

# Kansas Register

Ron Thornburgh, Secretary of State

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## State of Kansas

## Kansas Judicial Council

## Notice of Meetings

The Kansas Judicial Council and its advisory committees will meet according to the following schedule at the Kansas Judicial Center, 301 S.W. 10th Ave., Topeka:

Date	Committee	Time	Location
May 5	Guard. & Conserv.	9:30 a.m.	Court of Appeals Courtroom
May 5	Judicial Council	9:00 a.m.	Room 259
May 12	Probate Law	9:30 a.m.	Room 259
May 12	Municipal Court Manual	9:30 a.m.	Court of Appeals Courtroom
May 19	Estate Tax Apportionment	9:30 a.m.	Room 259
June 2	Guard. & Conserv.	9:30 a.m.	Room 259
June 9	Probate Law	9:30 a.m.	Court of Appeals Courtroom
June 9	Municipal Court Manual	9:30 a.m.	Room 259
June 16	PIK-Criminal	9:30 a.m.	Room 259
July 7	Guard. & Conserv.	9:30 a.m.	Room 259
July 14	Municipal Court Manual	9:30 a.m.	Room 259
July 21	PIK-Criminal	9:30 a.m.	Room 259
August 4	Guard. & Conserv.	9:30 a.m.	Room 259
August 11	Municipal Court Manual	9:30 a.m.	Room 259

Hon. Tyler C. Lockett  
Chair

Doc. No. 025152

## State of Kansas

## Secretary of State

## Code Mortgage Rate for May

Pursuant to the provisions of K.S.A. 1999 Supp. 16a-1-301, Section 11, the code mortgage rate during the period of May 1, 2000 through May 31, 2000, is 13.37 percent.

Ron Thornburgh  
Secretary of State

Doc. No. 025149

## State of Kansas

## Secretary of State

## Usury Rate for May

Pursuant to the provisions of K.S.A. 16-207, the maximum effective rate of interest per annum for notes secured by all real estate mortgages and contracts for deed for real estate (except where the note or contract for deed permits adjustment of the interest rate, the term of the loan or the amortization schedule) executed during the period of May 1, 2000 through May 31, 2000, is 9.87 percent.

Ron Thornburgh  
Secretary of State

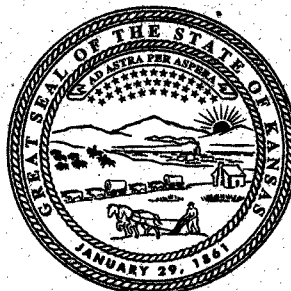
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## State of Kansas

## Kansas, Inc.

## Request for Proposals

Kansas, Inc. is soliciting responses to a request for proposals to engage a contractor to conduct an update of the state's strategic plan for economic development. The RFP can be obtained through written request to Charles R. Ranson, President, Kansas, Inc., 632 S.W. Van Buren, Topeka, 66603, or by calling (785) 296-1460. The RFP and all accompanying documents also are available at <http://www.ink.org/public/ks-inc>. The deadline for submission of proposals is 5 p.m. May 31.

Charles R. Ranson  
President

Doc. No. 025163

## State of Kansas

Department of Administration  
Division of Personnel ServicesNotice of Change in Date of Hearing on  
Proposed Administrative Regulations

The hearing on proposed permanent amendments to K.A.R. 1-9-23 originally scheduled for June 15, notice of which was published in the March 16, 2000 Kansas Register, will be held at 10 a.m. **Thursday, May 18**, in Room 108, Landon State Office Building, 900 S.W. Jackson, Topeka. For additional information, contact the Division of Personnel Services at (785) 296-4863.

Dan Stanley  
Secretary of Administration

Doc. No. 025168

## State of Kansas

## Social and Rehabilitation Services

## Request for Proposals

The Department of Social and Rehabilitation Services announces the release of a request for proposals by the Children and Family Policy Division of a grant to an institution or organization to plan, develop and implement an Early Care and Education Apprenticeship Project to support quality child care in Kansas.

Vendors interested in receiving a request for proposal should contact Marti Malcolm, Procurement Services Unit, Social and Rehabilitation Services, 10th Floor, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612, (785) 296-4295, fax (785) 296-4676, or e-mail: [mlm@srskansas.org](mailto:mlm@srskansas.org). Complete proposals must be received not later than 5 p.m. May 31.

Janet Schalansky  
Secretary of Social and  
Rehabilitation Services

Doc. No. 025162

## State of Kansas

## Kansas Development Finance Authority

## Notice of Hearing

A public hearing will be conducted at 9 a.m. Thursday, May 18, in the conference room in the offices of the Kansas Development Finance Authority, Suite 1000, Jayhawk Tower, 700 S.W. Jackson, Topeka, on the proposal for the Kansas Development Finance Authority to issue its Agricultural Development Revenue Bond for the project numbered below in the respective maximum principal amount. The bond will be issued to assist the respective borrower named below (who will be the owner and operator of the project) to finance the cost in the amount of the bond of acquiring the project or for the purpose of refunding a bond previously issued to finance the project. The project shall be located as shown:

**Project No. 000451, Maximum Principal Amount:**

**\$79,000.** Owner/Operator: Edwin and Shelley Ensz.  
Description: Acquisition of 160 acres of agricultural land and related improvements and equipment to be used by the owner/operator for farming purposes. The project is located at the Southeast Quarter of Section 23, Township 26, Range 35, Kearny County, Kansas, approximately 12 miles east on Highway 160, then 10 miles north, then 1 mile east, then 4 miles north from Ulysses.

The bond, when issued, will be a limited obligation of the Kansas Development Finance Authority and will not constitute a general obligation or indebtedness of the State of Kansas or any political subdivision thereof, including the Authority, nor will it be an indebtedness for which the faith and credit and taxing powers of the State of Kansas are pledged. The bond will be payable solely from amounts received from the respective borrower, the obligation of which will be sufficient to pay the principal of, interest and redemption premium, if any, on the bond when it becomes due.

All individuals who appear at the hearing will be given an opportunity to express their views, and all written comments previously filed with the Authority at its offices at Suite 1000, Jayhawk Tower, 700 S.W. Jackson, Topeka, 66603, will be considered. Additional information regarding the project may be obtained by contacting the Authority.

Any individual affected by the above-described project may, at or prior to the hearing, file a written request with the Authority that a local hearing be held on the proposal to issue a bond to finance said project. A local hearing, if requested, would be conducted in the county where the project in question is located.

Kenneth Frahm  
President

Doc. No. 025151

State of Kansas

Department of Administration  
Division of Purchases

Notice to Bidders

Sealed bids for the following items will be received by the Director of Purchases, Room 102, Landon State Office Building, 900 S.W. Jackson, Topeka, until 2 p.m. on the date indicated and then will be publicly opened. Interested bidders may call (785) 296-2377 for additional information:

Monday, May 15, 2000

01506

Kansas State Fair—Plumbing Maintenance Service Contract

01518

Department of Wildlife and Parks—Construct Buffalo Corral, Canton

Wednesday, May 17, 2000

01513

Statewide—2001 Calendars

01528

Statewide—Basic Clothing

01521

University of Kansas—Concrete Paving

Thursday, May 18, 2000

01536

Department of Wildlife and Parks—Remove and Replace Bridge, Great Bend

Wednesday, May 24, 2000

01520

University of Kansas—Moving Services

01523

Department of Health and Environment—Clemens Coal Reclamation, Phase II, Frontenac

Thursday, May 25, 2000

A-8778

Wichita State University—Wallace Hall Renovation

A-8781

Wichita State University—Ahlberg Hall Renovation

Request for Proposals

Friday, May 19, 2000

01485

Child Care Market Analysis for the Department of Social and Rehabilitation Services

John T. Houlihan  
Director of Purchases

Doc. No. 025164

State of Kansas

Department of Administration  
State Employees Health Care Commission

Notice of Review of Administrative Regulations

As directed by Executive Order 00-03, the Department of Administration and the Kansas State Employees Health Care Commission are conducting a comprehensive review of all rules and regulations of the Department of Administration and the Health Care Commission for the purpose of identifying and eliminating or modifying, as appropriate, those rules and regulations that are outdated, redundant, overly broad, ineffective, unnecessary, cumbersome, irrelevant, or otherwise undesirable or inconsistent with the criteria set forth in Executive Order 00-03.

As a part of this review, the Department of Administration and the Health Care Commission are giving notice of a 30-day public comment period for the purpose of receiving written public comments on the rules and regulations of the department and the commission. The department and the commission are seeking written comments evaluating individual regulations in light of the criteria for regulatory review established by the Executive Order 00-03. Those criteria include the following:

1. **Need.** Is the regulation necessary to comply with the statutes that authorize it? Is the regulation obsolete, duplicative or ambiguous to a degree that warrants repeal or revision? Is the regulation broader than necessary to accomplish its purpose or objective?
2. **Clarity.** Is the regulation written and organized in a clear and concise manner so it can be readily understood by those to whom it applies?
3. **Cost.** Have the benefits of the regulation been considered in relation to its cost? Do the benefits of the regulation exceed the costs of the regulation?
4. **Fairness.** Does the regulation result in equitable treatment of those required to comply with it and those affected by the regulation in other ways?
5. **Effectiveness.** Has the regulation been effective in achieving the purpose for which it was established?

The majority of the Department of Administration's regulations can be found in Volume 1 of the *Kansas Administrative Regulations* and the *1999 Supplement to the Kansas Administrative Regulations*, both published by the Secretary of State. A smaller number of regulations that have been adopted recently are printed in the *Kansas Register*, which is published weekly. Current versions of two of the Health Care Commission's regulations (K.A.R. 108-1-1 and K.A.R. 108-1-2) are found in the *1999 Supplement to the Kansas Administrative Regulations*. A new regulation, K.A.R. 108-1-3, is printed in the *Kansas Register*. An index at the back of each issue identifies the regulations published in the *Kansas Register*, as well as the volume and page number where each regulation can be found. Public libraries should maintain a set of the *Kansas Administrative Regulations* and the *Kansas Register*.

Written comments should specifically identify, by K.A.R. number, each regulation that is the subject of the comments. Any interested party may submit written comments regarding the rules and regulations of either



the Department of Administration or the Kansas State Employees Health Care Commission on or before June 5 to the Secretary of Administration, Room 263-E, State Capitol, 300 S.W. 10th Ave., Topeka, 66612.

Dan Stanley  
Secretary of Administration

Doc. No. 025166

State of Kansas

Department of Health  
and Environment

Notice of Hearing on Proposed  
Administrative Regulations

The Kansas Department of Health and Environment, Center for Health and Environmental Statistics, will conduct a public hearing at 2 p.m. Wednesday, July 12, in Room 108, Landon State Office Building, 900 S.W. Jackson, Topeka, to consider adoption of one permanent amended regulation concerning vital records. This proposed regulation was adopted on a temporary basis April 25, 2000. A summary of the proposed regulation and its economic impact follows.

In its present form, **K.A.R. 28-17-15** recognizes only the use of paper forms with blanks for entering information to establish records of vital events. The proposed amendment would make it possible to apply technological advances in software and computer-controlled printing to simultaneously control record format and enter vital event information to generate complete vital records, in lieu of a less efficient process that requires sources of vital event information to fit and print vital event information within the confines of prescribed locations on blank forms supplied by the agency (Kansas Department of Health and Environment).

**Economic Impact:** Currently more than 60 hospitals and birthing centers (facilities) use software supplied by the agency to capture birth information in electronic files. These facilities must adjust their computers and printers to fit and print required information on blank birth record forms also supplied by the agency. By refining the software to incorporate code that would enable facilities to simultaneously control record format while fitting and printing required information to generate complete computer generated birth records, the agency would realize an estimated annual savings of \$5,469. The estimated annual savings are attributable to avoided costs associated with printing and shipping 92,600 blank forms and providing technical assistance to facilities that continue to encounter problems fitting and printing information on blank forms. Development of modified software to test the concept of complete computer generated birth records involved a one-time outlay of \$6,000.

The time between publication of this notice and the scheduled hearing constitutes a 60-day public comment period for the purpose of receiving written public comments on the proposed regulatory action. Interested parties may submit written comments prior to the hearing to Lorne A. Phillips, Ph.D., State Registrar, Director of the Center for Health and Environmental Statistics, Landon State Office Building, Room 152, 900 S.W. Jackson, To-

peka, 66612-2221. Interested parties will be given a reasonable opportunity to orally present their views of the proposed regulatory action during the hearing. To give all parties an opportunity to present their views, it may be necessary to require each participant to limit any oral presentation to five minutes.

A copy of the proposed amended regulation and the economic impact statement may be obtained by contacting Dr. Phillips at (785) 296-8627. Questions pertaining to the proposed amendment also should be directed to Dr. Phillips.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request a copy of the proposed amended regulation and the economic impact statement in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Dr. Phillips.

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 025161

(Published in the Kansas Register May 4, 2000.)

Heartland Works, Inc.

Request for Applications for WIA-Eligible  
Training Providers

Heartland Works, Inc., serving as the Local Workforce Investment Board of Local Area 11 (17 counties in Northeast Kansas), is accepting applications from training providers seeking placement on the statewide Workforce Investment Act (WIA) List of Eligible Training Providers. Placement on the statewide list allows eligible WIA clients to receive training services from approved providers in the form of an Individual Training Account (ITA). Heartland Works is only accepting applications from training providers located in the following counties: Atchison, Brown, Clay, Doniphan, Douglas, Franklin, Geary, Jackson, Jefferson, Marshall, Nemaha, Osage, Pottawatomie, Riley, Shawnee, Wabaunsee and Washington. Training providers in other counties will have to submit applications to the Local Workforce Investment Board presiding over their areas.

Applications may be submitted at anytime. Effective July 1, WIA clients may only receive training services from organizations on the WIA List of Eligible Training Providers.

To receive a copy of the application, contact Phyllis McCune, Heartland Works, Inc., 1035 S.W. Topeka Blvd., Topeka, 66612, (785) 234-0500, email: phylim@heartlandworks.org, or visit our website at [www.heartlandworks.org](http://www.heartlandworks.org). All interested parties are welcome to apply.

Kris Kitchen  
Executive Director

Doc. No. 025169

## State of Kansas

Department of Health  
and Environment

## Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed Class I air quality operating permit. Gardner Energy Center has applied for a Class I operating permit in accordance with the provisions of K.A.R. 28-19-510 *et seq.* The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance. This Class I permit revokes the Class II operating permit issued by KDHE dated February 17, 1997, and modifies conditions established in the construction permit dated April 16, 1990.

Gardner Energy Center owns and operates a municipal power plant located at 1150 E. Santa Fe St., Gardner.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during the permit application review process is available for a 30-day public review during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the Johnson County Environmental Department, 11180 Thompson Ave., Lenexa. To obtain or review the proposed permit and supporting documentation, contact Alan Brooks, (785) 296-6281, at the KDHE central office, or Mike Boothe, (913) 492-0402, at the Johnson County Environmental Department. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Alan Brooks, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. In order to be considered in formulating a final permit decision, written comments must be received by the close of business June 5.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business June 5 in order for the Secretary of Health and Environment to consider the request.

The United States Environmental Protection Agency has a 45-day review period, which will start concurrently with the 30-day public comment period, within which to object to the proposed permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA to review the permit. The 60-day public petition period will directly follow the EPA 45-day review period. If the EPA waives its 45-day review period, the 60-day public petition period will start directly after the 30-day public comment period. Interested parties may contact KDHE to determine if the EPA's 45-day review period has been waived.

Any such petition shall be based only on objections to the permit that were raised with reasonable specificity

during the public comment period provided for in this notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. Contact Gary Schlicht, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th, Kansas City, KS 66101, (913) 551-7097, to determine when the 45-day EPA review period ends and the 60-day petition period commences.

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 025153

## State of Kansas

Department of Health  
and Environment

## Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality construction permit. The Scoular Company has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 to install a receiving pit and bucket elevator (leg). Emissions of particulate matter were evaluated during the permit review process.

The Scoular Company owns and operates the stationary source located at 3339 E. Country Club Road, Salina, at which the leg and receiving pit are to be installed. With this installation, throughput of grain at the elevator will be limited to 1,500,000 tons per year.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during review of the permit application is available for public inspection for a period of 30 days from the date of publication during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE North Central District Office, 2501 Market Place, Salina. To obtain or review the proposed permit and supporting documentation, contact Gene Sallee, (785) 296-1575, at the KDHE central office, or Joan Ratzlaff, (785) 827-9639, at the KDHE North Central District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Gene Sallee, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. In order to be considered in formulating a final permit decision, written comments must be received by the close of business June 5.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business June 5 in order for the Secretary of Health and Environment to consider the request.

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 025159

## State of Kansas

Department of Health  
and Environment

## Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality operating permit. Haven Steel Products, Inc. has applied for a Class I operating permit in accordance with the provisions of K.A.R. 28-19-510 *et seq.* The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance.

Haven Steel Products, Inc., Homewood, Illinois, owns and operates a fabricated metal product manufacturing facility located at 13206 S. Willison Road, Haven, Kansas.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during the permit application review process is available for a 30-day public review during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE South Central District Office, 130 S. Market, sixth floor, Wichita. To obtain or review the proposed permit and supporting documentation, contact Rasha Allen, (785) 296-1693, at the KDHE central office, or David Butler, (316) 337-6020, at the KDHE South Central District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Rasha Allen, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. In order to be considered in formulating a final permit decision, written comments must be received by the close of business June 5.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business June 5 in order for the Secretary of Health and Environment to consider the request.

The United States Environmental Protection Agency has a 45-day review period, which will start concurrently with the 30-day public comment period, within which to object to the proposed permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA to review the permit. The 60-day public petition period will directly follow the EPA 45-day review period. If the EPA waives its 45-day review period, the 60-day public petition period will start directly after the 30-day public comment period. Interested parties may contact KDHE to determine if the EPA's 45-day review period has been waived.

Any such petition shall be based only on objections to the permit that were raised with reasonable specificity during the public comment period provided for in this

notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless the grounds for such objection arose after such period. Contact Gary Schlicht, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th, Kansas City, KS 66101, (913) 551-7097, to determine when the 45-day EPA review period ends and the 60-day petition period commences.

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 025158

## State of Kansas

Department of Health  
and Environment

## Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality construction permit. Lafarge Corporation has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300 to add screening operations. Emissions of particulate matter (PM) and particulate matter equal to or less than 10 microns in diameter (PM<sub>10</sub>) were evaluated during the permit review process.

Lafarge Corporation, Fredonia, owns and operates the stationary source located at South Cement Road, Fredonia, at which the Lafarge Corporation plans to add a mobile screening plant at the Fredonia plant for screening raw materials such as waste coke and foundry sand.

A copy of the proposed permit, permit application, all supporting documentation and all information relied upon during review of the permit application is available for public inspection for a period of 30 days from the date of publication during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE Southeast District Office, 1500 W. 7th, Chanute. To obtain or review the proposed permit and supporting documentation, contact Herbert Buckland, (785) 296-6438, at the KDHE central office, or Lynelle Stranghoner, (316) 431-2390, at the KDHE Southeast District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Herbert Buckland, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. In order to be considered in formulating a final permit decision, written comments must be received by the close of business June 5.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business June 5 in order for the Secretary of Health and Environment to consider the request.

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 025156

## State of Kansas

## Pooled Money Investment Board

## Notice of Investment Rates

The following rates are published in accordance with K.S.A. 75-4210. These rates and their uses are defined in K.S.A. 1999 Supp. 12-1675(b)(c)(d), and K.S.A. 75-4201(l) and 75-4209(a)(1)(B).

