

Kansas Administrative Regulations
Agency 19 – Governmental Ethics Commission

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Editors' Notes

Effective July 1, 1998, the Kansas commission on governmental standards and conduct was redesignated as the governmental ethics commission. Rules and regulations of the Kansas commission on governmental standards and conduct were by law specifically retained in force and effect and became the rules and regulations of the governmental ethics commission until amended or revoked by the successor commission.

Effective July 1, 1991, the Kansas commission on governmental standards and conduct was created to replace the Kansas public disclosure commission. Rules and regulations of the Kansas public disclosure commission were by law specifically retained in force and effect and became the rules and regulations of the Kansas commission on governmental standards and conduct until amended or revoked by the successor commission.

Current through Volume 42, No. 39, September 28, 2023. Some sections may be more current. See credits for details.

K.A.R. 19-7-1

19-7-1. Answer.

The respondent against whom a verified complaint, as the same may have been amended, is filed and on whom a notice of hearing has been served, may file a written verified answer in person or through an attorney within ten (10) days from the service of the notice of hearing. The answer shall contain a general or specific denial of each and every allegation of the complaint controverted by the respondent or a denial of any knowledge or information thereof sufficient to form a belief and a statement of any matter constituting a defense. Any allegation in the complaint which is not denied or admitted in the answer in the above manner, shall be deemed admitted. The answer or any part thereof may be amended as a matter of right at any time prior to ten (10) days before a public hearing and thereafter in the discretion of the presiding member on application duly made therefore. The commission may proceed, notwithstanding any failure of the respondent to file an answer within the time provided herein, to hold a hearing at the time and place specified in the notice of hearing and may make its findings of fact and enter its report and order upon the testimony taken at the hearing.

Credits

(Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253.)

(Effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

Current through Volume 42, No. 39, September 28, 2023. Some sections may be more current. See credits for details. Kan. Admin. Regs. 19-7-1, KS ADC 19-7-1

K.A.R. 19-7-2

19-7-2. Waiver of hearing.

In any proceeding, if the petitioners or parties waive hearing, the commission may dispose of the matter upon the basis of the pleadings or submittals and the investigation.

Credits

(Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253.)

(Effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

Current through Volume 42, No. 39, September 28, 2023. Some sections may be more current. See credits for details. Kan. Admin. Regs. 19-7-2, KS ADC 19-7-2

K.A.R. 19-7-3

19-7-3. Pre-hearing conference.

(a) General. In order to facilitate the hearing procedure, conferences may be held with the petitioners or between the parties with the approval or at the direction of the presiding member. The meetings are to be held before the presiding member as time and the nature of the proceeding permit. At any such conference, the following may be considered:

- (1) The simplification of the issues.
- (2) The exchange and acceptance of service of exhibits proposed to be offered into evidence.
- (3) The admission or stipulations of facts not remaining in dispute.
- (4) The authenticity of documents which might properly shorten the hearing.
- (5) The limitation of the number of witnesses.
- (6) The discovery or production of evidence.
- (7) Such other matters as may properly be dealt with to aid in expediting the orderly conduct and disposition of the proceeding.

(b) Failure of a participant to attend such conference, after being served with due notice of the time and place thereof, shall constitute a waiver of all objections to the agreements reached, if any, and any order or ruling made at the pre-hearing conference.

(c) Authority of presiding member. The presiding member at any conference may dispose of by ruling, without the consent of the petitioners or parties, any procedural matters which the presiding member is authorized to rule on, and which it appears may appropriately and usefully be disposed of at that stage. The rulings of the presiding member made at the conference shall control the subsequent course of the hearing, unless modified by the hearing commissioners.

Credits

(Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253.)

(Effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

Current through Volume 42, No. 39, September 28, 2023. Some sections may be more current. See credits for details. Kan. Admin. Regs. 19-7-3, KS ADC 19-7-3

K.A.R. 19-7-4

19-7-4. Hearings; appointment of presiding member.

(a) Who shall conduct, appointment of presiding member. Hearings and rehearings shall be conducted by hearing commissioners designated by the chairperson. Such commissioners may consist of the commission as a whole or a committee thereof. If a committee of hearing commissioners is appointed, it shall consist of not less than three (3) members, not more than a majority shall be of the same political party. One hearing commissioner shall be designated as presiding member by the chairperson. The hearing commissioners and presiding member shall be designated when a final determination of probable cause is made or in a reasonable time thereafter. The hearing commissioners shall have full authority to review and overrule any decision of the presiding member regarding the procedure of the preconference hearing, hearings, and rehearings, including decisions to admit or exclude testimony or other evidence, and to rule upon all motions and objections.

