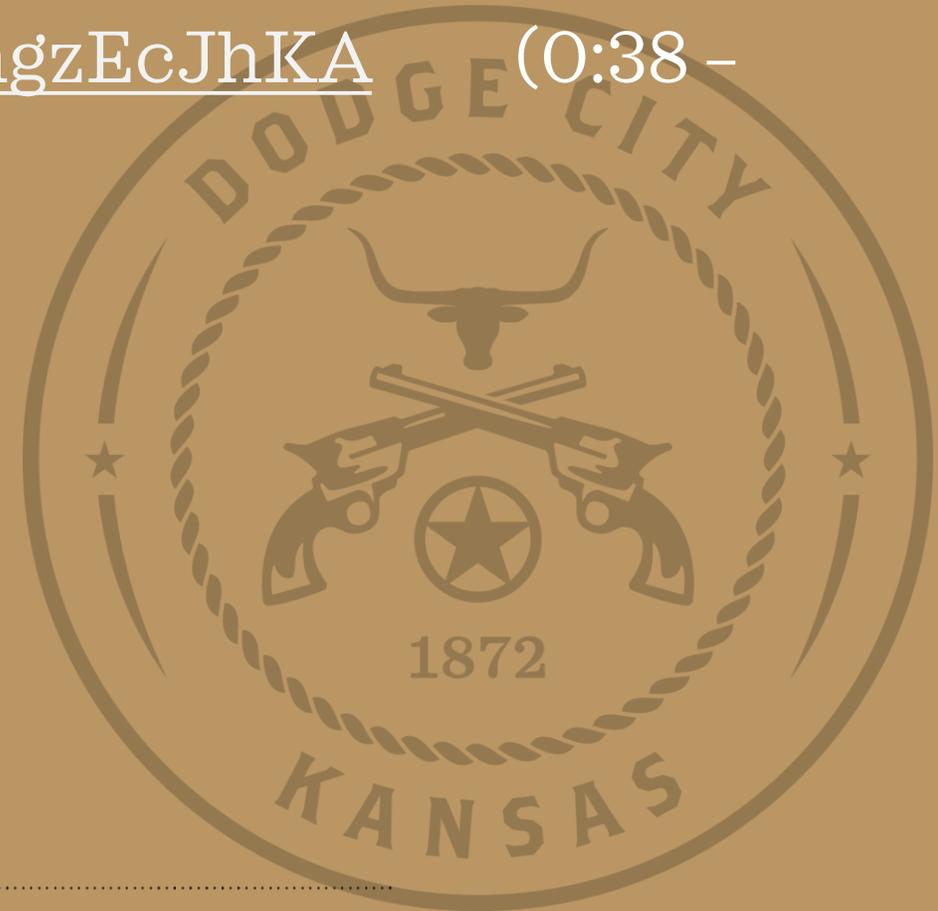
- Content-neutral restrictions on speech are fine.
- For example, City Commission meetings have a designated “visitors’ section” where public comment is allowed. Individuals may speak for 5 minutes with a total limit of 15 minutes per topic.



Gilmore v. Beveridge, No. 22-2051 (D.Kan. 2022)