## Effective 5-1-00 through 5-7-00

Term	Rate
1-89 days	6.01%
3 months	6.00%
6 months	6.29%
9 months	6.32%
12 months	6.44%
18 months	6.66%
24 months	6.67%

Derl S. Treff  
Director of Investments

Doc. No. 025147

## State of Kansas

Department of Health  
and EnvironmentNotice Concerning Kansas  
Water Pollution Control Permits

In accordance with Kansas Administrative Regulations 28-16-57 through 63, 28-18-1 through 15, 28-18a-1 through 32, 28-16-150 through 154, 28-46-7, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, draft permits have been prepared and/or permit applications have been received for discharges to the waters of the United States and the State of Kansas for the class of discharges described below. The determinations for permit content are based on staff review, applying the appropriate standards, regulations and effluent limitations of the State of Kansas and the EPA, and when issued will result in a State Water Pollution Control Permit and National Pollutant Discharge Elimination System Authorization subject to certain conditions.

All Kansas Department of Health and Environment district office addresses and telephone numbers are listed below.

Public Notice No. KS-AG-00-106/113  
Pending Permits for Confined Feeding Facilities

Name and Address of Applicant	Legal Description	Receiving Water
Morrison Dairy 16340 W. 207th Spring Hill, KS 66083	SW/4 of Section 8, T15S, R24E, Johnson County	Marais des Cygnes River Basin

Kansas Permit No. A-MCJO-M003

This is a permit renewal for an existing facility for 100 head (100 animal units) of beef cattle weighing more than 700 pounds each and 100 head (50 animal units) of beef cattle weighing less than 700 pounds each.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Waste-

water storage capacity is provided which meets or exceeds KDHE minimum requirements.

Compliance Schedule: The KDHE-Manure/Waste Management Plan form must be completed and submitted to the department within 60 days of the effective date of this permit. If the facility is put back into operation as a dairy, the permittee must notify the department when the change occurs.

Name and Address of Applicant	Legal Description	Receiving Water
Hess Cattle Co Inc 3501 N. Grant Road Scott City, KS 67871	NE/4 of Section 31, T17S, R33W, Scott County	Smokey Hill River Basin

Kansas Permit No. A-SHSC-C002 Federal Permit No. KS-0080624  
This is a permit renewal for an existing facility for 2,500 head (2,500 animal units) of beef cattle.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided which meets or exceeds KDHE minimum requirements.

Compliance Schedule: Existing controls meet KDHE requirements.

Name and Address of Applicant	Legal Description	Receiving Water
Saline - Star Dairy Cattle Dennis Mader HCR 1, Box 78 Collyer, KS 67631	SW/4 of Section 31, T10S, R25W, Graham County	Saline River Basin

Kansas Permit No. A-SAGH-B005

This is a renofication of an expansion of an existing facility from 300 head (150 animal units) to a maximum of 600 head (300 animal units) of beef cattle weighing less than 700 pounds each, and from 52 head (52 animal units) to a maximum of 230 head (230 animal units) of beef cattle weighing greater than 700 pounds each.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided which meets or exceeds KDHE minimum requirements.

Compliance Schedule: The approved waste management plan for the facility will be adhered to as a condition of the permit. Annual application of solids shall be rotated throughout the total acres of available cropland. A pump to dewater the south sedimentation basin shall be obtained within 60 days of the effective date of the permit through purchase or lease agreement.

Name and Address of Applicant	Legal Description	Receiving Water
Binning Ranch Robert W. and Jerry Binning HC 2, Box 11 McDonald, KS 67745	NW/4 of Section 6, T4S, R35W, Rawlins County	Upper Republican River Basin

Kansas Permit No. A-URRA-B006

This is a new facility for a maximum of 975 head (975 animal units) of cattle weighing greater than 700 pounds each.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided which meets or exceeds KDHE minimum requirements.

Compliance Schedule: The approved waste management plan for the facility shall be adhered to as a condition of the permit. Prior to land application of wastewater or manure solids in a sensitive groundwater area, the soil of the receiving land shall be analyzed and soil test results sent to the department within 30 days of the testing. Dewatering equipment shall be obtained within 60 days of the effective date of the permit. The retention structure shall be sealed with bentonite to the maximum waterline elevation.

Name and Address of Applicant	Legal Description	Receiving Water
Grecian Farms Stan Grecian HC 1, Box 17 Palco, KS 67657	NW/4 & SW/4 of Section 2, T10S, R21W, Graham County	Saline River Basin

Kansas Permit No. A-SAGH-H001  
Federal Permit No. KS-0118711

This is a permit modification for an existing facility to reflect operational changes and a revised animal unit and head count due to changes in the law requiring swine less than 55 pounds to be counted as .1 animal units. The facility has a maximum capacity of 3,350 head (1,341.2 animal units) of swine weighing greater than 55 pounds and 1,865 head (186.5 animal units) of swine weighing less than 55 pounds.

**Wastewater Control Facilities:** Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided which meets or exceeds KDHE minimum requirements.

**Compliance Schedule:** The facility shall be constructed, operated and maintained in compliance with the applicable requirements of K.S.A. 65-171d, K.S.A. 65-1,178 through 199 and K.S.A. 2-3318 *et seq.*

Name and Address of Applicant	Legal Description	Receiving Water
Upland Farms Myron Voth 730 Goldenrod Walton, KS 67151	SW/4 of Section 32, T21S, T2E, Marion County	Lower Arkansas River Basin

Kansas Permit No. A-LAMN-M001

This is a permit renewal and modification for an existing facility for 80 head (112 animal units) of lactating dairy cattle, 35 head (17.5 animal units) of dairy calves less than 700 pounds each, and 35 head (35 animal units) of dairy cattle over 700 pounds. An additional lagoon is being added to increase storage capacity.

**Wastewater Control Facilities:** Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided which meets or exceeds KDHE minimum requirements.

**Compliance Schedule:** The approved waste management plan shall be adhered to as a condition of the permit. Permeability tests shall be conducted on the lagoon and test procedures and readings shall be reviewed and approved by the department prior to acceptance. Permeability tests shall be conducted after the soil liners have been compacted and copies of the tests submitted to the department.

Name and Address of Applicant	Legal Description	Receiving Water
Randy White 320 2350 Ave. Solomon, KS 67480	SW/4 of Section 9, T13S, R1E, Dickinson County	Smoky Hill River Basin

Kansas Permit No. A-SHDK-B013

This is a new facility for 950 head (475 animal units) of cattle.

**Wastewater Control Facilities:** Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided which meets or exceeds KDHE minimum requirements.

**Compliance Schedule:** The approved waste management plan shall be adhered to as a condition of the permit. Dewatering equipment shall be obtained by September 1, 2000. A minimum of 10.0 foot separation between the high water table and the bottom of the liner in the proposed structure shall be provided. Two monitoring wells down gradient, and one monitoring well up gradient, shall be constructed to the proposed waste containment structure. Permeability tests shall be conducted on the proposed lagoon. Permeability tests shall be conducted after the soil liners have been compacted. Copies of the tests shall be submitted to the department.

Name and Address of Applicant	Legal Description	Receiving Water
Sam Goering 190 21st Ave. Moundridge, KS 67107	NW/4 of Section 3, T21S, R2W, McPherson County	Little Arkansas River Basin

Kansas Permit No. A-LAMP-S025

This is a permit renewal for an existing facility for a maximum of 2,000 head (800 animal units) of swine weighing more than 55 pounds each.

**Wastewater Control Facilities:** Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity is provided which meets or exceeds KDHE minimum requirements.

**Compliance Schedule:** The livestock waste management plan for the facility shall be modified and submitted to the department by September 1, 2000. The approved plan will become part of the permit.

**Public Notice No. KS-00-095**

Name and Address of Applicant	Waterway	Type of Discharge
Geary County Public Works Department 310 E. 8th St. Junction City, KS 66441	Milford Reservoir	Treated Domestic Wastewater

Facility Name: Geary County Sewer District # 4  
Kansas Permit No. M-LR15-DO04 Federal Permit No. KS0079197  
Legal: SW¼, S11, T11S, R4E, Geary County

**Facility Description:** The proposed action is to reissue an existing permit for the operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, ammonia, fecal coliform, total residual chlorine and pH. Monitoring for effluent flow also will be required. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water quality based.

**Public Notice No. KS-ND-00-015/016**

Name and Address of Applicant	Legal Location	Type of Discharge
Holy-Field Vineyard & Winery Lester Meyer 18807 158th St. Basehor, KS 66007	SE¼, S3, T11S, R22E, Leavenworth County	Nonoverflowing

Kansas Permit No. C-KS04-NO04

**Facility Description:** The proposed action is to issue a new permit for the operation of a new wastewater treatment facility treating primarily domestic wastewater. The facility is a one-cell nondischarging wastewater stabilization lagoon system. Discharge of wastewater from this treatment facility to the surface waters of the State of Kansas is prohibited by this permit. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f).

Name and Address of Applicant	Legal Location	Type of Discharge
Smolan, City of P.O. Box 37 Smolan, KS 67479	NE¼, S19, T15S, R3W, Saline County	Nonoverflowing

Kansas Permit No. M-SH36-NO01

**Facility Description:** The proposed action is to reissue an existing permit for the operation of an existing wastewater treatment facility treating primarily domestic wastewater. The facility is a two-cell nondischarging wastewater stabilization lagoon system. Included in this permit is a schedule of compliance requiring the permittee to obtain the services of a KDHE-certified wastewater treatment plant operator. Discharge of wastewater from this treatment facility to the surface waters of the State of Kansas is prohibited by this permit. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f).

Persons wishing to comment on or object to the draft permits and/or permit applications must submit their comments in writing to the Kansas Department of Health and Environment if they wish to have the comments or objections considered in the decision making process. Comments or objections should be submitted to the attention of Dena Endsley for agricultural permits or applications, or to the permit clerk for all other permits, at  
*(continued)*



the Kansas Department of Health and Environment, Division of Environment, Bureau of Water, J Street and 2 North, Forbes Field, Building 283, Topeka, 66620.

All comments regarding the draft permit or application notice postmarked or received on or before June 3 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate Kansas permit number (KS-AG-00-106/113, KS-00-095, KS-ND-00-015/016) and name of applicant/application as listed when preparing comments.

If no objections are received during the public notice period regarding any proposed permit, the Secretary of Health and Environment will issue the final determination regarding issuance or denial of the proposed permit. If response to this notice indicates significant public interest, a public hearing may be held in conformance with K.A.R. 28-16-61 (28-46-21 for UIC). Media coordination for publication and/or announcement of the public notice or public hearing is handled by the Kansas Department of Health and Environment.

For agricultural permits and applications, a copy of the permit application, supporting documentation, and a KDHE-developed fact sheet, if appropriate, is available for review at the appropriate district office:

- Northwest District Office, 2301 E. 13th, Hays, 67601-2651, (785) 625-5664
- North Central District Office, 2501 Market Place, Salina, 67401-7699, (785) 827-9639
- Northeast District Office, 800 W. 24th, Lawrence,, 66046-4417, (785) 842-4600
- Southwest District Office, 302 W. McArtor Road, Dodge City, 67801-6098, (316) 225-0596
- South Central District Office, 130 S. Market, 6th Floor, Wichita, 67202-3802, (316) 337-6020,
- Southeast District Office, 1500 W. 7th, Chanute, 66720, (316) 431-2390

Plans and documents for all new facilities and for expansions of existing swine facilities also may be reviewed on the Internet at [www.kdhe.state.ks.us](http://www.kdhe.state.ks.us).

For all other proposed permits, the draft permit(s), including proposed effluent limitations and special conditions, fact sheets as appropriate, comments received and other information, are on file and may be inspected at the offices of the Kansas Department of Health and Environment, Bureau of Water.

Division of Environment offices are open from 8 a.m. to 5 p.m. Monday through Friday, excluding holidays. These documents are available upon request at the copying cost assessed by KDHE. Additional copies of this public notice also may be obtained at the Division of Environment.

Clyde D. Graeber  
Secretary of Health  
and Environment

State of Kansas

## State Bank Commissioner

### SPECIAL ORDER 2000-1

This order is hereby issued April 19, 2000, by the Kansas State Bank Commissioner pursuant to K.S.A. 9-1715, as amended.

#### Part I—Definitions

FOR PURPOSES OF THIS ORDER, the following definitions shall apply:

##### "Control" means:

- (A) directly or indirectly owning, controlling or having power to vote 25% or more of any class of the voting shares of a financial subsidiary;
- (B) controlling in any manner the election of a majority of the directors or trustees of the financial subsidiary; or
- (C) otherwise directly or indirectly exercising a controlling influence over the management or policies of the financial subsidiary, as determined by the commissioner.

##### "Financial subsidiary" means:

a subsidiary corporation which is controlled by one or more depository institutions, and whose activities are authorized by the Gramm-Leach-Bliley Act, Public Law 106-102.

#### PART II—National Bank Authority and Competitive Disadvantage

WHEREAS, pursuant to Section 5136A of the Revised Statutes of the United States, 12 U.S.C. §24a, a national bank is permitted to control or hold an interest in a financial subsidiary; and

WHEREAS, pursuant to Section 5136A of the Revised Statutes of the United States, such financial subsidiaries are authorized to engage in certain specified activities; and

WHEREAS, no Kansas law expressly allows a Kansas state bank to control or hold an interest in a financial subsidiary; and

WHEREAS, K.S.A. 9-1715, as amended, grants to the Commissioner "... the power to authorize any or all state banks to engage in any activity in which such banks could engage were they operating as national banks at the time such authority is granted . . ."; and

WHEREAS, the Commissioner deems the issuance of this special order to be reasonably required to preserve the welfare of Kansas state banks and to promote competitive equality between Kansas state banks and Kansas national banks;

#### PART III—Grant of Authority to Kansas State Banks

IT IS THEREFORE ORDERED, that a Kansas state bank may control or hold an interest in a financial subsidiary to engage in any one or more of the following activities, subject to the notification and prior approval provisions of Part IV of this Special Order:

- (a) Lending, exchanging, transferring, investing for others, or safeguarding money or securities;

- (b) Acting as agent or broker for purposes of insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability, death, or providing annuities as agent or broker, subject to the requirements of Chapter 40 of the Kansas statutes and authority of the insurance commissioner;
- (c) Issuing or selling instruments representing interests in pools of assets permissible for a bank to hold directly;
- (d) Operating a travel agency;
- (e) Engaging in any activity that the Board of Governors of the Federal Reserve System has determined, by order or regulation in effect on November 12, 1999, to be so closely related to banking or managing or controlling banks as to be a proper incident thereto; and
- (f) Engaging in any other activities that are permissible for the bank to conduct directly.

**IT IS FURTHER ORDERED**, that notwithstanding the grant of authority in the previous paragraph, a Kansas state bank is prohibited from holding an interest in or controlling a financial subsidiary that engages as principal in any of the following activities:

1. Insuring, guaranteeing, or indemnifying against loss, harm, damage, illness, disability or death, or providing or issuing annuities the income of which is subject to tax treatment under section 72 of the Internal Revenue Code, 26 U.S.C. §72;
2. Real estate development or real estate investment, except as otherwise expressly authorized by Kansas law;
3. Any activity permitted for financial holding companies by section 4(k) (4) (H) or (I) of the Bank Holding Company Act, 12 U.S.C. §1843 (k) (4) (H) and (I).

#### **Part IV—Prior Approval and Notification Procedures**

**IT IS FURTHER ORDERED**, that a Kansas state bank may control or hold an interest in a financial subsidiary that engages in any of the activities in Part III above, or engage in any of those activities in an existing subsidiary, by giving prior written notice to the Commissioner. Such notice shall include the following information, at a minimum:

1. A description of the transactions through which the bank proposes to acquire control of or an interest in the financial subsidiary;
2. The name and head office address of the subsidiary;
3. A description of the current and proposed activities of the financial subsidiary;
4. If the proposal relates to an initial affiliation with a company engaged in insurance activities, a description of the type of insurance activities the company is engaged in or plans to conduct and identification of each state where the company holds an insurance license and the state insurance regulatory authority that issued by license.

**IT IS FURTHER ORDERED**, that a notice filed with the Commissioner will be deemed approved on the 15th calendar day after receipt of a complete notice unless prior to that time the Commissioner notifies the bank that

the notice is approved, that the notice will require additional review, or that the bank is not approved to engage in the proposed activity.

**IT IS FURTHER ORDERED**, that the aggregated consolidated total assets of all financial subsidiaries of a Kansas state bank shall not exceed 45% of the consolidated total assets of the parent bank.

**IT IS FURTHER ORDERED**, that if the Commissioner finds that any financial subsidiary is being operated in an illegal or unsafe and unsound manner, the Commissioner is authorized to order the Kansas state bank to take appropriate remedial action, or divest itself of the financial subsidiary.

**IT IS FURTHER ORDERED**, that the powers and procedures established pursuant to this Order are in addition to the existing authority of Kansas state banks to establish operating subsidiaries that engage in activities that the parent bank could engage in directly, and are also in addition to the existing authority of Kansas state banks to establish or own an interest in other subsidiaries which are specifically authorized by other statutes, regulations, rules or special orders.

Pursuant to K.S.A. 9-1715(b), as amended, the terms of this special order shall become effective the 19th day of April, 2000, and shall remain in full force and effect until amended or revoked by the Commissioner.

**IT IS SO ORDERED.**

#### **SPECIAL ORDER 2000-2**

This order is hereby issued April 20, 2000, by the Kansas State Bank Commissioner pursuant to K.S.A. 9-1715, as amended.

**WHEREAS**, pursuant to 12 U.S.C. §24, Seventh and 12 C.F.R. Part 1, a national bank is permitted to invest in, without limitation, direct obligations of, or obligations which are insured as to principal and interest by, or evidences of indebtedness which are fully collateralized by obligations of:

the Federal Home Loan Banks;  
the Federal National Mortgage Association;  
the Government National Mortgage Association;  
the Federal Home Loan Mortgage Corporation;  
the Student Loan Marketing Association; and  
the Federal Farm Credit Banks; and

**WHEREAS**, no Kansas law expressly provides authority for a Kansas state bank to make such investments without limitation; and

**WHEREAS**, K.S.A. 9-1715, as amended, grants to the Commissioner ". . . the power to authorize any or all state banks to engage in any activity in which such banks could engage were they operating as national banks at the time such authority is granted. . . ."; and

**WHEREAS**, the Commissioner deems the issuance of this special order to be reasonably required to preserve the welfare of Kansas state banks and to promote competitive equality between Kansas state banks and Kansas national banks;

(continued)



IT IS THEREFORE ORDERED, that a Kansas state bank may invest in, without limitation, obligations, of, or obligations which are insured as to principal and interest by, or evidences of indebtedness that are fully collateralized by obligations of:

- the Federal Home Loan Banks;
- the Federal National Mortgage Association;
- the Government National Mortgage Association;
- the Federal Home Loan Mortgage Corporation;
- the Student Loan Marketing Association; and
- the Federal Farm Credit Banks.

Pursuant to K.S.A. 9-1715(b), as amended, the terms of this special order shall become effective the 20th day of April, 2000, and shall remain in full force and effect until amended or revoked by the Commissioner.

IT IS SO ORDERED.

Franklin W. Nelson  
State Bank Commissioner

Doc. No. 025167

(Published in the Kansas Register May 4, 2000.)