(b) Order of procedure. In hearings, the petitioner, complainant, or other party having the burden of proof, as the case may be, shall open and close, unless otherwise directed by the presiding member. In proceedings where the evidence is peculiarly within the knowledge or control of another participant, the order or presentation may be varied by the presiding member.

(c) Presentation by the petitioners or parties. Petitioners or parties shall have the right of presentation of evidence, cross-examination, objection and motion. The taking of evidence and subsequent proceedings shall proceed with all reasonable diligence and with the least practicable delay. When objections to the admission or exclusion of evidence before the presiding member are made, the grounds relied upon shall be stated briefly. Formal exceptions are unnecessary and shall not be taken to rulings thereon.

(d) Oral examination. Witnesses whose testimony is to be taken shall be sworn, or shall affirm, before their testimony shall be deemed evidence in the proceeding or any questions are put to them.

(e) Fees of witnesses. Witnesses subpoenaed by the commission shall be paid the same fees and mileage as are paid for like services in civil actions in the district court.

(f) Duties of the presiding member. Duties of the presiding member include, but are not limited to, the following:

- (1) administer the oath;
- (2) rule on proof;
- (3) regulate the hearing;
- (4) exclude people from the hearing;
- (5) hold conferences for simplification of issues;

- (6) dispose of procedural requests;
- (7) authorize and set times for filing of briefs;
- (8) grant continuances;
- (9) and take any other action consistent with the purpose of relevant law administered by the commission and consistent with these rules.

(g) Stipulations. Written stipulations may be introduced in evidence, if signed by the persons who seek to be bound by them, or by their attorneys. Oral stipulations may be made on the record at open hearings or rehearings.

(h) Waiver of objections. Any objection not timely made before the presiding member shall be deemed waived unless the failure or neglect to urge such objection shall be excused for good cause by the presiding member.

(i) Continuances and adjournments. The presiding member may postpone a scheduled hearing or continue a hearing from day to day or adjourn it to a later day or to a different place by announcement at the hearing or by appropriate notice to all petitioners or parties.

(j) Burden of proof. Affirmative findings of fact by the commission shall be based on clear and convincing evidence.

Credits

(Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253.)

(Effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

Current through Volume 42, No. 39, September 28, 2023. Some sections may be more current. See credits for details. Kan. Admin. Regs. 19-7-4, KS ADC 19-7-4

K.A.R. 19-7-5

19-7-5. Subpoenas.

(a) Issuance. Subpoenas for the attendance of witnesses or for the production of evidence, unless directed by the commission upon its own motion, will issue only upon application in writing to the commission or the presiding member, except that during a hearing, such application may be made orally on the record. Such applications shall specify as nearly as may be the general scope of the testimony or evidence sought, including as to evidence, specification as nearly as may be, of the documents desired. The presiding member shall sign subpoenas issued pursuant to this section or when convenient or necessary may direct the executive director to sign subpoenas on the presiding member's behalf.

(b) Service and return. If service of subpoena is made by a sheriff or like officer or his deputy, such service shall be evidenced by his return thereof. If made by another person, such person shall make affidavit thereof, describing the manner in which service was made, and shall return such affidavit. In case of failure to make service, the reasons for the failure shall be stated on the original subpoena. In making service, a copy of the subpoena shall be exhibited to and left with the person to be served, or to a person of suitable age and discretion residing in that person's dwelling, house, or usual place of abode, or to an agent authorized by appointment or by law to receive service of process for the person to be served. The original subpoena, bearing or accompanied by the authorized return, affidavit or statement, shall be returned forthwith to the office of the commission or, if so directed on the subpoena, to the presiding member before whom the person named in the subpoena is required to appear.

Credits

(Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253.)

(Effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

Current through Volume 42, No. 39, September 28, 2023. Some sections may be more current. See credits for details. Kan. Admin. Regs. 19-7-5, KS ADC 19-7-5

K.A.R. 19-7-6

19-7-6. Depositions.