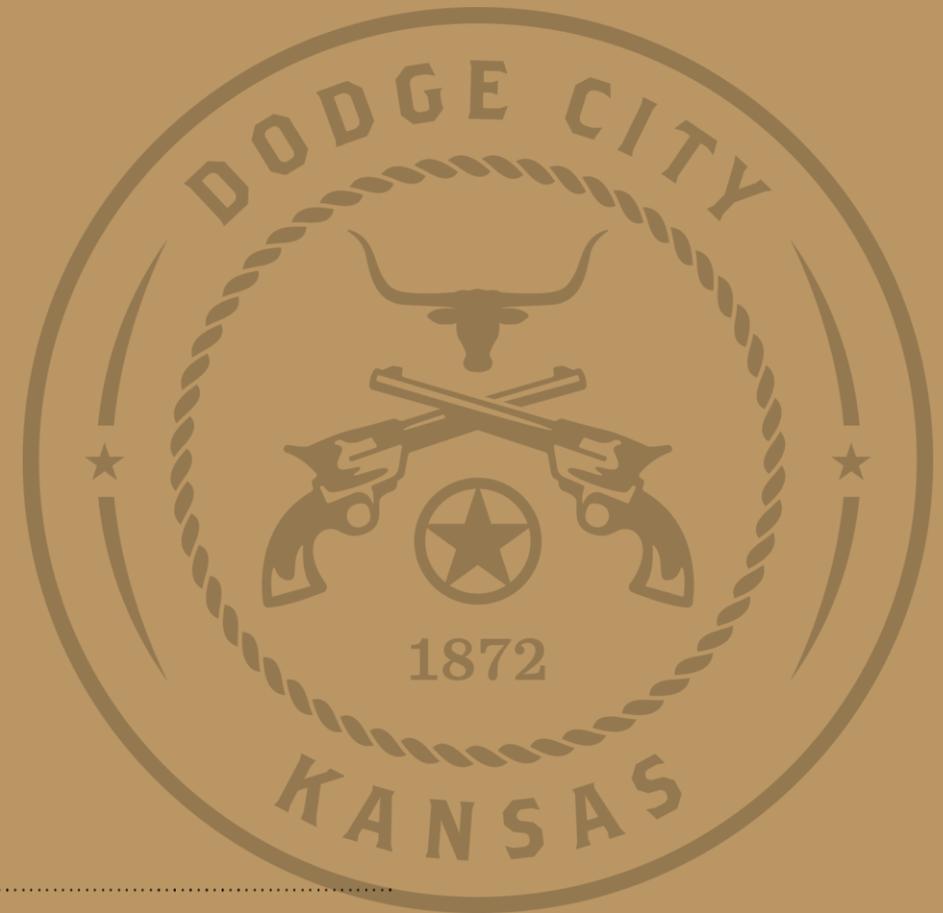


- <https://youtu.be/TahgzEcJhKA> (0:38 – 1:18)



Discussion:

- Do you think the jury found the council-member guilty of viewpoint discrimination here?



VERDICT

1. Do you find by a preponderance of the evidence that Joe Beveridge engaged in viewpoint discrimination when he stopped Plaintiff from speaking at the school board meeting on January 13, 2022, as defined in Jury Instruction No. 10?

Yes X No

Rebekah Massie v. Surprise, AZ

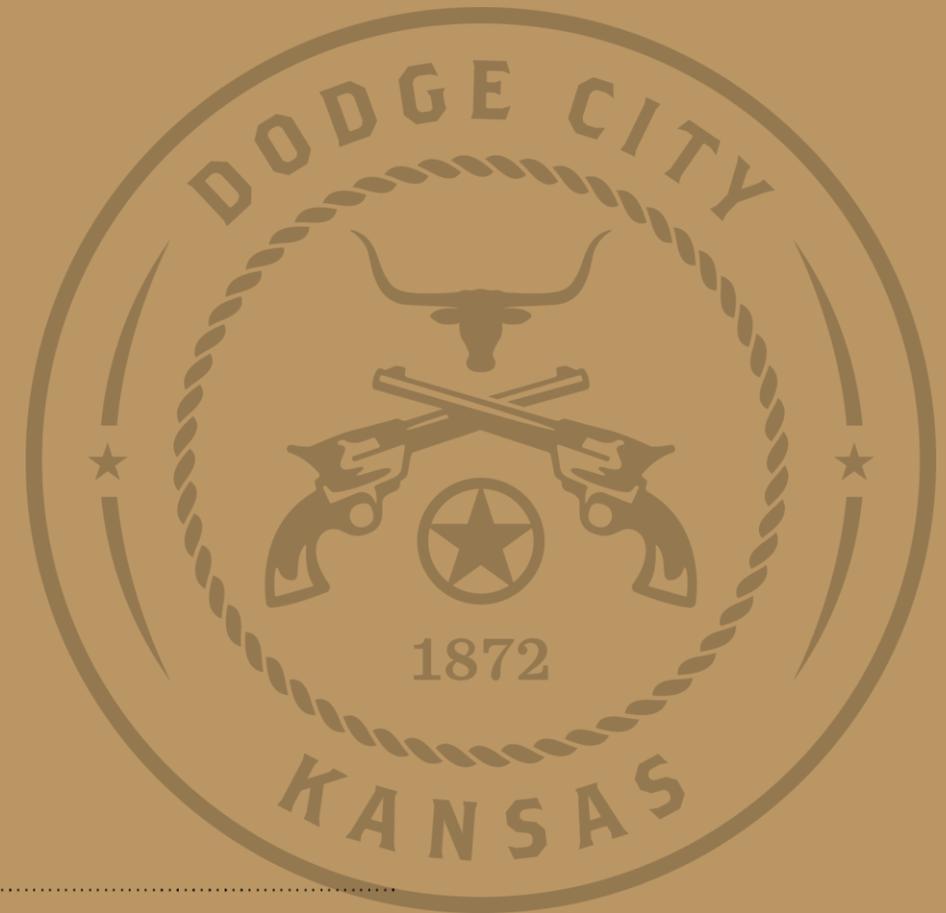
- <https://youtu.be/FeFJnTiKk00?si=p70NwYwCOK8jmas1> (0:28 - 1:23)



Discussion

What, if anything, did the City Council do wrong here?

What about the police officer?



What speech can be restricted?

- But beware, these concepts are subjective and difficult to clearly define.
- Content-neutral restrictions are best, and must be applied universally.

Some speech is not protected:

Obscenity

Defamation

Fraud

Incitement

KORA = Kansas Open Records Act



Any documents utilized during an open meeting will be subject to KORA requests.



Any documents utilized during an executive session should be collected after the executive session. If not, they will be subject to open records requests.



Agendas and minutes should be maintained so that the public may view them upon request.