**Summary Notice of Bond Sale  
Unified School District No. 231  
Johnson County, Kansas  
\$7,860,000**

**General Obligation School Bonds, Series 2000-B  
(General obligation bonds payable from  
unlimited ad valorem taxes)**

**Sealed Bids**

Subject to the notice of bond sale and preliminary official statement dated April 24, 2000, sealed bids will be received by the clerk of Unified School District No. 231, Johnson County, Kansas (the issuer), on behalf of the governing body at the district office, 314 E. Washington, Gardner, Kansas, until 1 p.m. Monday, May 15, 2000, for the purchase of \$7,860,000 principal amount of General Obligation School Bonds, Series 2000-B. No bid of less than the entire par value of the bonds and accrued interest thereon to the date of delivery will be considered.

**Bond Details**

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. The bonds will initially be registered in the name of Cede & Co., as nominee of the Depository Trust Company, New York, New York, to which payments of principal of and interest on the bonds will be made. Individual purchases of bonds will be made in book-entry form only. Purchasers will not receive certificates representing their interest in bonds purchased. The bonds will be dated June 1, 2000, and will become due on October 1 in the years as follows:

Year	Amount
2003	\$260,000
2004	275,000
2005	295,000
2006	315,000
2007	335,000

2008	350,000
2009	370,000
2010	390,000
2011	410,000
2012	430,000
2013	455,000
2014	480,000
2015	505,000
2016	535,000
2017	565,000
2018	595,000
2019	630,000
2020	665,000

The bonds will be subject to mandatory and optional redemption prior to maturity as provided in the notice of bond sale and preliminary official statement.

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on April 1 and October 1 in each year, beginning April 1, 2001.

**Paying Agent and Bond Registrar**

Kansas State Treasurer, Topeka, Kansas.

**Good Faith Deposit**

Each bid shall be accompanied by a cashier's or certified check or a financial surety bond in the amount of \$157,200 (2 percent of the principal amount of the bonds).

**Delivery**

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder within 45 days after the date of sale.

**Assessed Valuation and Indebtedness**

The total assessed valuation of taxable tangible property in the district for the year 1999 is \$126,681,012. The total general obligation indebtedness of the issuer as of the date of the bonds, including the bonds being sold, is \$52,120,000.

**Approval of Bonds**

The bonds will be sold subject to the legal opinion of Gilmore & Bell, P.C., Kansas City, Missouri, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the issuer and delivered to the successful bidder when the bonds are delivered.

**Additional Information**

Additional information regarding the bonds may be obtained from the clerk, (913) 856-7102, or from the financial advisor, George K. Baum & Company, Kansas City, Missouri, (816) 474-1100.

Dated April 24, 2000:

Unified School District No. 231  
Johnson County, Kansas  
By: Kay Jones, Clerk  
Board of Education

Doc. No. 025165

## State of Kansas

Department of Commerce  
and HousingTemporary Administrative  
RegulationsArticle 6.—HIGH PERFORMANCE INCENTIVE  
PROGRAM

**110-6-1. Clarification of selected criteria for designation of a "qualified firm."** (a) For any firm seeking to qualify a "qualified business facility," as defined in K.S.A. 79-32,154 and amendments thereto, for the high performance incentive program (HPIP), the qualified business facility shall satisfy one of the following conditions:

(1) The standard industrial classification (SIC) code assigned to the facility shall be under a major category of one of the SIC codes that are specified in K.S.A. 74-50,131 and amendments thereto.

(2) The SIC code assigned to the facility may be under any major SIC code, if the facility is a headquarters or back-office operation of a national or multi-national business.

(b) An SIC designation shall be assigned by the secretary of commerce and housing to a qualified business facility, using the SIC code designated for that facility by the Kansas department of human resources when appropriate. The basis for SIC designation shall be the 1987 edition of the "standard industrial classification manual," published by the federal office of management and budget and as in effect on July 1, 1993, which is adopted by reference.

(c)(1) The "measurement period" shall be the four-calendar-quarter interval during which the qualifying criteria in authorizing statutes and related regulations are satisfied. Any workforce training tax credit that is earned, as authorized in K.S.A. 74-50,132, and amendments thereto, shall be based on activities occurring during the measurement period.

(2) The "certification period" shall be the interval during which the qualified firm is eligible to perform the following activities:

(A) Apply to the Kansas department of revenue for a sales tax exemption certificate in connection with "qualified business facility investment," as defined in K.S.A. 79-32,154 and amendments thereto;

(B) capture "qualified business facility investment," in accordance with Kansas department of revenue determinations of eligibility for calculating the investment tax credit authorized in K.S.A. 79-32,160e and amendments thereto;

(C) incur the consulting costs that may be matched on a reimbursement basis from available monies in the "high performance incentive fund," as authorized in K.S.A. 74-50,133 and amendments thereto; and

(D) receive priority consideration for other business assistance programs as authorized in K.S.A. 74-50,133 and amendments thereto.

(3)(A) Except as provided in paragraph c(4) of this regulation, the qualifying firm shall apply for a certification

period after establishment of the measurement period. There shall be the following two kinds of certification periods, depending on the nature of the workforce at the qualified business facility.

(i) For a qualified business facility with a significant history of operations that precede the measurement period, a 12-month certification period shall begin at the option of the qualified firm any time during the calendar quarter following the end of the measurement period.

(ii) For a qualified business facility with no significant operating history before the start of the measurement period, the certification period shall begin at the onset of investment to establish the qualified business facility and shall continue for 12 months after the end of the measurement period.

(B) Except for investment projects that have already begun before the effective date of this regulation, and on which commerce and housing personnel have been working with a business over a substantial period of time, a business that is planning investment in a qualified business facility shall, before committing to the investment, demonstrate knowledge of the HPIP program by submitting a description of its anticipated capital investment project and other information, on a form specified by the secretary. The project description form shall include estimated investment amounts, a projected starting and ending date, information about the current employment level and anticipated net new job creation and job retention, and a statement indicating the HPIP's level of importance in facilitating this investment.

Certification of the qualified business facility shall be contingent on documentation by the business that it has met statutory criteria during the measurement period, but the certification period shall not begin earlier than the date the capital investment project description form is received by the secretary.

Certification of a business not planning capital investment shall occur after other program requirements are satisfied and after the business demonstrates prior knowledge of the program by submitting the form used for description of a capital investment project, completed except for capital investment information.

(4) A determination may be made by the secretary of the department of commerce and housing that it is in the best economic interests of the state to allow certification based on a promise of future performance, rather than historical accomplishments, if justified by the magnitude of potential job creation and investment and by other considerations deemed appropriate in the judgement of the secretary.

(d) All records and documentation used to support a firm's status as qualified shall be subject to audit by the Kansas department of commerce and housing. (Authorized by and implementing K.S.A. 1999 Supp. 74-50,131; effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; amended, T-110-4-25-00, April 25, 2000.)

**110-6-1a. Training and education requirement.** After the "qualified business facility," as defined in K.S.A. 79-32,154 and amendments thereto, of a firm has been "qualified" by meeting the criteria outlined in

(continued)

K.A.R. 110-6-1, that facility shall satisfy a training and education requirement during a measurement, as defined in K.A.R. 110-6-1 (c)(1), before gaining access to program benefits. The training and education requirement shall be met by performance of one of the following activities:

(a) The facility shall participate in the Kansas industrial training, Kansas industrial retraining, or state of Kansas investments in lifelong learning workforce training program, in which the state provides funding to help offset the firm's costs of employee training. Participation in the workforce training program shall be ongoing before the start of the certification period, or, if participation has been terminated, that participation shall have occurred during at least three months of the measurement period.

(b) The firm shall spend at least two percent of its total payroll costs for employee training and education at the facility, exclusive of compensation paid an employee during the receipt of on-the-job training or self-training as defined in K.A.R. 110-6-3. (Authorized by K.S.A. 1999 Supp. 74-50,115 and 74-50,131; implementing K.S.A. 1999 Supp. 74-50,115, 74-50,131, and 74-50,132; effective, T-110-4-25-00, April 25, 2000.)

**110-6-2. Authority for designating a qualified firm.** Each firm designated as a qualified firm in compliance with K.A.R. 110-6-1 shall be certified annually to the department of revenue by the secretary of commerce and housing. (Authorized by and implementing K.S.A. 1999 Supp. 74-50,131; effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; amended, T-110-4-25-00, April 25, 2000.)

**110-6-3. Definitions.** (a) A firm's "average wage for a qualified business facility" shall be computed by dividing total FTE's, as determined under subsection (f) of this regulation, into total payroll costs as defined under subsection (1) of this regulation, which total payroll costs have been paid over the same "measurement period" used under subsection (f) of this regulation to determine the FTE count. Any firm that is seeking to qualify under the wage standard set out in K.S.A. 74-50,131(e) and amendments thereto, shall exclude from the total payroll costs any wage compensation that is paid to anyone at the qualified business facility who has a direct or indirect equity interest in the business enterprise of five percent or more.

(b) "Back-office operation" means the ancillary processing functions that support and may improve operating efficiencies of the primary focus of the business, but that are not of themselves integral and necessary to performing the primary business activities.

(c)(1) "Cash investment" means actual cash outlays to pay for training and education. The definition shall include any expenditure that is eligible under the Kansas industrial training, Kansas industrial retraining, or the state of Kansas investment in lifelong learning workforce training programs. In addition, this definition shall include the wages of employees who are receiving training in a classroom-type setting, but who are not producing marketable product. This definition shall include expenditures for the following:

(A) Instructors' salaries;

(B) travel expenses;

(C) training manuals and textbooks;

(D) supplies, materials, and other expenses related to curriculum planning, development, and implementation;

(E) the wages of any regular employee during the time the employee spends training other employees; and

(F) reimbursement of tuition and other education and training-related expenses to employees for relevant outside course work.

(2) Compensation paid an employee who is receiving on-the-job training shall be specifically excluded from eligibility as cash investment in training and education. Also, costs of self-training during an actual production activity shall be excluded.

(3) Final authority for determining which expenditures constitute a "cash investment" in training and education shall rest with the secretary of the Kansas department of commerce and housing.

(4) Training and education costs covered by monies or grants obtained from state, federal, or other government sponsored workforce training programs shall not be included as a cash investment by the firm.

(d) "Certification period" is defined in K.A.R. 110-6-1(c).

(e) "Commercial customer" means any nongovernmental customer who has been assigned a federal employer identification number (FEIN).

(f) "Full-time-equivalent employees (FTE's)" shall be computed as follows:

(1) For the "measurement period," the number of hours worked by employees who normally work fewer than 40 hours per week shall be totaled and then divided by 2,080 hours.

(2) The result shall be added to the number of employees who normally work 40 or more hours per week.

(3) Calculation of FTE's shall include "leased employees" as defined in subsection (h) of this regulation.

(g) "Headquarters" means a facility where principal officers of the business are housed and from which direction, management, or administrative support of transactions is provided for a business or a division of a business.

(h) "Leased employees," as defined in this regulation, shall be considered employees of the qualifying business for purposes of measuring employee training and determining the number of full-time-equivalent employees at a qualified business facility, in order to calculate an average wage for that worksite.

Leased employees are those employees leased by the qualifying business from another company, or those employees who are engaged by the qualifying business under a personnel services agreement entered into with another company, regardless of whether the companies are related taxpayers as defined in subsection (h) of K.S.A. 79-32,154 and amendments thereto.

Leased employees shall mean employees who fill positions that are one year or longer in duration and whose work duties are directed by the business for which they are producing work product, regardless of the relationship between the business for which they are working and the business for which their wages or salary is issued. If the employee is engaged by the qualifying business through a personnel services agreement with a related

taxpayer, work activities may be directed by the qualifying business or the related taxpayer.

(i) "Measurement period" is defined in K.A.R. 110-6-1(c).

(j) Whether a company qualifies as a "multi-national company" shall be determined by the secretary, when a qualified business facility is attempting to qualify as a headquarters or back-office operation. However, except in unusual circumstances, a multi-national company means a company with at least one worksite in the United States and additional worksites established in one or more countries, with attendant personnel and company-owned or company-leased facilities, equipment, and infrastructure, and does not mean just one or a few worksites in this country that make some international sales.

(k) Whether a company qualifies as a "national company" shall be determined by the secretary, when a qualified business facility is attempting to qualify as a headquarters or back-office operation. However, except in unusual circumstances, a national company means a company having worksites, with attendant personnel and company-owned or company-leased facilities, equipment, infrastructure, and operations covering a broad geographical area encompassing more than half the continental United States, and does not mean just one or a few worksites that make sales across the country.

(l) "Total payroll costs" means the amount reported to the Kansas department of human resources for a qualified business facility as "total wages paid this quarter" on the "employer's quarterly wage report and contribution return" or the "multiple worksite report" for the appropriate "measurement period." Total payroll costs shall include overtime, bonuses, vacation and sick pay, and severance pay and shall be used for purposes of calculating the average wage for a particular qualified business facility.

(m) "Training and education" means an activity for which an employee either is paid to participate or is reimbursed for expenses incurred, or both, and from which the firm expects to derive increased productivity or quality or both.

(n) "Wage standard" means a derivative of the average wage information developed for the Kansas department of commerce and housing for each major two-digit SIC category, using all firms located within a geographical wage area that are required to provide the Kansas department of human resources with an "employer's quarterly wage report and contribution return" or a "multiple worksite report." (Authorized by K.S.A. 1999 Supp. 74-50,131; implementing K.S.A. 1999 Supp. 74-50,131 and 74-50,132; effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; amended, T-110-4-25-00, April 25, 2000.)

**110-6-4. Eligibility and application procedures for the high performance incentive fund.** (a) Each firm that meets the eligibility requirements to be a qualified firm under the high performance incentive program and that meets the program's training requirement shall also be eligible for the high performance incentive fund.

(b) To apply for funds from the high performance incentive fund, each firm shall submit the following information:

(1) The firm name, address, telephone number, and designated contact person;

(2) the name of the consultant and a brief description of the consultant's qualifications;

(3) a short description of how this particular consultant was selected;

(4) disclosure of any financial or legal relationship between the consultant and the company or its principal;

(5) a brief description of the scope of the proposed consulting service, the manner in which appropriate limits for the consulting service were decided upon, the goals that have been targeted, and the benefits that are expected from the consulting activity;

(6) a timetable for completion of consulting services and a date by which realization of the benefits is anticipated; and

(7) a statement of the total cost of the consulting services, the amount of financial assistance being requested from this program, specifics of any funding assistance for consulting or training being received from other state programs, and documentation supporting the requested amount of assistance for spending that occurred during a certification period, as defined in K.A.R. 110-6-1(d)(2).

(c) Each qualified firm shall submit a request for funding from the high performance incentive fund within three years of the end of the certification period in which the eligible expenditures were made, and only for certification periods ending in state fiscal years in which funding for this benefit was appropriated by the legislature.

(d) Funding requests shall be processed in the order received, and reimbursement shall be provided to the extent that funding has been made available to the program through legislative appropriations. In no case shall reimbursement exceed 50% of the eligible expenditures, and an upper limit on the dollar amount of reimbursement for each certification shall be established by the secretary for any state fiscal year in which funding has been appropriated by the legislature.

(e) Records supporting monetary requests shall be subject to audit by the Kansas department of commerce and housing. (Authorized by K.S.A. 1999 Supp. 74-50,131; implementing K.S.A. 1999 Supp. 74-50,131 and 74-50,133; effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; amended, T-110-4-25-00, April 25, 2000.)

**110-6-5. Approval guidelines for private consultants.** Each qualified firm that has satisfied the training requirement shall obtain approval from the secretary of commerce and housing for the consultant used to accelerate the qualified firm's growth. Approval shall be determined by examining materials required to be submitted under subsection (b) of K.A.R. 110-6-4. (Authorized by and implementing K.S.A. 1999 Supp. 74-50,131; effective, T-110-8-17-93, Aug. 17, 1993; effective Nov. 15, 1993; amended, T-110-4-25-00, April 25, 2000.)

Gary Sherrer  
Secretary of Commerce  
and Housing

Doc. No. 025157

## State of Kansas

Department of Health  
and EnvironmentTemporary Administrative  
Regulations

## Article 17.—DIVISION OF VITAL STATISTICS

**28-17-15.** State registrar to prescribe forms. All paper or electronic forms used in registering, recording, and preserving the records shall be prescribed by the department. Each local registration officer shall accept and use only forms prescribed by the state registrar and shall issue out-of-state transit permits only when the proper forms are used and completed. (Authorized by K.S.A. 65-2402; implementing K.S.A. 65-2415; effective Jan. 1, 1966; amended May 1, 1986; amended Oct. 22, 1990; amended, T-28-4-25-00, April 25, 2000.)

Clyde D. Graeber  
Secretary of Health  
and Environment

Doc. No. 025155

## State of Kansas

## Kansas Insurance Department

Permanent Administrative  
Regulations

## Article 3.—FIRE AND CASUALTY INSURANCE

**40-3-27.** (Authorized by K.S.A. 40-103; implementing K.S.A. 40-1113a, 40-928(g); effective Jan. 1, 1968; amended May 1, 1979; amended May 1, 1986; amended May 16, 1997; revoked May 19, 2000.)

Kathleen Sebelius  
Kansas Insurance Commissioner

Doc. No. 025154

## State of Kansas

## Department of Education

Permanent Administrative  
Regulations

## Article 1.—CERTIFICATE REGULATIONS

**91-1-61.** (Authorized by Article 6, Section 2(a) of the Kansas Constitution; effective (temporary) Jan. 8, 1982; (permanent) May 1, 1982; amended (temporary) Dec. 14, 1984; amended (permanent) May 1, 1985; revoked May 19, 2000.)

## Article 12.—SPECIAL EDUCATION

**91-12-22.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended, T-88-40, Oct. 27, 1987; amended May 1, 1988; amended July 1, 1990; amended July 1, 1991; amended Sept. 2, 1991; amended June 1, 1993; amended Feb. 14, 1994; amended March 8, 1996; revoked May 19, 2000.)

**91-12-23.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended, T-87-23, Oct. 1, 1986; amended May 1, 1987; amended, T-88-40, Oct. 27, 1987; amended May 1, 1988; amended July 1, 1990; amended June 29, 1992; amended June 1, 1993; amended Feb. 14, 1994; amended March 13, 1995; revoked May 19, 2000.)

**91-12-24a.** (Authorized by and implementing K.S.A. 72-963; effective July 1, 1989; amended June 1, 1993; revoked May 19, 2000.)

**91-12-25.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended May 1, 1986; amended, T-88-8, March 4, 1987; amended May 1, 1988; amended July 1, 1990; amended Sept. 2, 1991; amended March 13, 1995; revoked May 19, 2000.)

**91-12-27.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended June 1, 1993; revoked May 19, 2000.)

**91-12-28.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended, T-88-40, Oct. 27, 1987; amended May 1, 1988; amended July 1, 1989; amended June 1, 1993; revoked May 19, 2000.)

**91-12-30.** (Authorized by K.S.A. 72-963; implementing K.S.A. 72-963 and K.S.A. 72-970; effective May 1, 1983; amended May 1, 1986; amended June 1, 1993; revoked May 19, 2000.)

**91-12-31.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended May 1, 1984; amended May 1, 1988; revoked May 19, 2000.)

**91-12-32.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended May 1, 1986; amended May 1, 1988; amended July 1, 1990; revoked May 19, 2000.)