The testimony of any witness may be taken by deposition by a party upon approval by the hearing commissioners or the presiding member any time before the hearing is closed. Unless notice is waived, no deposition shall be taken unless at least ten (10) days notice is given to all parties. The procedures utilized in the Kansas Code of Civil Procedure relative to depositions shall be utilized herein except as modified by these rules. No part of a deposition shall constitute a part of the formal record in the proceeding, unless received in evidence. Deponents and the notarial officers taking such depositions shall be entitled to the same fees as are paid for like services in civil actions before the district courts. The fees shall be paid by the party at whose instance the depositions are taken. When the party at whose instance the depositions are taken is a member of the commission or its staff, the commission shall pay such fees. Upon written application requesting deposition by written questions, the presiding member may for good cause permit such a deposition according to such terms and scope as directed by said presiding member.

Credits

(Authorized by K.S.A. 1980 Supp. 25-4119a, 46-253; implementing K.S.A. 1980 Supp. 25-4124, 46-257.)

(Effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1981.)

Current through Volume 42, No. 39, September 28, 2023. Some sections may be more current. See credits for details. Kan. Admin. Regs. 19-7-6, KS ADC 19-7-6

K.A.R. 19-7-7

19-7-7. Motions.

All motions, except those made at a pre-hearing conference, hearing or rehearing shall be in writing. The presiding member is authorized to rule upon any motion except a motion made before or during a hearing which would involve or constitute a final determination of the proceeding or a motion pursuant to K.A.R. 19-1-13. A presiding member may refer any motion to the hearing commissioners or commission for ultimate determination.

Credits

(Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253.)

(Effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

Current through Volume 42, No. 39, September 28, 2023. Some sections may be more current. See credits for details. Kan. Admin. Regs. 19-7-7, KS ADC 19-7-7

K.A.R. 19-7-8

19-7-8. Evidence.

In any proceeding before the hearing commissioners or a presiding member, relevant and material evidence shall be admissible, but there shall be excluded such evidence as is unduly repetitious or cumulative, or such evidence as is not of any probative value. The presiding member shall rule on the admissibility of all evidence, and shall otherwise control the reception of evidence so as to confine it to the issues in the proceeding. The production of further evidence upon any issue may be ordered. Direct testimony of any witness may be offered as an exhibit, or as prepared written testimony to be copied into the transcript. Cross-examination of the witness presenting such written testimony or exhibit shall proceed at the hearing at which such testimony or exhibit is authenticated. Whenever in the circumstances of a particular case it is deemed necessary or desirable, the hearing commissioners or the presiding member may direct that testimony to be given upon direct examination shall be reduced to exhibit form or to the form of prepared written testimony.

Credits

(Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253.)

(Effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

Current through Volume 42, No. 39, September 28, 2023. Some sections may be more current. See credits for details. Kan. Admin. Regs. 19-7-8, KS ADC 19-7-8

K.A.R. 19-7-9

19-7-9. Briefs.

Upon application to the presiding member, any party may as a matter of right file briefs. The presiding member shall set limits on the length of briefs, fix the time for the filing and service of briefs and set the order in which such briefs shall be filed, giving due regard to the nature of the proceeding, the magnitude of the record, and the complexity or importance of the issues involved. Briefs shall contain, where applicable: (1) a concise statement of the case; (2) an abstract of the evidence relied upon by the participant filing, preferably assembled by subjects, with references to the pages of the record or exhibits where the evidence appears; and (3) proposed findings and conclusions and, if desired, a proposed form of order together with the reasons and authorities therefore, separately stated.

Credits

(Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253.)

(Effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

Current through Volume 42, No. 39, September 28, 2023. Some sections may be more current. See credits for details. Kan. Admin. Regs. 19-7-9, KS ADC 19-7-9

K.A.R. 19-7-10

19-7-10. Recording and transcript.

(a) Recording of proceedings. Public hearings and executive sessions shall be recorded as directed by the commission. Such record shall be the sole official record. Such recording and any transcripts from the hearing shall include a verbatim report of the hearings and nothing shall be omitted from them except as directed by the presiding member or hearing commissioners or by the commission.

(b) Copies. Petitioners or parties may obtain copies of the public portion of the record. They may obtain the portion of the record from an executive session as the commission may specifically allow to a petitioner or party depending on his or her participation in the executive session or consistent with K.A.R. 19-5-5, and consistent with the confidentiality requirement of relevant law. Copies of the records may be obtained from the official reporter upon payment of the reporter's fees or as allowed by the commission upon payment of the appropriate fee.

