

October 17, 2025

Paul Zimmerman
211 15th Street, NE
Washington, DC 20002

RE: Open Records Request Topeka Public Schools, USD 501, Shawnee County, Kansas

Mr. Zimmerman,

In response to your September 30, 2025, Open Records request please find the following:

1. The most recent version of the Topeka Public Schools 8100-03 Guidelines for Transgender Students at School, plus the other USD 501 policies protecting students from discrimination are attached. The Guidelines for Transgender Students at School are being reviewed by the Board's Policy Committee as the law is not settled at this time in light of the Office of Civil Rights changed interpretation of Title IX regulations and the ongoing litigation regarding this issue. The Policy Committee's discussion and review is exempted from the Kansas Open Records Act under KSA 45-221(21) which exempts "Notes, policy drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed..."
2. I have requested specific training materials related to the topic requested but have not received them from the department. The policies are attached hereto. Any guidance, other than to follow the law as clearly established, would be exempt from the Open Records Act based on KSA 45-221(25) which exempts "records which represent and constitute the work product of an attorney," and KSA 45-221(3) which exempts "Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations..."
3. Attached are readily available copies of ongoing communication and correspondence to and from USD 501 and the U.S. Department of Education Office of Civil Rights regarding the treatment of transgender or gender nonconforming students, accessing intimate facilities on the basis of gender identity, or school staff's recognition of student's transgender or gender nonconforming status from Nov.5, 2024, through the above date. Any additional search of USD 501 for the broad category of documents requested would require additional staff time to research the district's paper and computer records and legal time to review all the records for any redactions and to determine if they fall within the 48 exemptions listed in the Kansas Open Records Act.
4. Without doing detailed search attached is the communication between USD 501 and the Office of Civil Rights dated August 14, 2025, and the extensive Request for Data letter dated August 22, 2025, along with the Joint Response of the four districts dated September 19, 2025. The four districts also jointly requested the Office of Civil Rights to provide information about who made the complaints and the Office of Civil Rights denied the district's request. The four districts made an FOIA records request and were informed that the wait time for processing a FOIA request is 189 days. USD 501's individual district responses to the Office of Civil Rights 29 specific questions is not a public record and is exempt under KSA 45-221 (11) and (22) and (25).
5. Absent an extensive records and technology search of the district's administrative emails, I am not aware of any "electronic copies of all communications and correspondence (including but not

limited to electronic mail (email), email attachments, texts, letters, memorabilia and other documentation) to or from the Kansas Association of School Boards dated on or after November 5, 2024, that reference treatment of transgender or gender nonconforming students.” Any communication with KASB relating to this topic would come to or from the legal department and I am not aware of any records or communication with KASB on this topic.

6. Absent a detailed research request to the district’s technology department requesting emails from the district’s district leadership staff and 30 building administrators, I am not aware of any “electronic copies of any communications and correspondence (including but not limited to electronic mail (email), email attachments, texts, letters and memoranda, and other documentation) to or from NEA-Topeka, Inc. dated on or after November 5, 2024 that reference treatment of transgender nonconforming students.” Any communication with NEA-Topeka would come to or from the legal department. I am not aware of any communication to or from NEA-Topeka on this topic. However, the district operates 30 school buildings and employs approximately 2,100 employees.
7. Absent a detailed research request to the district’s technology department, I am not aware of any “Electronic copies of all communications and correspondence (including but not limited to electronic mail (email), email attachments, texts, letters, memorabilia, and other documentation) to or from Kansas NEA dated on or after November 5, 2024 that reference treatment of transgender or gender nonconforming students.” Any such communication or documents would generally come through the legal department, and I am not aware of or have any knowledge of any such communications or documents. The district has approximately 2,100 employees in 30 district buildings and any broad search of the district’s email system would require extensive staff time to compile and additional legal time to review any records for redaction and to determine if any Kansas Open Records exemptions apply as noted below.

The Kansas Open Records Act, KSA 45-221, lists 48 categories of exempt public records that are not open to the public. Based on the broad range of records requested in numbers 2, 3, and 4 in September 30, 2025, open records request, USD 501, Topeka Public Schools asserts the following exceptions to the Kansas Open Records Act apply to this extremely broad records request:

KSA 45-221(11) provides that the following records are not open public records: “Records of agencies involved in administrative adjudication or civil litigation, compiled in the process of detecting or investigating violations of civil law or administrative rules and regulations, if disclosure would interfere with a prospective administrative adjudication or civil litigation...”

KSA 45-221(14) provides that the following school district records are not open to the public: “Correspondence between a public agency and a private individual, other than correspondence which is intended to give notice of an action, policy or determination relating to a regulatory, supervisory, or enforcement responsibility of the public agency or which is widely distributed to the public by a public agency and is not specifically in response to communications from such a private individual.”

KSA 45-221(20) provides that the following school district records are not open to the public: “Notes, preliminary drafts, research data in the process of analysis, unfunded grant proposals, memoranda, recommendations or other records in which opinions are expressed or policies or actions are proposed, except that this exemption shall not apply when such records are publicly cited or identified in an open meeting or in an agenda of any open meeting.”

KSA 45-221 (25) exempts school district records that are “Records which represent and constitute the work product of any attorney.”

KSA 45-221 (30) exempts school district records that are “Public records containing information of a personal nature where the public disclosure thereof would constitute a clearly unwarranted invasion of personal privacy.”

USD 501 Topeka Public Schools’ Board Policy addressing open records, Open Records 2485 and Regulation 2485-01 Open Records, reflects Kansas law and allows the district to charge a fee for the staff time and cost of accessing open records and to require the requester pay the fee upfront before the records are searched. KSA 45-219 (a) and (c).

KSA 45-221 requires public agencies to provide requesters with an itemized statement of the costs including the hourly rates charged for the employee providing the records. The Kansas Legislature amended KSA 45-221 in 2025 and added the requirement that if the cost to provide the open records is over \$500.00 or it will take more than 5 hours of work time to provide the records, then the public agency has to make reasonable efforts to contact the requester and discuss how to mitigate the cost to fill the request.

This letter includes the records that are readily available without staff doing detailed research of all the paper and electronic records of its 2100 employees including the administrative staff in its 30 district school buildings. To do a detailed research of the district’s records to answer the broad data requests included in Questions 2, 3, and 4 in this September 30th request, it is estimated to require at least 4 hours of information technology work and 8 hours of legal work to research and review any of the records found to determine if any records need redaction or are exempt under the Kansas Open Records Act. An estimate of the time required to research and review district records is 4 approximately 4 hours of computer staff’s time and 8 hours of legal staff time at the board policy rate of \$60.00 per hour for an estimated cost of \$720.00 to be paid upfront.

Since the estimated time and cost to complete the search for the above requested documents and review them for any redactions and exemptions exceeds 5 hours and \$500.00 the district is willing to discuss whether the research request can be modified to mitigate the cost.

Please call if you have any questions.

A handwritten signature in blue ink that reads 'Donna L. Whiteman'. The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Donna L. Whiteman
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