**91-12-33.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended June 1, 1993; revoked May 19, 2000.)

**91-12-35.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended March 13, 1995; revoked May 19, 2000.)

**91-12-36.** (Authorized by K.S.A. 72-7514; implementing K.S.A. 72-965, 72-967, K.S.A. 1982 Supp. 72-963; effective May 1, 1983; revoked May 19, 2000.)

**91-12-37.** (Authorized by K.S.A. 72-963; implementing K.S.A. 72-963 and K.S.A. 1991 Supp. 72-978; effective May 1, 1983; amended May 1, 1984; amended June 1, 1993; revoked May 19, 2000.)

**91-12-38.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended July 1, 1990; revoked May 19, 2000.)

**91-12-39.** (Authorized by K.S.A. 1984 Supp. 72-963; implementing K.S.A. 1984 Supp. 72-963, K.S.A. 72-965; effective May 1, 1983; amended May 1, 1984; amended May 1, 1986; revoked May 19, 2000.)

**91-12-40.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended May 1, 1984; amended, T-88-40, Oct. 27, 1987; amended May 1, 1988;



amended July 1, 1990; amended June 1, 1993; revoked May 19, 2000.)

**91-12-41.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended July 1, 1990; amended June 1, 1993; amended March 13, 1995; revoked May 19, 2000.)

**91-12-42.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended July 1, 1990; amended March 13, 1995; revoked May 19, 2000.)

**91-12-44.** (Authorized by K.S.A. 72-963; implementing K.S.A. 72-963 and 72-972; effective May 1, 1983; amended May 1, 1986; amended July 1, 1990; amended June 1, 1993; revoked May 19, 2000.)

**91-12-45.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended Feb. 14, 1994; revoked May 19, 2000.)

**91-12-46.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended Feb. 14, 1994; revoked May 19, 2000.)

**91-12-47.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended June 1, 1993; revoked May 19, 2000.)

**91-12-48.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended, T-87-23, Oct. 1, 1986; amended May 1, 1987; amended Dec. 31, 1990; revoked May 19, 2000.)

**91-12-49.** (Authorized by K.S.A. 72-7514; implementing K.S.A. 72-965, K.S.A. 1982 Supp. 72-963; effective May 1, 1983; revoked May 19, 2000.)

**91-12-50.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended, T-88-40, Oct. 27, 1987; amended May 1, 1988; revoked May 19, 2000.)

**91-12-51.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended May 1, 1985; amended May 1, 1986; amended, T-88-40, Oct. 27, 1987; amended May 1, 1988; amended July 1, 1990; amended Sept. 2, 1991; amended June 1, 1993; amended March 13, 1995; revoked May 19, 2000.)

**91-12-52.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended, T-88-8, March 4, 1987; amended May 1, 1988; amended July 1, 1990; revoked May 19, 2000.)

**91-12-53.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended, T-88-8, March 4, 1987; amended May 1, 1988; amended July 1, 1990; amended June 1, 1993; revoked May 19, 2000.)

**91-12-54.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended, T-88-8, March 4, 1987; amended May 1, 1988; amended July 1, 1990; amended June 1, 1993; amended March 13, 1995; revoked May 19, 2000.)

**91-12-55.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended May 1, 1984;

amended May 1, 1986; amended, T-88-8, March 4, 1987; amended May 1, 1988; amended July 1, 1990; amended June 1, 1993; amended March 8, 1996; revoked May 19, 2000.)

**91-12-56.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended May 1, 1984; amended July 1, 1990; amended March 13, 1995; revoked May 19, 2000.)

**91-12-57.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended May 1, 1984; amended July 1, 1990; revoked May 19, 2000.)

**91-12-58.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended May 1, 1984; amended May 1, 1985; amended May 1, 1986; amended, T-87-23, Oct. 1, 1986; amended May 1, 1987; amended, T-88-8, March 4, 1987; amended May 1, 1988; amended July 1, 1990; revoked May 19, 2000.)

**91-12-59.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended July 1, 1990; amended June 1, 1993; revoked May 19, 2000.)

**91-12-60.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended May 1, 1984; amended May 1, 1986; amended July 1, 1990; amended March 13, 1995; revoked May 19, 2000.)

**91-12-61.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended May 1, 1985; amended May 1, 1986; amended July 1, 1990; amended June 29, 1992; amended June 1, 1993; amended March 8, 1996; revoked May 19, 2000.)

**91-12-62.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended May 1, 1988; amended July 1, 1990; revoked May 19, 2000.)

**91-12-63.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended July 1, 1990; amended Dec. 31, 1990; revoked May 19, 2000.)

**91-12-64.** (Authorized by K.S.A. 72-7514; implementing K.S.A. 72-963, K.S.A. 72-965; effective May 1, 1983; amended June 1, 1993; revoked May 19, 2000.)

**91-12-65.** (Authorized by and implementing K.S.A. 72-963; effective May 1, 1983; amended July 1, 1990; amended June 1, 1993; revoked May 19, 2000.)

**91-12-66.** (Authorized by K.S.A. 72-7514; implementing K.S.A. 72-965, K.S.A. 1982 Supp. 72-963; effective May 1, 1983; revoked May 19, 2000.)

**91-12-67.** (Authorized by K.S.A. 72-7514; implementing K.S.A. 72-965, K.S.A. 1982 Supp. 72-963; effective May 1, 1983; revoked May 19, 2000.)

**91-12-68.** (Authorized by K.S.A. 1983 Supp. 72-963b; implementing K.S.A. 1983 Supp. 72-963a; effective, T-85-23, Aug. 15, 1984; effective May 1, 1985; revoked May 19, 2000.)

**91-12-69.** (Authorized by K.S.A. 1983 Supp. 72-963b; implementing K.S.A. 1983 Supp. 72-973a; effective, T-85-23, Aug. 15, 1984; effective May 1, 1985; revoked May 19, 2000.)

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**91-12-71.** (Authorized by and implementing K.S.A. 72-963; effective, T-86-41, Dec. 11, 1985; effective May 1, 1986; amended Feb. 14, 1994; revoked May 19, 2000.)

**91-12-72.** (Authorized by and implementing K.S.A. 72-963c, as amended by 1987 H.B. 2420, sec. 3; effective, T-86-41, Dec. 11, 1985; effective May 1, 1986; amended, T-88-40, Oct. 27, 1987; amended May 1, 1988; revoked May 19, 2000.)

**91-12-73.** (Authorized by K.S.A. 72-963; implementing K.S.A. 1990 Supp. 72-962 and K.S.A. 72-966; effective July 1, 1990; amended Sept. 2, 1991; revoked May 19, 2000.)

**91-12-74.** (Authorized by and implementing K.S.A. 72-963; effective March 13, 1995; revoked May 19, 2000.)

## Article 22.—PROFESSIONAL PRACTICES COMMISSION

**91-22-1a. Denial, suspension, or revocation of license; public censure; grounds; report.** (a) Any license issued by the state board may be suspended or revoked, or the license holder may be publicly censured by the state board for misconduct or other just cause, including any of the following:

- (1) Conviction of any crime punishable as a felony;
- (2) conviction of any crime involving a minor;
- (3) conviction of any misdemeanor involving theft;
- (4) conviction of any misdemeanor involving drug-related conduct;
- (5) conviction of any act defined in any section of article 36 of chapter 21 of the Kansas statutes annotated;
- (6) conviction of an attempt under K.S.A. 21-3301, and amendments thereto, to commit any act specified in this subsection;
- (7) commission or omission of any act that injures the health or welfare of a minor through physical or sexual abuse or exploitation;
- (8) engaging in any sexual activity with a student;
- (9) breach of an employment contract with an education agency by abandonment of the position;
- (10) conduct resulting in a finding of contempt of court in a child support proceeding;
- (11) entry into a criminal diversion agreement after being charged with any offense or act described in this subsection;
- (12) obtaining, or attempting to obtain, a license by fraudulent means or through misrepresentation of material facts; or
- (13) denial, revocation, cancellation, or suspension of a license in another state on grounds similar to any of the grounds described in this subsection.

(b) A license may be denied by the state board to any person who fails to meet the licensure requirements of the state board or for any act for which a license may be suspended or revoked pursuant to subsection (a).

(c) A certified copy of a journal entry of conviction or other court document indicating that an applicant or license holder has been adjudged guilty of, or has entered a plea of guilty or nolo contendere to, a crime shall be conclusive evidence of the commission of that crime in

any proceeding instituted against the applicant or license holder to deny, suspend, or revoke a license.

(d) In any proceeding instituted against an applicant or license holder to deny, suspend, or revoke a license for conduct described in subsection (a) of this regulation, the fact that the applicant or license holder has appealed a conviction shall not operate to bar or otherwise stay the proceeding concerning denial, suspension, or revocation of the license.

(e) (1) Suspension or revocation of a license shall suspend or revoke all endorsements on the license.

(2) Suspension of a license shall be for a definite period of time. A suspended license shall be automatically reinstated at the end of the suspension period if the license did not expire during the period of suspension. If the license expired during the period of suspension, the individual may make an application for a new license at the end of the suspension period.

(3) Revocation of a license shall be permanent, except as provided in subsection (g) of this regulation.

(f) Any applicant for licensure whose license has been suspended, canceled, revoked, or surrendered in another state shall not be eligible for licensure in Kansas until the applicant is eligible for licensure in the state in which the suspension, cancellation, revocation, or surrender occurred.

(g) (1) Except as provided in K.S.A. 72-1397 and amendments thereto, any person who has been denied a license or who has had a license revoked for conduct described in subsection (a) of this regulation may apply for a license by completing an application for a license and submitting evidence of rehabilitation to the Kansas professional practices commission. The evidence shall demonstrate that the grounds for denial or revocation have ceased to be a factor in the fitness of the person seeking licensure. Factors relevant to a determination as to rehabilitation shall include the following:

(A) The nature and seriousness of the conduct that resulted in the denial or revocation of a license;

(B) the extent to which a license may offer an opportunity to engage in conduct of a similar type that resulted in the denial or revocation;

(C) the present fitness of the person to be a member of the profession;

(D) the actions of the person after the denial or revocation;

(E) the time elapsed since the denial or revocation;

(F) the age and maturity of the person at the time of the conduct resulting in the denial or revocation;

(G) the number of incidents of improper conduct; and

(H) discharge from probation, pardon, or expungement.

(2) A person who has been denied a license or who has had a license revoked for conduct described in subsection (a) of this regulation shall not be eligible to apply for a license until at least five years have elapsed from the date of conviction of the offense or commission of the act or acts resulting in the denial or revocation or, in the case of a person who has entered into a criminal diversion agreement, until the person has satisfied the terms and conditions of the agreement.



(h) Before any license is denied, suspended, or revoked by the state board for any act described in subsection (a) of this regulation, the person shall be given notice and an opportunity for a hearing to be conducted before the professional practices commission in accordance with the provisions of the Kansas administrative procedure act.

(i) The chief administrative officer of a public or private school accredited by the state board shall promptly notify the commissioner of education of the name, address, and license number of any license holder who is dismissed, resigns, or is otherwise separated from employment with a school for any act described in subsection (a) of this regulation. (Authorized by article 6, section 2 of the Kansas Constitution; implementing article 6, section 2 of the Kansas Constitution and K.S.A. 72-8506; effective May 19, 2000.)

**91-22-2. Commission procedure.** (a) A majority of the full membership of the commission shall constitute a quorum for the purpose of conducting business. A majority vote of the full membership of the commission shall be required for the passage of any motion or resolution.

(b) Secretary. Upon receiving a complaint the chairperson shall be notified by the commission's secretary. The chairperson shall determine and give authorization for the secretary to initiate processing procedures. An accurate file of all votes, official acts, and proceedings of the commission shall be kept by the secretary. (Authorized by article 6, section 2 of the Kansas Constitution; implementing article 6, section 2 of the Kansas Constitution and K.S.A. 72-8507; effective Jan. 1, 1972; amended Feb. 15, 1977; amended May 1, 1979; amended May 19, 2000.)

**91-22-3.** (Authorized by K.S.A. 72-8507; effective Jan. 1, 1972; amended May 1, 1979; revoked May 19, 2000.)

**91-22-4. Cases; use of case number and title.** Each matter coming before the commission and requiring a decision by it shall be known as a "case" and shall receive a case number and title descriptive of the subject matter. Each case shall be recorded by the secretary by caption and case number. The case number and title shall be used on all instruments filed in the case and shall appear in all correspondence or communications. (Authorized by article 6, section 2 of the Kansas Constitution; implementing article 6, section 2 of the Kansas Constitution and K.S.A. 72-8507; effective Jan. 1, 1972; amended May 1, 1979; amended May 19, 2000.)

**91-22-5a. Complaints.** (a) The commission, on its own motion, or a member of the teaching or school administration profession may initiate proceedings before the commission by filing a complaint in writing alleging that a license holder or applicant has engaged in any conduct for which a license issued by the state board may be denied, suspended, or revoked under K.A.R. 91-22-1a and amendments thereto. The complaint shall be filed with the commission's secretary.

(b) Each person filing a complaint shall set forth in the complaint the following information:

- (1) The name and address of the complainant;
- (2) the name and last known address of the license holder or applicant charged;

(3) the act or acts for which the license is sought to be denied, suspended, or revoked; and

(4) the relief sought.

The complaint shall be typed, signed, and verified by the complainant or accompanied by an affidavit attesting to the veracity of the contents of the complaint. Written instruments or documents under the control of or known to a complainant that are relevant to the charges shall be attached as exhibits or, if unavailable, referenced in the complaint.

(c) A complaint that does not state a good faith or prima facie case shall be tabled by the commission. The complainant shall be notified in writing of the action. The complainant shall be permitted to withdraw or amend the complaint. If the complainant decides to file an amended complaint, that complaint shall be filed within 10 days after service of the notice of action by the commission.

(d) A complaint or amended complaint that states a good faith cause of action shall be served on the person charged in the complaint by certified mail, return receipt requested.

(e) Surrender of license. A member of the teaching or school administration profession may voluntarily surrender the member's license to the commission. The action of surrender shall be investigated by the commission. A recommendation shall be made by the commission to the state board for disposition of the license.

(f) Complainant motivated by malice. A complainant who is found by the commission to have been maliciously motivated in filing a complaint or to have acted fraudulently may be disciplined by the state board by public censure or by the suspension, cancellation, or revocation of the complainant's license. (Authorized by article 6, section 2 of the Kansas Constitution; implementing article 6, section 2 of the Kansas Constitution and K.S.A. 72-8507; effective May 1, 1979; amended May 19, 2000.)

**91-22-7. Violation of continuing contract laws.** A complaint filed directly with the state board pursuant to K.S.A. 72-1383 or K.S.A. 72-5412, and amendments thereto, alleging that a license holder is in breach of the license holder's employment contract with a local board shall be referred to the commission for investigation, hearing, and the entry of an initial order regarding licensure. If the investigation reveals a settlement provision or liquidated damages clause in local board policy or in the contract of the employee, so that the employee could make a financial settlement to a local district governing authority or be relieved of contractual commitment by other agreed means, the case shall be dismissed by the commission. (Authorized by article 6, section 2 of the Kansas Constitution; implementing article 6, section 2 of the Kansas Constitution and K.S.A. 72-8507; effective Jan. 1, 1972; amended Feb. 15, 1977; amended May 1, 1979; amended May 19, 2000.)

**91-22-8.** (Authorized by K.S.A. 72-8507; effective Jan. 1, 1972; amended May 1, 1979; revoked May 19, 2000.)

**91-22-9. Answer; time to file; form; content; right to amend.** (a) Any person charged in a complaint shall

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have 20 days after receipt of the complaint in which to file an answer. If no answer is filed within the prescribed period, the person shall be deemed to have admitted the allegations contained in the complaint and to have acquiesced in the proposed action. Any answer to a complaint shall be filed with the commission's secretary by certified mail, return receipt requested, or by personal delivery.

(b) Each person filing an answer shall type, sign, and verify the contents of the answer. The caption of any answer shall repeat the caption of the complaint in response to which it is filed, except that the title shall state "answer" instead of "complaint."

(c) Each person filing an answer shall set forth each responsive allegation or defense in clear and concise language and in separately numbered paragraphs. The person filing the answer shall admit or deny each allegation contained in the complaint. If the person is without knowledge or information sufficient to form a belief as to the truth of an allegation, the person shall state this in the answer, and this shall have the effect of a denial. Each person filing an answer shall attach to the answer as exhibits or, if unavailable, shall reference in the answer any written instruments or documents under the control of, or known to, the person filing the answer that are relevant to the charges in the complaint or that the person intends to use in defending the charges.

(d) Any person filing an answer may amend the answer once as a matter of course at any time within 30 days after service of the complaint. Each amended answer shall be filed with the commission's secretary by restricted mail, return receipt requested, or by personal delivery.

(e) Upon application to, and order of, the commission's secretary, the time in which to file an answer may be extended once as a matter of course for a period not to exceed 10 additional days. (Authorized by article 6, section 2 of the Kansas Constitution; implementing article 6, section 2 of the Kansas Constitution and K.S.A. 72-8507; effective Jan. 1, 1972; amended Feb. 15, 1977; amended May 1, 1979; amended May 19, 2000.)

**91-22-10.** (Authorized by K.S.A. 72-8507; effective Jan. 1, 1972; amended Feb. 15, 1977; amended May 1, 1979; revoked May 19, 2000.)

**91-22-11.** (Authorized by K.S.A. 72-8507; effective Jan. 1, 1972; amended May 1, 1979; revoked May 19, 2000.)

**91-22-12.** (Authorized by K.S.A. 72-8507; effective Jan. 1, 1972; amended Feb. 15, 1977; amended May 1, 1979; revoked May 19, 2000.)

**91-22-13.** (Authorized by K.S.A. 72-8507; effective Jan. 1, 1972; amended May 1, 1979; revoked May 19, 2000.)

**91-22-14.** (Authorized by K.S.A. 1971 Supp. 72-8501 et seq.; effective Jan. 1, 1972; revoked May 19, 2000.)

**91-22-15.** (Authorized by K.S.A. 1971 Supp. 72-8501 et seq.; effective Jan. 1, 1972; revoked May 19, 2000.)

**91-22-16.** (Authorized by K.S.A. 72-8507; effective Jan. 1, 1972; amended Feb. 15, 1977; amended May 1, 1979; revoked May 19, 2000.)

**91-22-17.** (Authorized by K.S.A. 72-8507; effective Jan. 1, 1972; amended Feb. 15, 1977; amended May 1, 1978; amended May 1, 1979; revoked May 19, 2000.)

**91-22-18.** (Authorized by K.S.A. 72-8507; effective Jan. 1, 1972; amended May 1, 1979; revoked May 19, 2000.)

**91-22-19. Service of order.** Except as otherwise provided in this article, service of an order, notice, motion, or brief shall be made upon a party in a proceeding before the commission in accordance with K.S.A. 77-531 and amendments thereto. (Authorized by article 6, section 2 of the Kansas Constitution; implementing article 6, section 2 of the Kansas Constitution and K.S.A. 72-8507; effective Jan. 1, 1972; amended May 1, 1979; amended May 19, 2000.)

**91-22-21.** (Authorized by and implementing K.S.A. 1984 Supp. 72-8507; effective Jan. 1, 1972; amended Feb. 15, 1977; amended May 1, 1979; amended May 1, 1982; amended May 1, 1985; revoked May 19, 2000.)

**91-22-22. Hearing procedure.** (a) All hearings before the commission shall be conducted in accordance with the provisions of the Kansas administrative procedure act. The chairperson to the commission, or another member designated by the chairperson, shall serve as the presiding officer.