Credits

(Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253.)

(Effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

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K.A.R. 19-7-11

19-7-11. Settlement.

The petitioners or parties may stipulate for settlement of the case and the commission may issue a report and order on such stipulation.

Credits

(Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253.)

(Effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

Current through Volume 42, No. 39, September 28, 2023. Some sections may be more current. See credits for details. Kan. Admin. Regs. 19-7-11, KS ADC 19-7-11

K.A.R. 19-7-12

19-7-12. Proposals by the petitioners or parties.

There may be presented by petitioners or by each of the parties, as allowed or directed by the presiding member, proposed findings and conclusions. The reasons, and proposed forms of orders may be presented also.

Credits

(Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253.)

(Effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

Current through Volume 42, No. 39, September 28, 2023. Some sections may be more current. See credits for details. Kan. Admin. Regs. 19-7-12, KS ADC 19-7-12

K.A.R.19-7-13

19-7-13. Recommended report.

If a hearing is held by a committee of the commission, the presiding member thereof shall present, as soon as practicable, a recommended report adopted by a majority of the committee to the commission as a whole. Copies of the recommended report shall be served on the petitioners or parties. Dissenting recommendations may also be filed by a hearing commissioner.

Credits

(Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253.)

(Effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

Current through Volume 42, No. 39, September 28, 2023. Some sections may be more current. See credits for details. Kan. Admin. Regs. 19-7-13, KS ADC 19-7-13

K.A.R. 19-7-14

19-7-14. Appeal, briefs and oral argument to entire commission.

Any petitioner or party may make exceptions to the recommended report and by motion request an opportunity to present an oral argument to the entire commission. An oral argument motion shall be filed within ten (10) days from the date of service of the recommended report. If an oral argument is ordered, it shall be limited, unless otherwise specified, to matters properly raised by the motion and in any accompanying briefs.

Credits

(Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253.)

(Effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

Current through Volume 42, No. 39, September 28, 2023. Some sections may be more current. See credits for details. Kan. Admin. Regs. 19-7-14, KS ADC 19-7-14

K.A.R. 19-7-15

19-7-15. Commission report and order.

Upon receipt of a recommended report or when the commission as a whole hears a complaint, the commission shall as soon as practicable issue its report. All reports and orders of the commission shall, subject to application for rehearing, be final. A report of the commission shall set forth the findings and conclusions of the commission and may include an opinion containing the reasons for said decision. The report may be accompanied by a notice of the right to apply for a rehearing.

Credits

(Authorized by K.S.A. 1976 Supp. 25-4119a, 46-253.)

(Effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977.)

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K.A.R. 19-7-16

19-7-16. Rehearing.

(a) General. Any petitioner or party alleging any error in the original proceedings or report shall request a rehearing. An application for rehearing shall be filed with the commission at its office within ten (10) days after service of a commission report. Such application shall be made by motion, stating specifically the grounds relied on. A copy of such application shall be served on all petitioners or parties in conformity with the service provisions of these rules, by the petitioner or party making such application. An application for rehearing shall contain:

- (1) the docket number of the case for which such application is being made;
- (2) the name of the petitioner or party making such application; and
- (3) such application shall state concisely and specifically the alleged errors for which a rehearing is sought. If vacation, reversal or modification is sought by reason of matters which have arisen since the hearing and decision, the matters relied upon shall be identified in the application.

(b) Granting an application for rehearing. If the commission grants an application for rehearing, it shall so notify the petitioners or parties in writing. The date an application for rehearing is granted shall be the date on which the commission makes such decision. The rehearing shall follow the same procedural rules as a hearing, except to the extent otherwise directed by the commission or a presiding member.

(c) Effect of failure to allege specific error. Failure to request a rehearing on a specific allegation of error and provide reasons therefore shall constitute a waiver of all objection to any matters not specifically alleged as error.

Credits

(Authorized by K.S.A. 1979 Supp. 25-4119a, 46-253.)

(Effective, E-76-52, Oct. 24, 1975; effective, E-77-20, May 1, 1976; effective Feb. 15, 1977; amended May 1, 1980.)

Current through Volume 42, No. 39, September 28, 2023. Some sections may be more current. See credits for details. Kan. Admin. Regs. 19-7-16, KS ADC 19-7-16