



Office of General Counsel Legal Briefings April 2020

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Open Meetings in a Virtual Environment

The Kansas Attorney General adopted a temporary regulation about open meetings conducted virtually during emergency COVID-19 limited operations. The Kansas Open Meetings Act has always allowed for meetings to be conducted using interactive media, such as conference calls or videoconferences. But because most meetings now can *only* occur virtually during this emergency period, the Kansas Attorney General issued the regulation to ensure meetings remain accessible to the public.

University committees that must conduct their meetings open to the public should take note of the requirements, including:

- The interactive platform used for the meeting must allow members of the public to observe the meeting at no cost. Members of the public must only be permitted to observe the meeting; they are not entitled to participate.
- Provide directions describing how members of the public will be able to electronically access, listen to, or observe the meeting.

- Each member of the committee and any presenter must state their name and title, if any, each time they begin speaking or voting so that the individual can be readily identified by remote listeners or observers.
- All participants must ensure that microphones, phones, or other electronic devices are muted when the participants are not speaking remote listeners' or observers' abilities to hear the proceedings are not unnecessarily impeded;
- Before any meeting, provide to any requesting individual any electronic or paper copies of an agenda; and
- Clearly state motions and the results of any final vote on the record.

The full regulation may be viewed on the [Attorney General's website](#). For more information, please see the [OGC COVID-19 Legal Related FAQs, number 7](#).



Creative Collaborations, Independent Decisions: Antitrust Law in a Pandemic Response World

As the University navigates the difficult decisions necessitated by COVID-19, administrators have to be informed about our higher education industry. Higher education is known for its collaborative and congenial relationships, which often leads administrators to discuss with their peers how other institutions are responding to issues. But before you reach out, first consider whether your communications may have antitrust consequences. Antitrust laws prohibit anticompetitive practices, such as making joint or parallel decisions with competitors in market issues such as salaries and pricing.

The U.S. Department of Justice and Federal Trade Commission recently released [Joint Antitrust Statement Regarding COVID-19, 2020](#). They recognize that competitors may need to engage in joint efforts to respond to COVID-19, but highlight that the agencies will still enforce against implied or express agreements to fix prices and reduce competition.

If you reach out to a peer at another institution, please keep the following in mind:

- Discussing technical information (e.g., best practices for complying with public health guidance) does not give rise to antitrust concerns.
- Discussing commercial information (e.g., prices, salaries, hiring, financial aid practices) and/or sharing recent data that are not publicly available may create risk, especially if they lead to parallel decision making between two institutions.
- Document how you reached your ultimate decision independent of any other institution's strategy.

For more information or if you have questions, refer to the above-linked guidance or contact the Office of General Counsel for specific advice.

COVID-19 and the Office of General Counsel: FAQs and Assistance

Our Office created a [new set of FAQs](#) to address questions arising due to the evolving COVID-19 situation. These are in addition to standing FAQs and other resources already on the [Office of General Counsel's website](#).

While we all continue to navigate through these uncharted waters, please know that the Office of General Counsel is here to assist you. There are numerous legal impacts in nearly all of the COVID response efforts, and we are available to help guide our clients through those. We are endeavoring to be as timely in our responses as we can during this unprecedented time. You may reach out to us via e-mail at attys@ksu.edu.



Hosting a Virtual Summer Camp for Children?

The Office of Risk and Compliance is available to assist units with providing training for staff working with youth in a virtual environment, as well as other related risk management. The office is led by Elliot Young, Assistant Vice President for University Risk and Compliance. You can reach him at 785-532-6233 or by sending an email to ecyoung@ksu.edu.

Additionally, our Office has created a template [Consent, Waiver and Release for Virtual Camp for Children](#) for University units, which we encourage you to use. You will find instructions on the first page, along with highlighted areas to customize for your program. Email attys@ksu.edu with any questions about the form.

“How wonderful it is that nobody need wait a single moment before starting to improve the world.”
-Anne Frank

***About this Publication:** This newsletter is designed to serve as an informational tool, bringing you topics of interest and practical tips. It should not be relied on as a substitute for legal advice. Laws, regulations and policies change frequently, and legal advice requires careful consideration and application of all relevant facts. If you have legal questions or need legal advice concerning any University matter, please contact the Office of General Counsel.*