(b) Continuance; extensions of time and adjournments.

(1) Upon showing good cause in a timely manner, any person having a substantial interest in the outcome of the proceedings shall be entitled to one continuance or extension of time. Additional continuances may be granted by the chairperson. When the commission is not in session or conducting a prehearing or hearing, the interested person shall send a written motion for a continuance or extension of time to the commission's chairperson or secretary. When sending the motion, the interested party shall allow sufficient time to postpone any hearing that has been set.

(2) While the commission is in session and conducting a prehearing or hearing, the presiding officer may entertain oral motions for continuances, extensions of time, and adjournments. Oral motions may be granted or denied by the presiding officer or the commission. (Authorized by article 6, section 2 of the Kansas Constitution; implementing article 6, section 2 of the Kansas Constitution and K.S.A. 72-8506 and 72-8507; effective Jan. 1, 1972; amended Feb. 15, 1977; amended May 1, 1979; amended May 1, 1982; amended May 1, 1985; amended May 19, 2000.)

**91-22-23.** (Authorized by K.S.A. 72-8507; effective Jan. 1, 1972; amended May 1, 1979; revoked May 19, 2000.)

**91-22-24.** (Authorized by and implementing K.S.A. 1984 Supp. 72-8507; effective Jan. 1, 1972; amended May 1, 1979; amended May 1, 1982; amended May 1, 1985; revoked May 19, 2000.)

**91-22-25. Decision of the commission; review by state board.** (a) Following a hearing, an initial order shall be entered by the commission, in accordance with the provisions of the Kansas administrative procedure act,

setting forth its decision and recommended action. The evidence may be deliberated upon by the commission and its decision may be voted upon by the commission in the presence of all parties, or it may recess into executive session to deliberate and then vote upon the matter in open session. The decision in each case shall include a recommended disposition of the case, which may be any of the following:

- (1) Dismissal of the complaint;
- (2) denial, suspension, or revocation of the respondent's license; or
- (3) public censure of the respondent.

(b) The initial order of the commission shall be delivered by the commission's secretary to the commissioner of education, to be placed on the state board's agenda. A final order, in accordance with K.S.A. 77-527 and amendments thereto, shall be made by the state board. (Authorized by article 6, section 2 of the Kansas Constitution; implementing article 6, section 2 of the Kansas Constitution and K.S.A. 72-8507; effective Jan. 1, 1972; amended Feb. 15, 1977; amended May 1, 1979; amended May 19, 2000.)

**91-22-26.** (Authorized by K.S.A. 72-8507; effective Jan. 1, 1972; amended Feb. 15, 1977; amended May 1, 1979; revoked May 19, 2000.)

#### Article 40.—SPECIAL EDUCATION

**91-40-1. Definitions.** Additional definitions of terms concerning student discipline are provided in K.A.R. 91-40-33. (a) "Adapted physical education" means physical education that is modified to accommodate the particular needs of children with disabilities.

(b) "Agency" means boards and state agencies.

(c) "Assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve the functional capabilities of a child with a disability.

(d) "Assistive technology service" means any service that directly assists a child with a disability in the selection, acquisition, or use of an assistive technology device. This term shall include the following:

(1) Evaluating the needs of a child with a disability, including a functional evaluation of the child in the child's customary environment;

(2) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by children with disabilities;

(3) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(4) coordinating and using other therapies, interventions, or services with assistive technology devices, including those associated with existing education and rehabilitation plans and programs;

(5) providing training or technical assistance for a child with a disability or, if appropriate, that child's family; and

(6) providing training or technical assistance for professionals including individuals providing education and rehabilitation services, employers, or other individuals

who provide services to, employ, or are otherwise substantially involved in the major life functions of a child.

(e) "Audiology" means the following:

(1) Identification of children with hearing loss;

(2) determination of the range, nature, and degree of hearing loss, including referral for medical or other professional attention for the habilitation of hearing;

(3) provision of habilitative activities, including language habilitation, auditory training, lip-reading, hearing evaluation, and speech conservation;

(4) creation and administration of programs for prevention of hearing loss;

(5) counseling and guidance of children, parents, and teachers regarding hearing loss; and

(6) determination of children's needs for group and individual amplification, selecting and fitting an appropriate aid, and evaluating the effectiveness of amplification.

(f) "Autism" means a developmental disability significantly affecting verbal and nonverbal communication and social interaction, generally evident before age three but not necessarily so, that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experiences. The term shall not apply if a child's educational performance is adversely affected primarily because the child has an emotional disturbance.

(g) "Blindness" means a visual impairment that requires dependence on tactile and auditory media for learning.

(h) "Board" means the board of education of any school district.

(i) "Business day" means Monday through Friday, except for federal and state holidays unless holidays are specifically included in the designation of business day in a specific regulation.

(j) "Child find activities" means policies and procedures to ensure that all exceptional children, including exceptional children enrolled in private schools, regardless of the severity of any disability, who are in need of special education and related services are identified, located, and evaluated.

(k) "Child with a disability" means the following:

(1) A child evaluated as having mental retardation, a hearing impairment including deafness, a speech or language impairment, a visual impairment including blindness, emotional disturbance, an orthopedic impairment, autism, traumatic brain injury, any other health impairment, a specific learning disability, deaf-blindness, or multiple disabilities and who, by reason thereof, needs special education and related services; and

(2) for children from ages three through nine, a child who is experiencing developmental delays and, by reason thereof, needs special education and related services.

(l) "Consent" means all of the following:

(1) A parent has been fully informed of all information relevant to the activity for which consent is sought, in the parent's native language or other mode of communication.

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(2) A parent understands and agrees in writing to the carrying out of the activity for which consent is sought, and the consent describes that activity and lists the records, if any, that will be released and to whom.

(3) A parent understands that the granting of consent is voluntary on the part of the parent and may be revoked at any time, but if the parent revokes consent, that the revocation is not retroactive and does not negate an action that has occurred after the consent was given and before the consent was revoked.

(m) "Counseling services" means services provided by qualified social workers, psychologists, guidance counselors, or other qualified personnel.

(n) "Day" means a calendar day unless otherwise indicated as business day or school day.

(o) "Deaf-blindness" means the combination of hearing and visual impairments that causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs solely for the hearing impaired or the visually impaired.

(p) "Deafness" means a hearing impairment that is so severe that it impairs a child's ability to process linguistic information through hearing, with or without amplification, and adversely affects the child's educational performance.

(q) "Developmental delay" means such a deviation from average development in one or more of the following developmental areas that special education and related services are required:

- (A) Physical;
- (B) cognitive;
- (C) adaptive behavior;
- (D) communication; or
- (E) social or emotional development.

The deviation from average development shall be documented and measured by appropriate diagnostic instruments and procedures.

(r) "Department" means the state department of education.

(s) "Early childhood disability" means such a delay in one or more developmental areas for children aged five and under that special education and related services are required.

(t) "Early identification and assessment of disabilities" means the implementation of a formal plan for identifying a disability as early as possible in a child's life.

(u) "Educational placement" means the instructional environment in which special education services are provided.

(v) "Emotional disturbance" means a condition exhibiting one or more of the following characteristics over a long period of time and to a marked degree that adversely affects a child's educational performance:

- (1) An inability to learn that cannot be explained by intellectual, sensory, or health factors;
- (2) an inability to build or maintain satisfactory interpersonal relationships with peers and teachers;
- (3) inappropriate types of behavior or feelings under normal circumstances;
- (4) a general pervasive mood of unhappiness or depression; or

(5) a tendency to develop physical symptoms or fears associated with personal or school problems. The term shall include schizophrenia but shall not apply to children who are socially maladjusted, unless it is determined that they have an emotional disturbance.

(w) "Evaluation" means a multisourced and multidisciplinary examination, conducted in accordance with applicable laws and regulations, to determine whether a child is an exceptional child and the nature and extent of the special education and related services that the child needs.

(x) "Exceptional children" means children with disabilities and gifted children.

(y) "Extended school year services" means special education and related services that are provided to a child with a disability under the following conditions:

- (1) Beyond the school term provided to nondisabled children;
- (2) in accordance with the child's IEP; and
- (3) at no cost to the parents of the child.

(z) "Federal law" means the individuals with disabilities education act, as amended, and its implementing regulations.

(aa) "Free appropriate public education" or "FAPE" means special education and related services that meet the following criteria:

- (1) Are provided at public expense, under public supervision and direction, and without charge;
- (2) meet the standards of the state board;
- (3) include an appropriate preschool, elementary, or secondary school education; and
- (4) are provided in conformity with an individualized education program.

(bb) "General curriculum" means the curriculum offered to nondisabled students of a school district.

(cc) "Gifted" means performing or demonstrating the potential for performing at significantly higher levels of accomplishment in one or more academic fields due to intellectual ability, when compared to others of similar age, experience, and environment.

(dd) "Hearing impairment" means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but that does not constitute deafness as defined in this regulation.

(ee) "Homebound instruction" means the delivery of special education and related services in the home of a child with a disability.

(ff) "Hospital instruction" means the delivery of special education and related services to a child with a disability who is confined to a hospital for psychiatric or medical treatment.

(gg) "Independent educational evaluation" means an examination that is obtained by the parent of an exceptional child and is performed by an individual or individuals who are not employed by the local education agency responsible for the education of the child but who meet state and local standards to conduct the examination.

(hh) "Individualized education program" or "IEP" means a written statement for each exceptional child that:

- (1) Describes the unique educational needs of the child and the manner in which those needs are to be met; and

(2) is developed, reviewed, and revised in accordance with applicable laws and regulations.

(ii) "Individualized education program team" or "IEP team" means a group of individuals composed of the following:

(1) The parents of a child;

(2) at least one regular education teacher of the child, if the child is, or may be, participating in the regular education environment;

(3) at least one special education teacher or, if appropriate, at least one special education provider of the child;

(4) a representative of the agency directly involved in providing educational services for the child who meets the following criteria:

(A) Is qualified to provide, or supervise the provision of, specially designed instruction to meet the unique needs of exceptional children;

(B) is knowledgeable about the general curriculum; and

(C) is knowledgeable about the availability of resources of the agency;

(5) an individual who can interpret the instructional implications of evaluation results;

(6) at the discretion of the parent or agency, other individuals who have knowledge or special expertise regarding the child, including related services personnel as appropriate; and

(7) whenever appropriate, the exceptional child.

(jj) "Individualized family service plan" or "IFSP" means a written plan, in accordance with section 1436 of the federal law, for providing early intervention services to an infant or toddler with a disability and the infant's or toddler's family.

(kk) "Infants and toddlers with disabilities" means children from birth through two years of age who have been determined to be eligible for early intervention services under the federal law.

(ll) "Least restrictive environment" or "LRE" means the educational placement in which, to the maximum extent appropriate, children with disabilities are educated with children who are not disabled, with this placement meeting the following criteria:

(1) Determined at least annually;

(2) based upon the student's individualized education program; and

(3) provided as close as possible to the child's home.

(mm) "Material change in service" means an increase or decrease of 25 percent or more of the duration or frequency of a special education service, related service, or supplementary aid or service specified on the IEP of an exceptional child.

(nn) "Medical services" means services provided by a licensed physician to determine a child's medically related disability that results in the child's need for special education and related services.

(oo) "Mental retardation" means significantly subaverage general intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period, that adversely affects a child's educational performance.

(pp) "Multiple disabilities" means coexisting impairments, the combination of which causes such severe educational needs that those needs cannot be accommodated

in special education programs solely for one of the impairments. The term shall not include deaf-blindness.

(qq) "Native language" means the following:

(1) If used with reference to an individual of limited English proficiency, either of the following:

(A) The language normally used by that individual or, in the case of a child, the language normally used by the parents of the child, except as provided in paragraph (1)(B) of this subsection; or

(B) in all direct contact with a child, including evaluation of the child, the language normally used by the child in the home or learning environment.

(2) For an individual with deafness or blindness, or for an individual with no written language, the mode of communication is that normally used by the individual, including sign language, braille, or oral communication.

(rr) "Occupational therapy" means services provided by a qualified occupational therapist and shall include services for the following:

(1) Improving, developing, or restoring functions impaired or lost through illness, injury, or deprivation;

(2) improving the ability to perform tasks for independent functioning if functions are impaired or lost; and

(3) preventing, through early intervention, initial or further impairment or loss of function.

(ss) "Orientation and mobility services" means services provided to blind or visually impaired students by qualified personnel to enable those students to attain systematic orientation to, and safe movement within, their environments at school, at home, and in the community. This term shall include teaching students the following, as appropriate:

(1) Spatial and environmental concepts and use of information received by the senses, including sound, temperature, and vibrations to establish, maintain, or regain orientation and line of travel;

(2) use of the long cane to supplement visual travel skills or to function as a tool for safely negotiating the environment for students with no available travel vision;

(3) the understanding and use of remaining vision and distance low vision aids; and

(4) other concepts, techniques, and tools.

(tt) "Orthopedic impairment" means a severe orthopedic impairment that adversely affects a child's educational performance and includes impairments caused by any of the following:

(1) Congenital anomaly, including clubfoot or the absence of a limb;

(2) disease, including poliomyelitis or bone tuberculosis; or

(3) other causes, including cerebral palsy, amputation; and fractures or burns that cause contractures.

(uu) "Other health impairment" means having limited strength, vitality, or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment and that meets the following criteria:

(1) Is due to chronic or acute health problems, including asthma, attention deficit disorder or attention deficit hyperactivity disorder, diabetes, epilepsy, a heart condi-

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tion, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, and sickle cell anemia; and

(2) adversely affects a child's educational performance.

(vv) "Parent" means any person described in K.S.A. 72-962(m) and amendments thereto.

(ww) "Parent counseling and training" means the following:

(1) Assisting parents in understanding the special needs of their child;

(2) providing parents with information about child development; and

(3) helping parents to acquire the necessary skills that will allow them to support the implementation of their child's IEP or IFSP.

(xx) "Physical education" means the development of the following:

(1) Physical and motor fitness;

(2) fundamental motor skills and patterns; and

(3) skills in aquatics, dance, and individual and group games and sports, including intramural and lifetime sports. The term shall include special physical education, adapted physical education, movement education, and motor development.

(yy) "Physical therapy" means therapy services provided by a qualified physical therapist.

(zz) "Qualified" means being certified, licensed, registered or otherwise authorized by the state to render services in a particular profession or occupation.

(aaa) "Recreation" means leisure education and recreation programs offered in schools and by community agencies. The term shall include assessment of leisure function and therapeutic recreation services.

(bbb) "Rehabilitation counseling services" means services provided by qualified personnel in individual or group sessions that focus specifically on career development, employment preparation, achieving independence, and integration in the workplace and community of a student with a disability. The term shall also include any vocational rehabilitation services provided to a student with a disability under any vocational rehabilitation program funded under the rehabilitation act of 1973, as amended.

(ccc) "Related services" means developmental, corrective, and supportive services that are required to assist an exceptional child to benefit from special education. Related services shall include the following:

(1) Art therapy;

(2) assistive technology devices and services;

(3) audiology;

(4) counseling services;

(5) dance movement therapy;

(6) early identification and assessment of disabilities;

(7) medical services for diagnostic or evaluation purposes;

(8) music therapy;

(9) occupational therapy;

(10) orientation and mobility services;

(11) parent counseling and training;

(12) physical therapy;

(13) recreation, including therapeutic recreation;

(14) rehabilitation counseling services;

(15) school health services;

(16) school psychological services;

(17) school social work services;

(18) special education administration and supervision;

(19) special music education;

(20) speech and language services;

(21) transportation; and

(22) other developmental, corrective or supportive services.

(ddd) "School age" means the following:

(1) For children identified as gifted, having attained the age at which the local board of education provides educational services to children without disabilities, through the school year in which the child graduates from high school; and

(2) for children with disabilities, having attained age three, through the school year in which the child graduates with a regular high school diploma or reaches age 21, whichever occurs first.

(eee) "School day" means any day, including a partial day, that all children, including children with and without disabilities, are in attendance at school for instructional purposes.

(fff) "School health services" means health services provided by a qualified nurse or other qualified person.

(ggg) "School psychological services" means the provision of any of the following services:

(1) Administering psychological and educational tests, and other assessment procedures;

(2) interpreting assessment results;

(3) obtaining, integrating, and interpreting information about child behavior and conditions relating to learning;

(4) consulting with other staff members in planning school programs to meet the special needs of children as indicated by psychological tests;

(5) planning and managing a program of psychological services, including psychological counseling for children and parents; and

(6) assisting in developing positive behavioral intervention strategies.

(hhh) "School social work services" means services provided by a qualified social worker and shall include the provision of any of the following services:

(1) Preparing a social or developmental history on a child with a disability;

(2) group and individual counseling with the child and family;

(3) working in partnership with parents and others on those problems in a child's living situation, at home, at school, and in the community that affect the child's adjustment in school;

(4) mobilizing school and community resources to enable the child to learn as effectively as possible in the child's educational program; and

(5) assisting in developing positive behavioral intervention strategies.

(iii) "Services plan" means a written statement for each child with a disability enrolled in a private school that describes the special education and related services that the child will receive.

(jjj) "Special education" means the following:

(1) Specially designed instruction, at no cost to the parents, to meet the unique needs of an exceptional child, including the following:

(A) Instruction conducted in the classroom, in the home, in hospitals and institutions, and in other settings; and

(B) instruction in physical education;  
 (2) paraeducator services, speech-language pathology services, and any other related service, if it consists of specially designed instruction to meet the unique needs of a child with a disability;

(3) occupational or physical therapy and interpreter services for deaf children if, without any of these services, a child would have to be educated in a more restrictive environment;

(4) travel training; and  
 (5) vocational education.

(kkk) "Specially designed instruction" means adapting, as appropriate to the needs of each exceptional child, the content, methodology, or delivery of instruction for the following purposes:

(1) To address the unique needs of the child that result from the child's exceptionality; and

(2) to ensure access of any child with a disability to the general curriculum, so that the child can meet the educational standards within the jurisdiction of the agency that apply to all children.

(lll) "Specific learning disability" means a disorder in one or more of the basic psychological processes involved in understanding or using language, spoken or written, that may manifest itself in an imperfect ability to listen, think, speak, read, write, spell, or to do mathematical calculations, including perceptual disabilities, brain injury, minimal brain dysfunction, dyslexia, and developmental aphasia. The term shall not include learning problems that are primarily the result of any of the following:

(1) Visual, hearing, or motor disabilities;  
 (2) mental retardation;  
 (3) emotional disturbance; or  
 (4) environmental, cultural, or economic disadvantage.

(mmm) "Speech-language pathology services" means the provision of any of the following services:

(1) Identification of children with speech or language impairments;

(2) diagnosis and appraisal of specific speech or language impairments;

(3) referral for medical or other professional attention necessary for the habilitation of speech or language impairments;

(4) provision of speech and language services for the habilitation or prevention of communicative impairments; and

(5) counseling and guidance of parents, children, and teachers regarding speech and language impairments.

(nnn) "Speech or language impairment" means a communication disorder, including stuttering, impaired articulation, a language impairment, or a voice impairment, that adversely affects a child's educational performance.

(ooo) "State agency" means the secretary of social and rehabilitation services, the secretary of corrections, and the commissioner of juvenile justice.

(ppp) "State board" means the state board of education.

(qqq) "State institution" means any institution under the jurisdiction of a state agency.

(rrr) "Substantial change in placement" means the movement of an exceptional child, for more than 25 percent of the child's school day, from a less restrictive environment to a more restrictive environment or from a more restrictive environment to a less restrictive environment.

