

State Board of Indigents' Defense Services Open Record Policy

OUR MISSION

The State Board of Indigents' Defense Services (SBIDS) strives to provide effective counsel under the Sixth Amendment and related services to economically disadvantaged people accused or convicted of felonies throughout Kansas.

THE KANSAS OPEN RECORDS ACT K.S.A. 45-215 *et seq.*

The Kansas Open Records Act (Act) provides members of the public a method by which they can access public records at a reasonable cost. A "public record" is recorded information which is made, maintained, kept by, or is in the possession of a public agency. K.S.A. 45-217(g). The Act requires public agencies allow access to public records with certain exceptions. K.S.A. 45-218 & 45-221.

Record requests must be made in writing and a reasonable fee may be assessed. K.S.A. 45-219 and 45-220. The agency must respond to open records requests by the end of the third business day after the request is received. K.S.A. 45-218. If the requested items cannot be immediately provided or access is restricted, the custodian must give an explanation. *Id.* and K.S.A. 45-221. The Act only requires an agency provide records that already exist and does not require the agency to create any documents. K.S.A. 45-221(c); Kan. Att'y Gen. Op. No. 93-126 (1993). Proof of identity and the "requester's right of access to the records" may be required by an agency. K.S.A. 45-220(b).

OPEN RECORDS REQUEST PROCEDURE

Pursuant to K.S.A. 45-220, SBIDS requires that all requests under the Act for case documents be made in writing and include the following:

1. The requester's name
2. The requester's address
3. A description of the requested records
4. The requester's right of access
5. The basis for that right of access.

Case documents will only be released to the relevant client or an attorney representing that client. Requests of this type must include notarized confirmation of the client's agreement to release the documents. K.S.A. 60-426 and K.R.P.C. 1.6.

Requests for documents other than those from a specific case must also be made in writing, but need only include:

1. The requester's name
2. The requester's address
3. A description of the requested records.

Please make record requests specific so the documents can be easily identified. A record request form is available on our website, www.sbids.org. This form is not mandatory, but will help create a complete request which can be quickly acted upon.

FEES UNDER K.S.A. 45-219(c).

Requests under the Act are subject to the fees listed below. Copying charges do not apply to the first 100 pages if the request is made by a Kansas resident and proof of residency is provided. Executive Order 18-05. When a Kansas resident makes a request under the Act, the assessment of copying fees begins to apply with the 101st page.

1. **Physical copies** are \$0.25 per page and a reasonable fee for staff time used to process the request. Mailing is \$0.50 for first 5 pages and \$0.25 for additional 5-page increments.
2. **Electronic Copies** are \$0.12 per page and a reasonable fee for staff time used to process the request. Mailing is determined case-by-case based on the storage medium.
3. **Mailing** is \$0.50 for first 5 pages and \$0.25 for additional 5-page increments.
4. **Faxed Documents** are \$0.65 per 10 pages of faxed material.
5. **Staff time** is charged based on the rate of pay for the individuals that process a request.
The expected fees for most requests are:
 - a. **Clerical time-** \$18 per hour.
 - b. **Attorney review-** \$30 per hour
 - c. **Information Technology Services-** \$38 per hour.

OUR RESPONSE

SBIDS will respond to requests before the end of the third business day after receiving the request. Requests may be denied in whole or in part. Proof of the requester's identity and payment are required before records will be released. In light of its mission to provide effective counsel and its ongoing duty to clients, SBIDS *does not* provide records from cases except to the client or their attorney. K.S.A. 45-220, 45-221(a)(2), (25), (30); K.S.A. 60-426, 60-426a; K.R.P.C. 1.6 & 1.9.

Requests for other documents may require more than two weeks to complete due to the volume of requested records, potential redaction and other considerations. K.S.A. 45-218 and 45-221. Released records may have information removed/redacted due to State or Federal law, the private nature of some information, SBIDS' ongoing duty of confidentiality and evidentiary privilege concerns. K.S.A. 45-221(a)(2), (25), (30); K.S.A. 60-426, 60-426a; K.R.P.C. 1.6 & 1.9. This list includes most but not all of the reasons that information is not released.

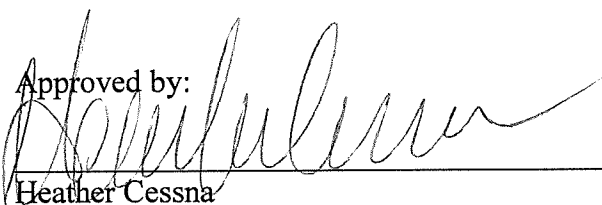
ADMINISTRATIVE CLOSURE

SBIDS will close a request without additional notice if SBIDS has not received a response from the requester and more than thirty (30) days have elapsed from the date the cost estimate was sent. A request will also be closed if, after the request has been responded to by SBIDS, no follow up request for additional information or clarification is made by the requesting party within fourteen (14) days of the response from SBIDS. If a request is closed, it will need to be resubmitted and the process restarts.

MAKING A REQUEST

Open records requests may be emailed to openrecords@sbids.org or mailed to:

Heather Cessna
Executive Director
Kansas State Board of Indigent Defense Services
700 SW Jackson, Suite 500
Topeka, Kansas 66603

Approved by:


Heather Cessna
Executive Director
Kansas State Board of Indigent Defense Services
700 SW Jackson, Suite 500
Topeka, Kansas 66603
www.sbids.org

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