

DATE: January 27, 2020
BULLETIN: 2020-KDCU-CUB-2
TO: Kansas Chartered Credit Unions
SUBJECT: Questions from the Road

QUESTIONS FROM THE ROAD

When KDCU staff members are in credit unions, they often receive questions for which the answers would benefit all Kansas credit unions. Below are some of those questions...

Q: It is hard to get my Board together to sign the Call Report Affidavit. Can I use DocuSign?

A: Yes. KDCU acknowledges the difficulty here and advises that the Affidavit can be sent to your Board and Supervisory Committee for signature via DocuSign. This should make the process more convenient for you and your volunteers.

Q: I have a member scheduled to make monthly payments on a car loan but has been making an extra payment each month for the past six months. I was told that the loan must be designated as current and monitored. Why?

A: Yes, the loan must be marked as current. If not brought current and monitored, the member could potentially stop making payments and not be identified as delinquent until the loan reaches 60 days (or the timeline established by your policy). In reality, it would not have been paid for longer and the member may have skipped town (presumably with the collateral). If your member is six months ahead and then stops making payments, the credit union might not know of the skip for eight months.

Q: During exams, I'm always worried that I won't be able to answer examiner requests in a timely manner and will be in trouble. If the examiners are working in another room, can I place a device outside the door to record their conversations to get a head start? I know Kansas is a "one party" consent state.

A: No. This action could result in a misdemeanor criminal charge being filed against you for breach of privacy. K.S.A. 21-6101(a)(4) prohibits "installing...inside a private place any device for hearing, recording, amplifying or broadcasting sounds originating in such place, which sounds would not ordinarily be audible or comprehensible without the use of such device, without the consent of the person or persons entitled to privacy therein." Kansas is a "one party" state when it comes to telephone conversations, as in only "one person" needs to consent to the recording. K.S.A. 21-6101(a)(1). However, should a credit union adopt a policy of recording conversations, this must be disclosed to everyone entering the branch/business location. KDCU will require the credit union to provide, at the credit union's expense, a copy of the recording(s) and transcript(s) for the dates examiners are on-site.

Q: We use standardized loan forms provided by a credit union vendor. Occasionally, after closing the loan and the member has left, a minor error is found. Is it okay to correct it using white-out, without inconveniencing the member to return?

A: No. Besides being a standard business practice to have both parties initial a change in terms, however minor, it is possible this action will make the loan contract unenforceable. The member may not think the error is "minor" and could allege they would not, and did not, agree to the modification. A quick telephone call to the member to request they sign a new document is better than years of litigation.