(sss) "Supplementary aids and services" means aids, services, and other supports that are provided in regular education classes or other education-related settings to enable children with disabilities to be educated with non-disabled children to the maximum extent appropriate.

(ttt) "Transition services" means a coordinated set of activities for a student with disabilities, designed within an outcome-oriented process, that promotes movement from school to postschool activities, including postsecondary education, vocational training, integrated employment including supported employment, continuing and adult education, adult services, independent living, and community participation. The coordinated set of activities shall be based on the individual student's needs, taking into account the student's preferences and interests, and shall include the following:

(1) Instruction;

(2) related services;

(3) community experiences;

(4) the development of employment and other postschool adult living objectives; and

(5) if appropriate, acquisition of daily living skills and functional vocational evaluation.

(uuu) "Transportation" means the following:

(1) Travel to and from school and between schools;

(2) travel in and around school buildings; and

(3) specialized equipment, including special or adapted buses, lifts, and ramps, if required to provide special transportation for a child with a disability.

(vvv) "Traumatic brain injury" means an acquired injury to the brain, caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects educational performance. The term shall apply to open or closed head injuries resulting in impairments in one or more areas, including the following:

(1) Cognition;

(2) language;

(3) memory;

(4) attention;

(5) reasoning;

(6) abstract thinking;

(7) judgment;

(8) problem solving;

(9) sensory, perceptual, and motor abilities;

(10) psychosocial behavior;

(11) physical functions;

(12) information processing; and

(13) speech.

The term shall not include brain injuries that are congenital or degenerative or that are induced by birth trauma.

(www) "Travel training" means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who re-

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quire this instruction, to enable them to perform the following:

(1) Develop an awareness of the environment in which they live; and

(2) learn the skills necessary to move effectively and safely from place to place within various environments, including at school, home, and work, and in the community.

(xxx) "Visual impairment" means an impairment in vision that, even with correction, adversely affects a child's educational performance. The term shall include both partial sight and blindness.

(yyy) "Vocational education" means any organized educational program that is directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree. (Authorized by and implementing K.S.A. 1999 Supp. 72-963; effective May 19, 2000.)

**91-40-2. FAPE.** (a) (1) Each agency shall provide FAPE in accordance with K.S.A. 72-966 and amendments thereto, and with this article.

(2) Each agency's obligation to provide FAPE shall extend to exceptional children residing on Indian reservations, unless these children are provided FAPE by the secretary of the interior under federal law.

(b)(1) Each agency shall make FAPE available to each child with a disability residing in its jurisdiction beginning not later than the child's third birthday.

(2) An IEP or IFSP shall be in effect by the child's third birthday, but, if that birthday occurs during the summer when school is not in session, the child's IEP team shall determine the date when services will begin.

(3) If a child is transitioning from early intervention services provided under part C of the federal law, the agency responsible for providing FAPE to the child shall participate in transition planning conferences for the child.

(c)(1) Each agency shall make FAPE available to any child with a disability even though the child is advancing from grade to grade.

(2) The determination of whether a child who is advancing from grade to grade is a child with a disability shall be made on an individual basis in accordance with child find activities and evaluation procedures required by this article.

(d) Each agency shall provide services that address all of the special education and related services needs of each exceptional child. The services shall be based upon the child's unique needs and not upon the child's area of exceptionality.

(e) An agency shall not be required to provide FAPE to a student aged 18 through 21 who meets the following criteria:

- (1) Is incarcerated in an adult correctional facility; and
- (2) in the student's last educational placement before incarceration, was not identified as a child with a disability.

(f) (1) An agency shall not be required to provide FAPE to any exceptional child who has graduated from high school with a regular high school diploma.

(2) Each exceptional child shall be eligible for graduation from high school upon successful completion of state and local board requirements and shall receive the same graduation recognition and diploma that a nonexceptional child receives.

(3) The IEP of an exceptional child may designate goals other than high school graduation.

(4) When an exceptional child enters high school, progress toward graduation shall be monitored annually and recorded on an official transcript of credits. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-966; effective May 19, 2000.)

**91-40-3. Ancillary FAPE requirements.** (a) Each agency shall take steps to ensure that children with disabilities have available to them the same variety of educational programs and services that are available to non-disabled children served by the agency, including art, music, industrial arts, consumer and homemaking education, and vocational education.

(b) (1) Each agency shall take steps to provide non-academic and extracurricular services and activities in the manner necessary to afford children with disabilities an equal opportunity for participation in those services and activities.

(2) Nonacademic and extracurricular services and activities shall include the following:

- (A) Counseling services;
- (B) athletics;
- (C) transportation;
- (D) health services;
- (E) recreational activities;
- (F) special interest groups or clubs sponsored by the agency;

(G) referrals to agencies that provide assistance to individuals with disabilities; and

(H) employment of students, including both employment by the agency and assistance in making outside employment available.

(c) (1) Each agency shall make physical education services, specially designed if necessary, available to every child with a disability.

(2) Each child with a disability shall be afforded the opportunity to participate in the regular physical education program available to nondisabled children unless either of the following conditions is met:

- (A) The child is enrolled full-time in a separate facility.
- (B) The child needs specially designed physical education, as prescribed in the child's IEP.

(d) (1) Each agency shall ensure that assistive technology devices or assistive technology services, or both, are made available to a child with a disability if required as a part of the child's special education or related services, or the child's supplementary aids and services.

(2) Each agency, on a case-by-case basis, shall allow the use of school-purchased assistive technology devices in a child's home or in other settings if the child's IEP team determines that the child needs access to those devices at home or in other settings in order to receive FAPE.

(e) (1) Each agency shall ensure that extended school year services are available as necessary to provide FAPE to a child with a disability.

(2) An agency shall be required to provide extended school year services only if a child's IEP team determines, on an individual basis, that the services are necessary for the provision of FAPE to the child.

(3) An agency shall neither limit extended school year services to particular categories of disabilities nor unilaterally limit the type, amount, or duration of those services.

(f) Each agency shall ensure that hearing aids worn by children with hearing impairments or deafness are functioning properly.

(g) Each gifted child shall be permitted to test out of, or work at an individual rate, and receive credit for required or prerequisite courses, or both, at all grade levels, if so specified in that child's individualized education program.

(h) Each gifted child may receive credit for college study at the college or high school level, or both. If a gifted child chooses to receive college credit, however, the student shall be responsible for the college tuition costs. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-966; effective May 19, 2000.)

**91-40-4. FAPE for exceptional children housed and maintained in certain state institutions.** (a) Subject to K.S.A. 72-1046 and amendments thereto, each state agency shall provide FAPE to exceptional children housed and maintained at any facility operated by the agency. All educational programs shall comply with the requirements of state special education laws and regulations.

(b) State schools.

(1) The procedures for placing Kansas residents into the Kansas state school for the blind and the Kansas state school for the deaf shall meet the following requirements:

(A) Admission procedures shall be initiated by the child's home school district and by the child's parent or parents.

(B) Placement of any child in a state school shall be made only after the local school district and the child's parent or parents have considered less restrictive placement options.

(C) Placement shall be based on a child's IEP, which shall indicate a need for educational services provided at the state school.

(D) Any agency may refer a child to a state school for a portion or all of the child's evaluation. In such a case, a representative or representatives from the agency shall be included in any meeting at which the child's eligibility for services or placement is determined.

(E) If the initial evaluation and staffing are conducted by any local school district and if one of the state schools is proposed as a placement for the child, a representative or representatives from the state school shall be included in the meeting at which placement for the child is determined.

(2) Personnel from the child's home school district, as well as personnel from the state school and the child's parent or parents, shall be afforded an opportunity to participate in any IEP meeting for the child. Placement of the child in the home school district shall be considered at each annual IEP meeting.

(3) Each state school shall attempt to make arrangements so that each child enrolled in the state school has access to the educational programs in the local school districts near the location of the school, on either a part-time or full-time basis.

(4) If a state school determines that its program is not appropriate for a student and it can no longer maintain the student in its program, the state school shall give the district of residence of the student at least 15-day notice of this determination.

(c) Unless otherwise expressly authorized by state law, when a student transfers from a state school to a school district or from one school district to another, the most recent individualized education program, as well as any additional educationally relevant information concerning the child, shall be forwarded immediately to the receiving school district.

(d) SRS institutions and facilities.

(1) In accordance with K.S.A. 72-8223 and amendments thereto, and subject to the provisions of K.S.A. 72-970 and 72-1046 and amendments thereto, provision for FAPE shall be made by the secretary of social and rehabilitation services for each exceptional child housed and maintained at any institution or facility under the jurisdiction of the secretary.

(2) The requirements in this article concerning placement and LRE may be modified in accordance with the child's need for maintenance at the state institution or facility. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-966 and 72-970; effective May 19, 2000.)

**91-40-5. FAPE for detained or incarcerated exceptional children.** (a) (1) Local detention facilities. Subject to the provisions of K.S.A. 72-1046 and amendments thereto, each board shall provide FAPE to each child with a disability detained or incarcerated in a local juvenile or adult detention facility located within its jurisdiction.

(2) The requirements in this article concerning placement and LRE may be modified in accordance with the child's detention or incarceration.

(b) State juvenile correctional facilities.

(1) The commissioner of the juvenile justice authority shall make provision for FAPE for each child with a disability detained or incarcerated in any state juvenile correctional facility under the jurisdiction of the commissioner.

(2) The requirements in this article concerning parental rights, placement, and LRE may be modified in accordance with state and federal laws and the child's detention or incarceration.

(c) State adult correctional facilities.

(1) Except as otherwise provided in this regulation, provision for FAPE shall be made by the secretary of corrections for each child with a disability incarcerated in any state correctional institution or facility.

(2) In making provision for FAPE under paragraph (1) of this subsection, compliance with state or federal laws or regulations relating to the following shall not be required of the secretary of corrections:

(A) Participation of children with disabilities in state or local assessments; and

(continued)

(B) transition planning and services with respect to any disabled child whose eligibility for special education services will end, because of the child's age, before the child is eligible to be released from the secretary's custody based on consideration of the child's sentence and eligibility for early release.

(B) Provision of FAPE to any person incarcerated in a state correctional institution or facility shall not be required by the secretary of corrections if the person meets both of the following criteria:

(A) The incarcerated person is at least 18 years of age.

(B) The incarcerated person, in the person's last educational placement prior to incarceration, was not identified as a child with a disability.

(d) (1) Except as otherwise provided in paragraph (2) of this subsection, the IEP team of a child with a disability incarcerated in a state adult correctional institution or facility may modify the child's IEP or placement if personnel of the correctional institution or facility demonstrate a bona fide security or compelling penological interest that cannot otherwise be accommodated.

(2) An IEP team of a child with a disability incarcerated in a state adult correctional institution or facility shall not modify the following requirements:

(A) That any decision regarding modifications to, and reviews and revisions of, any IEP shall be made by the IEP team; and

(B) that, except as otherwise expressly provided in paragraph (c)(2) of this regulation, each IEP shall have the content specified in K.S.A. 72-987 and amendments thereto. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-966; effective May 19, 2000.)

**91-40-7. Child find.** (a) Each board shall adopt and implement policies and procedures to identify, locate, and evaluate all children with exceptionalities residing in its jurisdiction, including children with exceptionalities who meet any of the following criteria:

(1) Attend private schools;

(2) are highly mobile, including migrant and homeless children; or

(3) are suspected of being children with disabilities even though they are advancing from grade to grade.

(b) Each board's policies and procedures under this regulation shall include age-appropriate screening procedures that meet the following requirements:

(1) For children younger than five years of age, observations, instruments, measures, and techniques that disclose any potential disabilities or developmental delays that indicate a need for evaluation, including hearing and vision screening;

(2) for children from ages five through 21, observations, instruments, measures, and techniques that disclose any potential exceptionality and indicate a need for evaluation, including hearing and vision screening as required by state law; and

(3) implementation of procedures ensuring the early identification and assessment of disabilities in children.

(c) (1) A board shall not refer any child for an evaluation who is enrolled in any of the grades kindergarten through 12 until school personnel, including the child's

regular education teacher and special education instructional and related services staff, make one of the following determinations:

(A) Regular education interventions and strategies to address areas of concern, including instructional or environmental modifications, are inadequate to address the areas of concern for the child.

(B) Regular education interventions and strategies to address areas of concern, including instructional or environmental modifications, have been implemented but have been inadequate to address the areas of concern for the child.

(2) A board shall implement regular education interventions and strategies to address areas of concern for a child before referring the child for an evaluation unless one of the following conditions is met:

(A) School personnel can demonstrate that those interventions and strategies are inadequate to address the areas of concern for the child.

(B) The parent of the child requests, and gives written consent for, an evaluation of the child, and the board agrees that an evaluation of the child is appropriate.

(d) Each board, at least annually, shall provide information to the public concerning the availability of special education services for exceptional children, including child find activities conducted by the board. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-966; effective May 19, 2000.)

**91-40-8. Evaluations.** (a) Each agency shall ensure that a full and individual evaluation is conducted for each child being considered for special education and related services to determine the following:

(1) Whether the child is an exceptional child; and

(2) what the educational needs of the child are.

(b) In implementing the requirements of subsection (a) of this regulation, the agency shall ensure that the following conditions are met:

(1) The evaluation is conducted in accordance with the procedures described in K.A.R. 91-40-9.

(2) The results of the evaluation are used by the child's IEP team to develop the child's IEP.

(3) The evaluation is conducted before the initial provision of special education and related services to the child.

(c) If a child is suspected of having a specific learning disability, the agency shall ensure that the evaluation of the child, in addition to meeting the requirements of subsection (b) of this regulation, includes the following:

(1) A determination by the child's evaluation team that the child has been provided with learning experiences appropriate for the child's age and ability levels, but demonstrates a severe discrepancy between achievement and intellectual ability in one or more of the following areas:

(A) Oral expression;

(B) listening comprehension;

(C) written expression;

(D) basic reading skill;

(E) reading comprehension;

(F) mathematics calculation; or

(G) mathematics reasoning; and

(2) a determination by the child's evaluation team that the severe discrepancy between ability and achievement is not primarily the result of any of the following factors:

(A) A visual, hearing, or motor impairment;  
 (B) mental retardation;  
 (C) emotional disturbance; or  
 (D) environmental, cultural, or economic disadvantage.  
 (d) (1) If a child is being evaluated for a specific learning disability, at least one team member other than the child's regular teacher shall observe the child's academic performance in the regular classroom setting, if the child attends school.

(2) In the case of a child younger than school age or out of school, a team member shall observe the child in an environment appropriate for a child of that age.

(e) As a part of an initial evaluation, if appropriate, and as a part of any reevaluation under K.A.R. 91-40-11, each agency shall ensure that members of an appropriate IEP team for the child and other qualified professionals, as appropriate, comply with the following requirements:

(1) The evaluation team shall review existing evaluation data on the child, including the following information:

(A) Evaluations and information provided by the parents of the child;

(B) current classroom-based assessments and observations; and

(C) observations by teachers and related services providers.

(2) On the basis of that review and input from the child's parents, the evaluation team shall identify what additional data, if any, is needed to determine the following matters:

(A) Whether the child has a particular category of exceptionality or, in the case of a reevaluation of a child, whether the child continues to have such an exceptionality;

(B) what the present levels of performance and educational needs of the child are;

(C) whether the child needs special education and related services, or in the case of a reevaluation of a child, whether the child continues to need special education and related services; and

(D) whether, in the case of a reevaluation of the child, any additions or modifications to the special education and related services currently being provided to the child are needed to enable the child to meet the measurable annual goals set out in the IEP of the child and to participate, as appropriate, in the general curriculum.

(f) The team described in subsection (e) of this regulation may conduct its review without a meeting.

(g) (1) If the team described in subsection (e) of this regulation determines that additional data is required to make any of the determinations specified in paragraph (2) of subsection (e), the agency, after giving proper written notice to the parent and obtaining parental consent, shall administer those tests and evaluations that are appropriate to produce the needed data.

(2) If the team described in subsection (e) of this regulation determines that no additional data is needed to make any of the determinations specified in paragraph (2) of subsection (e), the agency shall give written notice to the child's parent of the following information:

(A) The determination that no additional data is needed and the reasons for this determination; and

(B) the right of the parent to request an assessment.

(3) The agency shall not be required to conduct any additional assessments unless requested to do so by the child's parent.

(h) Unless an agency can justify the need for a longer period of time or has obtained written parental consent to an extension of time, the agency shall complete the following activities within 60 school days of the date the agency receives written parental consent for evaluation of a child:

(1) Conduct an evaluation of the child;

(2) conduct a meeting to determine whether the child is an exceptional child and, if so, to develop an IEP for the child. The agency shall give notice of this meeting to the parents as required by K.A.R. 91-40-17(a); and

(3) implement the child's IEP in accordance with K.A.R. 91-40-16.

(i) In complying with subsection (h) of this regulation, each agency shall ensure that an IEP is developed for each exceptional child within 30 days from the date on which the child is determined to need special education and related services. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-966 and 72-986; effective May 19, 2000.)

**91-40-9. Evaluation procedures.** (a) If tests or other assessment instruments are used as a part of the evaluation or reevaluation of an exceptional child, the agency shall ensure that the following requirements are met:

(1) Tests and other assessment instruments or materials shall meet the following criteria:

(A) Be selected and administered so as not to be racially or culturally discriminatory; and

(B) be provided and administered in the child's native language or other mode of communication, unless it is clearly not feasible to do so.

(2) Materials and procedures used to assess a child with limited English proficiency shall be selected and administered to ensure that they measure the extent to which the child has an exceptionality and needs special education, rather than measuring the child's English language skills.

(3) A variety of assessment tools and strategies shall be used to gather relevant functional and developmental information about the child, including information provided by the parent, and information related to enabling the child to be involved and progress in the general curriculum or, for a preschool child, to participate in appropriate activities that may assist in determining whether the child is an exceptional child and the content of the child's IEP.

(4) Any standardized tests that are given to a child shall meet the following criteria:

(A) Have been validated for the specific purpose for which they are used; and

(B) be administered by trained and knowledgeable personnel in accordance with any instructions provided by the producer of the tests.

(5) If an assessment is not conducted under standard conditions, a description of the extent to which it varied from standard conditions shall be included in the evaluation report.

(continued)

(6) Tests and other evaluation materials shall include those that are tailored to assess specific areas of educational need and not merely those that are designed to provide a single general intelligence quotient.

(7) Tests shall be selected and administered to ensure that if a test is administered to a child with impaired sensory, manual, or speaking skills, the test results accurately reflect the child's aptitude or achievement level or whatever other factors the test purports to measure, rather than reflecting the child's impaired sensory, manual, or speaking skills, unless those skills are the factors that the test purports to measure.

(8) A single procedure shall not be used as the sole criterion for determining whether a child is an exceptional child and for determining an appropriate educational program for the child.

(b) (1) Each child shall be assessed in all areas related to a suspected exceptionality, including, if appropriate, the following:

- (A) Health;
- (B) vision;
- (C) hearing;
- (D) social and emotional status;
- (E) general intelligence;
- (F) academic performance;
- (G) communicative status; and
- (H) motor abilities.

(2) Each evaluation shall be sufficiently comprehensive to identify all of the child's special education and related services needs.

(c) (1) Each agency shall use reliable instruments that are designed to assess the relative contribution of cognitive and behavioral factors, in addition to physical or developmental factors.

(2) Each agency shall use assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of the child. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-986; effective May 19, 2000.)

**91-40-10. Eligibility determination.** (a) (1) After completion of appropriate evaluation procedures, a team of qualified professionals and the parent of the child who has been evaluated shall prepare a written evaluation report that includes a statement regarding each of the following matters:

- (A) The determination of whether the child has an exceptionality;
- (B) the basis for making the determination;
- (C) the relevant behavior noted during the observation of the child;
- (D) the relationship of that behavior to the child's academic functioning;
- (E) educationally relevant medical findings, if any;
- (F) if the child was evaluated for a specific learning disability, the determination of whether there is a severe discrepancy between achievement and ability that is not correctable without special education and related services; and
- (G) the determination of the team concerning the effects of environmental, cultural, or economic disadvantage.

(2) Each team member shall certify in writing whether the report reflects the member's conclusion. If it does not

reflect that member's conclusion, the team member may submit a separate statement presenting the member's conclusion.

(b) Each agency shall provide, at no cost, a copy of the evaluation report to the child's parent.

(c) An evaluation team shall not determine a child to be an exceptional child if the determinant factor for that eligibility determination is the child's lack of instruction in reading or mathematics or limited English proficiency, and if the child does not otherwise qualify as a child with an exceptionality.

(d) Each evaluation team, in determining whether a child is an exceptional child and the educational needs of the child, shall meet the following requirements:

(1) The evaluation team shall draw upon information from a variety of sources, including the following:

- (A) Aptitude and achievement tests;
- (B) parent input;
- (C) teacher recommendations;
- (D) physical condition;
- (E) social or cultural background; and
- (F) adaptive behavior.

(2) The evaluation team shall ensure that the information obtained from all of the sources specified in paragraph (1) of this subsection is documented and considered.

(e) (1) Except as provided in paragraph (2) of this subsection, after a child has been determined to be a child with an exceptionality and has been provided special education or related services, an agency shall conduct a reevaluation of the child before terminating special education or related services to the child.

(2) An agency shall not be required to conduct a reevaluation of a child with an exceptionality before terminating special education or related services to the child if the reason for termination of services is due to either of the following:

- (A) The child has graduated from high school with a regular high school diploma.
- (B) The child has reached the age of 21 years.

(f) An agency shall not be required to classify children with disabilities according to their categories of disabilities if each child with a disability is regarded as a child with a disability and is provided FAPE.

(g) With regard to children from ages three through five who are determined to need special education and related services, an agency shall use the term "early childhood disability."

(h) With regard to children ages six through nine who are determined to need special education and related services, an agency may elect to use the term "developmental delay" or one or more of the categories of disabilities described in the definition of the term "child with a disability." (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-986; effective May 19, 2000.)

**91-40-11. Reevaluation.** (a) Each agency shall conduct a reevaluation of each exceptional child at least once every three years and more frequently if conditions warrant a reevaluation.

(b) If a child's parent or teacher requests a reevaluation, the agency shall take one of the following actions:



(1) Comply with the request and conduct the reevaluation; or

(2) refuse to conduct the evaluation and provide written notice of its refusal to the parent, including the reasons for the refusal.

(c) An agency shall conduct each reevaluation in accordance with K.A.R. 91-40-8 and 91-40-9.

(d) Each agency shall ensure that the results of any reevaluation are considered by the child's IEP team in reviewing and, as appropriate, revising the child's IEP. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-986; effective May 19, 2000.)

**91-40-12. Right to independent educational evaluation.** (a) The parents of an exceptional child shall have the right to request an independent educational evaluation of their child at public expense if the parents disagree with the evaluation obtained by the agency.

(b) If a parent requests an independent educational evaluation of the child, the agency, without unnecessary delay, shall take one of the following actions:

(1) Initiate a due process hearing to show that its evaluation is appropriate; or

(2) (A) Provide information to the parent about where an independent educational evaluation may be obtained and the agency criteria prescribed under subsection (g) of this regulation that apply to independent educational evaluations; and

(B) take either of the following actions:

(i) Pay the full cost of the independent educational evaluation or otherwise ensure that the evaluation is provided at no cost to the parent; or

(ii) initiate a due process hearing to show that the evaluation obtained by the parent does not meet agency criteria.

(c) If the agency initiates a hearing and the final decision is that the agency's evaluation is appropriate, the parent still has the right to an independent educational evaluation, but the agency shall not be required to pay the cost of that evaluation.

(d) If a parent requests an independent educational evaluation, the agency may ask the reason for the objection to the public evaluation. However, the explanation by the parent shall not be required, and the agency shall not unreasonably delay either providing the independent educational evaluation at public expense or initiating a due process hearing to defend the public evaluation.

(e) If the parent obtains an independent educational evaluation at private expense, the results of the evaluation shall be considered by the agency, if it meets agency criteria, in any decision made with respect to the provision of FAPE to the child. The results of this evaluation may be presented as evidence at a due process hearing regarding that child.

(f) If a hearing officer requests an independent educational evaluation as part of a hearing, the cost of the evaluation shall be paid by the agency.

(g) (1) Subject to the provisions of paragraph (2) of this subsection, each agency shall adopt criteria for obtaining an independent educational evaluation at public expense. The criteria may include the qualifications of the examiner and the location of the evaluation, but shall not im-

pose other conditions or timelines for obtaining the evaluation.

(2) The criteria adopted by an agency under paragraph (1) of this subsection shall be the same as the criteria that the agency uses when it conducts an evaluation, to the extent that those criteria are consistent with the parents' right to obtain an independent educational evaluation. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-986 and 72-988; effective May 19, 2000.)

**91-40-16. IEP requirements; periodic IEP review.**

(a) Each agency shall be responsible for initiating and conducting meetings to develop, review, and revise the IEP of each exceptional child served by the agency.

(b) Except as otherwise provided in subsection (c), each agency shall ensure that the following conditions are met:

(1) An IEP is in effect before special education and related services are provided to an exceptional child.

(2) Those services to which the parent has granted written consent as specified by law are implemented not later than 10 school days after parental consent is granted unless reasonable justification for a delay can be shown.

(3) An IEP is in effect for each exceptional child at the beginning of each school year.

(4) The child's IEP is accessible to each regular education teacher, special education teacher, related service provider, and other service provider who is responsible for its implementation.

(5) Each teacher and provider described in paragraph (4) of this subsection is informed of the following:

(A) That individual's specific responsibilities related to implementing the child's IEP; and

(B) the specific accommodations, modifications, and supports that must be provided for the child in accordance with the IEP.

(c)(1) If an agency and a child's parents agree, an IFSP that meets the requirements of the federal law and that is developed in accordance with this article may serve as the IEP of a child with a disability who is two years old but will reach three years of age during the next school year or who is three, four, or five years of age.

(2) Before using an IFSP as an IEP, each agency shall meet the following requirements:

(A) The agency shall provide to the child's parents a detailed explanation of the differences between an IFSP and an IEP.

(B) If the parent chooses an IFSP, the agency shall obtain written consent from the parents for use of the IFSP as the child's IEP.

(d) Each agency shall ensure that the IEP team of each exceptional child takes the following actions:

(1) Reviews the child's IEP periodically, but not less than annually, to determine whether the annual goals for the child are being achieved; and

(2) revises the IEP, as appropriate, to address the following:

(A) Any lack of expected progress toward the annual goals described in the child's IEP or lack of progress in the general curriculum, if appropriate;

(B) the results of any reevaluation;

(continued)

(C) information about the child provided to, or by, the parents;

(D) the child's anticipated needs; or

(E) other matters. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-987; effective May 19, 2000.)

**91-40-17. IEP team participants.** (a) Each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each IEP meeting or are afforded the opportunity to participate. These steps shall include the following:

(1) Scheduling each meeting at a mutually agreed-upon time and place and informing the parents of the information specified in subsection (b) of this section;

(2) except as otherwise provided in K.A.R. 91-40-37, providing written notice, in conformance with subsection (b) of this regulation, to the parents of any meeting at least 10 days in advance of the meeting;

(b) The notice required in subsection (a) of this regulation shall meet the following requirements:

(1) The notice shall indicate the purpose, time, and location of the meeting and the titles or positions of the persons who will attend on behalf of the agency, including, if appropriate, any other agency invited to send a representative to discuss needed transition services.

(2) The notice also shall indicate, if a purpose is to consider transition services, that the agency shall invite the parents' child to attend.

(3) The notice also shall inform the parents of their right to invite to the IEP meeting individuals whom the parents believe to have knowledge or special expertise about their child.

(c) If neither parent of an exceptional child can be physically present for an IEP meeting for the child, the agency shall attempt other measures to ensure parental participation, including individual or conference telephone calls.

(d) An agency shall take action to ensure that parents understand the discussions that occur at IEP meetings, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

(e)(1) An agency may conduct an IEP meeting without parental participation if the agency, despite repeated attempts, has been unable to contact the parents or to convince the parents that they should participate.

(2) If an agency conducts an IEP meeting without parental participation, the agency shall have a record of the attempts that the agency made to contact the parents to provide them notice of the meeting and to secure the parents' participation. The record shall include at least two of the following:

(A) Detailed records of telephone calls made or attempted, including the date, time, and person making the calls and the results of the calls;

(B) detailed records of visits made to the parents' home or homes, including the date, time, and person making the visit and the results of the visit;

(C) copies of correspondence sent to the parents and any responses received; and

(D) detailed records of any other method attempted to contact the parents and the results of that attempt.

(f)(1) An agency shall invite an exceptional child, regardless of the child's age, to attend any IEP meeting for the child if a purpose of the meeting is consideration of the child's transition services needs, the child's needed transition services, or both.

(2) If the exceptional child does not attend the IEP meeting, an agency shall take other steps to ensure that the child's preferences and interests are considered.

(g)(1) If a purpose of any IEP meeting for an exceptional child is consideration of the child's needed transition services, the agency shall invite a representative of any other agency that is likely to be responsible for providing or paying for transition services.

(2) If an agency invited to send a representative to an IEP meeting does not do so, the agency responsible for the IEP meeting shall take other steps to obtain participation of the other agency in the planning of any transition services.

(h) A regular education teacher of an exceptional child, as a member of an IEP team, shall participate to the extent appropriate in the development, review, and revision of the child's IEP. This participation shall include assisting in making the following determinations:

(1) The appropriate positive behavioral interventions and strategies for the child;

(2) the supplementary aids and services needed by the child; and

(3) the program modifications or supports for school personnel that will be provided to assist the child.

(i) If qualified to do so, an agency member of the IEP team may serve in the role of two or more required members of a child's IEP team.

(j) In asking individuals with knowledge or special expertise about a child to be members of the child's IEP team, the party asking the person to participate shall have the sole discretion in determining whether the invited person has knowledge or special expertise regarding the child. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-987; effective May 19, 2000.)

**91-40-18. IEP development and content.** (a) In developing or reviewing the IEP of any exceptional child, each agency shall comply with the requirements of K.S.A. 72-987 and amendments thereto.

(b) If, as a result of its consideration of the special factors described in K.S.A. 72-987(c) and amendments thereto, an IEP team determines that a child needs behavioral interventions and strategies, accommodations, assistive technology devices or services, or other program modifications for the child to receive FAPE, the IEP team shall include those items in the child's IEP.

(c) Each agency shall ensure that the IEP of each exceptional child includes the information required by K.S.A. 72-987(b) and amendments thereto.

(d) At least one year before an exceptional child reaches 18 years of age, the agency providing services to the child shall ensure that the child's IEP includes a statement the student has been informed of rights provided in the federal law, if any, that will transfer to the child on reaching 18 years of age. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-987; effective May 19, 2000.)



**91-40-19. IEP liability.** (a) Each agency, teacher, and related services provider shall provide special education and related services to an exceptional child in accordance with the child's IEP and shall make a good faith effort to assist the child to achieve the goals and objectives stated in the IEP.

(b) An agency, teacher, or related services provider that complies with subsection (a) of this regulation shall not be held liable or accountable if a child does not achieve the growth projected in the goals and objectives stated in the child's IEP.

(c) Nothing in this regulation shall limit a parent's right to ask for revisions of the child's IEP or to invoke due process procedures if the parent believes that the efforts required in subsection (a) of this regulation are not being made. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-987; effective May 19, 2000.)

**91-40-21. Educational placement.** (a) Each agency shall ensure that children with disabilities served by the agency are educated in the LRE.

(b) Each agency shall ensure that a continuum of alternative educational placements is available to meet the needs of children with disabilities. These alternative educational placements shall meet the following criteria:

(1) Include instruction in regular classes, special classes, and special schools; instruction in a child's home; and instruction in hospitals and other institutions; and

(2) make provision for supplementary services, including resource room and itinerant services, to be provided in conjunction with regular class placement.

(c) In determining the educational placement of a child with a disability, including a preschool child with a disability, each agency shall ensure that the placement decision meets the following requirements:

(1) The decision shall be made by a group of persons, including the parents and other persons knowledgeable about the child, the meaning of the evaluation data, and the placement options.

(2) The decision shall be made in conformity with the requirement of providing services in the LRE.

(d)(1) Each agency shall give notice to the parents of any meeting to discuss the educational placement of their child. The notice shall comply with the requirements of subsections (a) and (b) of K.A.R. 91-40-17.

(2) An agency may conduct a meeting to determine the appropriate educational placement of a child with a disability without participation of the child's parents if the agency, despite repeated attempts, has been unable to contact the parents or to convince the parents that they should participate.

(3) If an agency conducts a meeting to determine the appropriate educational placement of a child without the participation of the child's parents, the agency shall have a record, as prescribed in K.A.R. 91-40-17(e)(2), of the attempts that the agency made to contact the parents.

(4) An agency shall take action to ensure that parents understand, and are able to participate in, any discussions concerning the educational placement of their child, including arranging for an interpreter for parents who are deaf or whose native language is other than English.

(e) Each agency shall ensure that each child's placement meets the following criteria:

(1) Is determined at least annually;

(2) is based on the child's IEP; and

(3) is as close as possible to the child's home.

(f) Unless the IEP of a child requires some other arrangement, the agency shall ensure that the child is educated in the school that the child would attend if non-disabled.

(g) In selecting the LRE, the persons making the educational placement decision shall give consideration to any potential harmful effect on the child or on the quality of services that the child needs.

(h) An agency shall not remove a child with a disability from education in age-appropriate regular classrooms solely because of needed modifications in the general curriculum.

(i) In providing, or arranging for the provision of, non-academic and extracurricular services and activities, including meals, recess periods, and other nonacademic services and activities, each agency shall ensure that each child with a disability participates with nondisabled children in those services and activities to the maximum extent appropriate to the needs of that child.

(j) If it is determined that the placement in a public or private residential program is necessary to provide FAPE to a child with a disability, the agency shall provide for the program, including nonmedical care and room and board, at no cost to the parents of the child.

(k) Each agency that operates any separate facility for the education of children with disabilities shall ensure that the facility meets the following requirements:

(1) Each facility shall be comparable to those operated for nonexceptional children.

(2) Each facility shall be appropriate to the chronological ages of the students and the instructional program being provided. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-976; effective May 19, 2000.)

**91-40-22. Agency placement in private schools or facilities.** (a)(1) If an agency places a child with a disability in a private school or facility as a means of providing FAPE to the child, the agency shall remain responsible for ensuring that the child is provided the special education and related services specified in the child's IEP and that those services are provided at no cost to the child's parents.

(2) The agency also shall ensure that the child is provided an education that meets the standards that apply to other children with disabilities and that the child, and the child's parents, are afforded the same rights that other children with disabilities and their parents are afforded.

(b)(1) Before an agency places a child with a disability in a private school or facility, the agency shall initiate and conduct a meeting to develop an IEP for the child.

(2) The agency shall ensure that a representative of the private school or facility attends the meeting. If a representative cannot attend, the agency shall use other methods to ensure participation by the private school or facility, including individual or conference telephone calls.

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(c)(1) After a child with a disability enters a private school or facility, the agency responsible for providing FAPE to the child may allow any meetings to review and revise the child's IEP to be initiated and conducted by the private school or facility.

(2) If the private school or facility initiates and conducts these meetings, the agency shall ensure that the parents and an agency representative are involved in any decision about the child's IEP and shall agree to any proposed changes in the IEP before those changes are implemented. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-966 and 72-976; effective May 19, 2000.)

**91-40-24. Educational advocates.** (a) (1) Before taking any special education action in regard to any child, an agency shall attempt to identify the parents of the child and the parents' current whereabouts.

(2) If the parental rights of the parents of an exceptional child have been severed, the secretary of social and rehabilitation services or the secretary's designee shall notify the state board or its designee of this fact and request the appointment of an educational advocate for the child.

(3) If the identity of the parent or the parent's current whereabouts cannot be determined, the agency shall take the following action:

(A) Request that proceedings be initiated, pursuant to the Kansas code for the care of children, to determine whether the child is a child in need of care; and

(B) notify the state board or its designee, within three business days, of the agency's determination and request the appointment of an educational advocate for the child.

(b) Within three business days of receiving a request for the appointment of an educational advocate, the agency making the request shall be notified by the state board or its designee of the name, address, and telephone number of the person appointed to serve as the child's educational advocate.

(c) Each person appointed as an educational advocate shall meet the following requirements:

(1) Be at least 18 years of age;

(2) have completed a training program offered or approved by the state board concerning the powers, duties, and functions of an educational advocate;

(3) not be an employee of the state board or any agency that is involved in the education or care of the child; and

(4) have no interest that conflicts with the interest of any child whom the person represents.

(d) (1) A person who is an employee of a nonpublic agency that provides only noneducational care for the child and who meets the requirements of subsection (c) of this regulation may be appointed as an educational advocate.

(2) A person who otherwise qualifies to be an educational advocate shall not be considered an employee of an agency solely because that person is paid by the agency to serve as an educational advocate.

(e) Any person appointed as an educational advocate shall perform the following duties:

(1) Assert the child's rights in the education and decision-making process, including the identification, evaluation, and placement of the child;

(2) comply with applicable confidentiality requirements imposed by state and federal law;

(3) participate in the development of the child's individualized education program; and

(4) exercise all the rights given to parents under the special education for exceptional children act. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-963c; effective May 19, 2000.)

**91-40-25. Opportunity to examine records and participate in meetings.** (a) Each agency shall allow the parents of an exceptional child an opportunity to inspect and review all education records and participate in any meeting concerning their child with respect to the following:

(1) The identification, evaluation, or education placement of the child; and

(2) the provision of FAPE to the child.

(b) Each agency shall take steps to ensure that one or both of the parents of an exceptional child are present at each meeting concerning their child or are afforded the opportunity to participate. These steps shall include the following:

(1) Scheduling the meeting at a mutually agreed-upon time and place and informing the parents of the information specified in subsection (c) of this regulation; and

(2) providing prior written notice of any meeting, in accordance with subsection (c) of this regulation, to the parents of the child.

(c) The notice required in subsection (b) of this regulation shall indicate the purpose, time, and location of the meeting and the titles or positions of the persons who will attend on behalf of the agency or at the agency's request.

(d) If neither parent of an exceptional child can be physically present for a meeting concerning the child, the agency shall attempt other measures to ensure parental participation, including individual or conference telephone calls.

(e) As used in this regulation, a meeting shall not include the following:

(1) Informal or unscheduled conversations involving agency personnel and conversations on issues including teaching methodology, lesson plans, or coordination of service provision if those issues are not addressed in the child's IEP; and

(2) preparatory activities that agency personnel engage in to develop a proposal or response to a parent's proposal that will be discussed at a later meeting. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-988; effective May 19, 2000.)

**91-40-26. Notice requirements.** (a) In providing any notice to the parents of an exceptional child in accordance with K.S.A. 72-990 and amendments thereto, an agency shall ensure that the notice is written in language understandable to the general public and is provided in the native language of the parent or other mode of communication used by the parent, unless it is clearly not feasible to do so.

(b) If the native language or other mode of communication of a parent is not a written language, the agency shall take steps to ensure all of the following:

(1) The notice is translated orally or by other means to the parent in the parent's native language or other mode of communication.

(2) The parent understands the content of the notice.

(3) There is written evidence that the requirements of paragraphs (1) and (2) of this subsection have been met. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-988; effective May 19, 2000.)

**91-40-27. Parental consent.** (a) Except as otherwise provided in this regulation, an agency shall obtain written parental consent before taking any of the following actions:

(1) Conducting an initial evaluation or any reevaluation of an exceptional child;

(2) initially providing special education and related services to an exceptional child; or

(3) making a material change in services to, or a substantial change in the placement of, an exceptional child, unless the change is made under the provisions of K.A.R. 91-40-33 through 91-40-38.

(b) An agency shall not construe parental consent for initial evaluation as parental consent for the initial provision of special education and related services to an exceptional child.

(c) An agency shall not be required to obtain parental consent before taking either of the following actions:

(1) Reviewing existing data as part of an evaluation or functional behavioral assessment; or

(2) administering a test or other evaluation that is administered to all children, unless before administration of that test or evaluation, consent is required of the parents of all children.

(d) If the parents of an exceptional child refuse consent for initial evaluation or any reevaluation, or for a proposed material change in services or a substantial change in the placement of the child, an agency may continue to pursue the evaluation or proposed change by initiating due process or mediation procedures.

(e) An agency shall not be required to obtain parental consent for a reevaluation or a proposed change in services or placement of the child if the agency has made attempts, as described in K.A.R. 91-40-17(e)(2), to obtain consent but the parents have failed to respond.

(f) An agency shall not use a parent's refusal to consent to an activity or service to deny the parent or child other activities or services offered by the agency. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-988; effective May 19, 2000.)

**91-40-28. Special education mediation and due process hearings.** (a) If a disagreement arises between a parent and an agency concerning the identification, evaluation, or educational placement of the parent's exceptional child, or the provision of FAPE to the child, the parent or the agency, or both, may request mediation or initiate a due process hearing.

(b) (1) If mediation is requested by either party, the provisions of L. 1999, ch. 116, sec. 35 and amendments thereto shall be followed, together with the requirement in paragraph (2) of this subsection.

(2) When agreement is reached to mediate, the agency shall immediately contact the state board or its designee.

A mediator shall be appointed by the state board from its list of qualified mediators, based upon a random selection process.

(c) If a disagreement as described in subsection (a) of this regulation arises, the parent or the agency, or both, may initiate a special education due process hearing. Each due process hearing shall be provided for by the agency directly responsible for the education of the child.

(d) (1) If a special education due process hearing is initiated, the provisions of K.S.A. 72-973 through 72-975 and amendments thereto shall be followed, together with the requirements in this subsection.

(2) Not more than five business days after a due process hearing is requested, the agency providing for the hearing shall furnish to the parent the following information:

(A) The agency's list of qualified due process hearing officers;

(B) written notification that the parent has the right to disqualify any or all of the hearing officers on the agency's list and to request that the state board appoint the hearing officer; and

(C) written notification that the parent has the right, within five days after the parent receives the list, to advise the agency of any hearing officer or officers that the parent chooses to disqualify.

(3) (A) If a parent chooses to disqualify any or all of the agency's hearing officers, the parent, within the time-frame specified in paragraph (d)(2)(C) of this subsection, shall notify the agency of the officer or officers disqualified by the parent.

(B) An agency may appoint from its list any hearing officer who has not been disqualified by the parent.

(4) Not more than three business days after being notified that a parent has disqualified all of the hearing officers on its list, an agency shall contact the state board and request the state board to appoint a hearing officer. In making this request, the agency shall advise the state board of the following information:

(A) The name and address of the parent;

(B) the name and address of the attorney, if any, representing the parent, if known to the agency; and

(C) the names of the agency's hearing officers who were disqualified by the parent.

(5) Within three business days of receiving a request to appoint a hearing officer, the parent and agency shall be mailed written notice by the state board of the hearing officer appointed by the state board.

(e) If a due process hearing is requested by a parent or an agency, the agency shall provide written notice to the state board of that action. The notice shall be provided within five business days of the date the due process hearing is requested. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-963a, 72-973 and 72-996; effective May 19, 2000.)

**91-40-29. Qualifications of special education mediators and due process hearing officers.** (a) To initially qualify as a special education mediator, a person shall meet the following requirements:

(1) Have passed a written examination prescribed by the state board concerning special education laws and regulations; and

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(2) have completed a program sponsored or approved by the state board concerning effective mediation techniques and procedures, and the role and responsibilities of a mediator.

(b) (1) Except as otherwise provided in paragraph (2) of this subsection, to initially qualify as a special education due process hearing officer or review officer, a person shall meet the following requirements:

(A) Be a licensed attorney in good standing with the licensing agency in the state in which the person is licensed to practice law;

(B) have passed a written examination prescribed by the state board concerning special education laws and regulations;

(C) have completed a program sponsored or approved by the state board concerning due process hearing procedures and the role and responsibilities of a due process hearing officer; and

(D) have passed a written examination prescribed by the state board concerning due process proceedings.

(2) Any person who, immediately before the effective date of this regulation, was on the list of qualified due process hearing officers maintained by the state board shall remain eligible to serve as a due process hearing officer or review officer, if the person completes the continuing education requirements prescribed in this regulation.

(c) After initially qualifying as a mediator, due process hearing officer, or review officer, a person shall remain eligible by annually completing six hours of continuing education in special education law in a program conducted or approved by the state board. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-963a; effective May 19, 2000.)

**91-40-30. Expedited due process hearings.** (a) If an expedited due process hearing is requested under the provisions of K.S.A. 72-992 or 72-993 and amendments thereto, the agency responsible for providing the hearing shall immediately notify the state board of the request and the parent's name and address.

(b) Upon being notified of a request for an expedited due process hearing, the state board shall appoint, from its list of qualified hearing officers, a due process hearing officer and shall notify the parties of the appointment.

(c) Each of the parties to an expedited due process hearing shall have the rights afforded to them under K.S.A. 72-973 and amendments thereto, except that the parties shall have the right to prohibit the presentation of any evidence at the expedited hearing that has not been disclosed to the opposite party at least two business days before the hearing.

(d) (1) Each hearing officer shall conduct the expedited due process hearing and mail the decision in the matter to the parties within 45 days of the agency's receipt of the parents' request for the expedited due process hearing or the agency's initiation of the hearing.

(2) A hearing officer in an expedited due process hearing shall not grant any extensions or otherwise fail to comply with the requirement of paragraph (1) of this subsection.

(e) Either party to an expedited due process hearing may appeal the decision in accordance with K.S.A. 72-974

and amendments thereto. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-992 and 72-993; effective May 19, 2000.)

**91-40-31. Educational placement during proceedings.** (a) Except as otherwise provided in K.S.A. 72-993 and amendments thereto, during the pendency of any special education due process proceeding, the child's educational placement shall be determined in accordance with K.S.A. 72-973(c) and amendments thereto.

(b) If a state review officer in an administrative appeal agrees with the parent's position as to the appropriate educational placement for the child, the child shall be educated in that placement during any further proceedings, unless the parent and agency agree to another placement or the child's placement is changed in accordance with K.S.A. 72-993 and amendments thereto. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-973 and 72-993; effective May 19, 2000.)

**91-40-33. Change in placement for disciplinary reasons, definitions.** As used in K.A.R. 91-40-33 through 91-40-38, the following terms shall have the meanings specified below.

(a) (1) The phrase "change in placement for disciplinary reasons" means that school personnel or a special education due process hearing officer has ordered any of the following changes in placement of a child with a disability:

(A) The child is suspended or expelled from school for more than 10 consecutive school days.

(B) The child is subjected to a series of short-term suspensions that constitute a pattern because they cumulate to more than 10 school days in a school year, and because of the length of each suspension, the total amount of time the child is suspended and the proximity of the suspensions to one another.

(C) The child is placed in an interim alternative educational setting.

(2) If school personnel order two or more short-term suspensions of a child with a disability during a school year, these suspensions shall not constitute a change in placement for disciplinary reasons if the suspensions do not constitute a pattern as described in paragraph (a)(1) (B) of this regulation.

(b) "School personnel" means the following:

(1) A regular education administrator;

(2) the director of special education or the director's designee or designees; and

(3) a special education teacher of the child with a disability.

(c) "Short-term suspension" means a suspension as authorized by K.S.A. 72-8902(a) and amendments thereto. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-991; effective May 19, 2000.)

**91-40-34. Short-term suspensions and interim placements; suspension of gifted children.** (a) As authorized by K.S.A. 72-8902(a) and amendments thereto, school personnel may impose one or more short-term suspensions upon a child with a disability during a school year for violations of any school rule if these short-term suspensions do not constitute a pattern amounting to a

change in placement for disciplinary reasons as specified in paragraph (a)(1)(B) of K.A.R. 91-40-33.

(b) As authorized in K.S.A. 72-991 and amendments thereto, school personnel or a due process hearing officer may order a change in placement of a child with a disability to an interim alternative educational setting.

(c) Gifted children shall be subject to suspension or expulsion from school as authorized by K.S.A. 72-8902 and amendments thereto. While a gifted child is suspended or expelled from school, an agency shall not be required to provide special education or related services to the child. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-991 and 72-8902; effective May 19, 2000.)

**91-40-35. Services required during suspensions or interim alternative educational placements.** (a) An agency shall not be required to provide special education or related services to a child with a disability who has been suspended from school for 10 or fewer school days during any school year, if the agency does not provide educational services to nondisabled children who are suspended from school.

(b) (1) A child with a disability shall be entitled to continue to receive special education and related services if the child is suspended from school under either of the following circumstances:

(A) For more than 10 cumulative school days in any school year, but with these suspensions not resulting in a change of placement for disciplinary reasons; or

(B) for more than 10 consecutive school days in any school year for behavior that has been determined not to be a manifestation of the child's disability.

(2) If a child with a disability is suspended from school under either of the circumstances stated in paragraph (b)(1) of this regulation, the agency that suspended the child shall provide, commencing on the 11th day of suspension and during any subsequent day or days of suspension, special education and related services that are necessary to enable the child to appropriately progress in the general curriculum areas specified in the child's IEP and to appropriately advance toward achieving the goals set out in the child's IEP.

(c) If a child with a disability is placed in an interim alternative educational setting in accordance with K.S.A. 72-991 and amendments thereto, the agency shall provide special education and related services to the child that meet the following requirements:

(1) The services provided shall enable the child to continue both of the following:

(A) To progress in the general curriculum, although in another setting; and

(B) to receive those services and modifications, including those described in the child's IEP, that will enable the child to meet the goals set out in the IEP.

(2) The services shall include services and modifications that address the child's misbehavior and that are designed to prevent the misbehavior from recurring. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-966 and 72-991; effective May 19, 2000.)

**91-40-36. Determination of services for children with disabilities suspended from school or placed in**

**interim alternative educational settings.** (a) If a child with a disability is properly suspended from school for more than 10 cumulative school days in any school year, the special education and related services to be provided to the child during any period of suspension shall be determined by school personnel of the agency responsible for the education of the child.

(b) If a child with a disability is suspended from school for more than 10 consecutive school days or is expelled from school for behavior that has been determined not to be a manifestation of the child's disability, the child's IEP team shall determine the special education and related services that will be provided to the child.

(c) If a child with a disability is placed in an interim alternative educational setting as a result of the child's possession of a weapon or illegal drug, the child's IEP team shall determine the following:

(1) The special education and related services to be provided to the child in the interim alternative educational setting; and

(2) those services and modifications that will be provided to address the misbehavior of the child and that are designed to prevent the misbehavior from recurring.

(d) (1) If a child with a disability is to be placed in an interim alternative educational setting by a due process hearing officer because the child is substantially likely to cause injury to self or others, school personnel shall propose to the hearing officer the special education and related services to be provided to the child, and those services and modifications to be provided to address the behavior and prevent its recurrence.

(2) The hearing officer shall determine whether the services proposed by school personnel are appropriate. If so determined, those services shall be provided to the child. If determined to be inappropriate, the hearing officer shall order any modification in the services to be provided that the hearing officer determines necessary to provide the child with an appropriate education. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-966 and 72-991; effective May 19, 2000.)

**91-40-37. Functional behavioral assessments and behavioral intervention plans.** (a) (1) Either before, or not more than 10 business days after, making a change in placement of a child with a disability for disciplinary reasons, an agency shall convene an IEP meeting to develop an assessment plan if it has not previously conducted a functional behavioral assessment and implemented a behavioral intervention plan for the child.

(2) As soon as practicable after developing the assessment plan and completing the assessments required by the plan, the agency shall convene an IEP meeting to develop appropriate behavioral interventions to address that behavior and shall implement those interventions.

(3) If the child already has a behavioral intervention plan at the time of being subjected to a change in placement for disciplinary reasons, the IEP team shall meet to review the plan and its implementation and to modify the plan and its implementation, as necessary, to address the behavior.

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(b) (1) If a child with a disability who has a behavioral intervention plan and who has been suspended from school for more than 10 school days in a school year is again suspended from school but the suspension does not constitute a change of placement, the IEP team members shall review the behavioral intervention plan and its implementation to determine if modifications are necessary.

(2) If one or more of the IEP team members believe that modifications are needed, the IEP team shall meet to modify the plan and its implementation, to the extent the team determines necessary.

(c) An agency shall convene IEP meetings under this regulation as expeditiously as possible and shall be required to give only 24 hours' prior notice of an IEP meeting to the child's parents. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-991; effective May 19, 2000.)

**91-40-38. Manifestation determination.** (a) If an agency proposes to make a change in educational placement for disciplinary reasons, the agency shall implement the provisions of K.S.A. 72-991(f) and amendments thereto.

(b) If the IEP team and other qualified personnel determine that any of the standards in K.S.A. 72-991(g) and amendments thereto are not met, the IEP team shall determine that the child's behavior was a manifestation of the child's disability.

(c) An agency may conduct the manifestation determination at the same IEP meeting that is held in regard to a child's behavioral intervention plan under K.A.R. 91-40-37.

(d) If, in making a manifestation determination, a child's IEP team identifies deficiencies in the child's IEP or placement or in the provision of services to the child, the IEP team shall make any changes it deems appropriate, and the agency shall implement those changes. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-991; effective May 19, 2000.)

**91-40-39. Rights of children not identified as children with disabilities.** An agency shall not be deemed to have knowledge that a child is a child with a disability under the provisions of K.S.A. 72-994 and amendments thereto if the agency, after gaining any of the information specified in that statute, did either of the following:

(a) Conducted an evaluation of the child and determined that the child was not a child with a disability; or

(b) determined that an evaluation of the child was not warranted, and, after taking either action specified in this regulation, provided written notice to the child's parent of the agency's determination. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-994; effective May 19, 2000.)

**91-40-41. Private school placement by parents to obtain FAPE.** (a) (1) If the parents of an exceptional child who previously was receiving special education and related services from an agency enroll their child, without the consent of or referral by the agency, in a private preschool or a private elementary or secondary school because the parents believe the child was not receiving FAPE from the agency, a court or special education due

process hearing officer may require the agency to reimburse the parents for the cost of that enrollment only if the court or due process hearing officer makes both of the following findings:

(A) The agency did not make FAPE available to the child in a timely manner before the private school enrollment.

(B) The private school placement made by the parents is appropriate to meet the needs of the child.

(2) A court or due process hearing officer may find that a private school placement by a parent is appropriate for a child although that placement does not meet state standards that apply to special education and related services that are required to be provided by public agencies.

(b) Subject to subsection (c) of this regulation, a court or due process hearing officer may deny or reduce any reimbursement for private school placement by a parent, if the court or due process hearing officer makes any of the following findings:

(1) (A) At the most recent IEP meeting that the parents attended before making the private school placement, the parents did not inform the IEP team that the parents were rejecting the services or placements proposed by the agency to provide FAPE to their child, including a statement of their concerns and their intent to enroll their child in a private school at public expense; or

(B) at least 10 business days, including any holidays that occur on a business day, before removal of the child from public school, the parents did not give written notice to the public agency of the information specified in paragraph (1) (A) of this subsection.

(2) Before the parents' removal of the child from public school, the agency notified the parents, in accordance with the requirements of K.S.A. 72-988 and amendments thereto, of its intent to evaluate the child, including a statement of the purpose of the evaluation that was appropriate and reasonable, but the parents did not make the child available for the evaluation.

(3) The actions of the parents in removing the child from public school were unreasonable.

(c) Notwithstanding the notice requirements in the preceding subsection, a court or due process hearing officer shall not deny or reduce reimbursement of the cost of a private school placement for failure to provide the notice, if the court or due process hearing officer makes any of the following findings:

(1) The parents are illiterate and cannot write in English.

(2) Compliance with the prior notice requirement would likely have resulted in physical or serious emotional harm to the child.

(3) The agency prevented the parents from providing the required prior notice.

(4) The parents had not been given notice by the agency of the prior notice requirement prescribed in subsection (b) of this regulation. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-966; effective May 19, 2000.)

**91-40-42. Child find and count of exceptional children enrolled in private schools; determination of needs.** (a) Child find activities.

(1) Each board, in accordance with K.A.R. 91-40-7, shall locate, identify, and evaluate all private school exceptional children, including children who reside in the school district and attend religiously affiliated schools. The activities undertaken to carry out this responsibility shall be comparable to the activities undertaken for exceptional children in the public schools.

(2) Each board shall consult with appropriate representatives of private schools on how to carry out the activities described in paragraph (1) of this subsection.

(b) Child count activities.

(1) Each board shall annually conduct a count of the number of children with disabilities who reside in the school district and attend private schools. This count, at the discretion of the board, shall be conducted on either December 1 or the last Friday of October of each school year.

(2) Each board shall consult with appropriate representatives of private schools in deciding how to conduct the annual count required in paragraph (1) of this subsection.

(3) Each board shall use the child count required by this subsection to calculate the amount of funds provided to the school district under the federal law that the school district must allocate for the purpose of providing special education and related services to private school children with disabilities in the next succeeding school year.

(c) Each board, based upon the results of its child find activities under subsection (a) of this regulation, shall annually consult with appropriate representatives of private schools regarding the special education and related services needs of children with disabilities enrolled in the private schools. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-966; effective May 19, 2000.)

**91-40-43. Services to children enrolled in private schools.** (a) Consistent with the number and location of private school children with disabilities residing in the school district, each board shall provide special education and related services to this group of children in accordance with K.A.R. 91-40-43 through 91-40-48.

(b) The parent of an exceptional child may request that the parent's exceptional child be provided special education and related services in accordance with K.S.A. 72-5393 and amendments thereto.

(c) A board shall not be required to provide any special education or related services to a child with a disability enrolled in a private school unless one of the following conditions is met:

(1) The child is a member of a group of private school children with disabilities that has been designated to receive some special education and related services in accordance with the provisions of K.A.R. 91-40-43 through 91-40-48.

(2) The parent of the child requests that services be provided to the child in accordance with K.S.A. 72-5393 and amendments thereto.

(d) Except as otherwise provided in K.S.A. 72-5393 and amendments thereto, a child with a disability enrolled in a private school shall not be entitled to receive any special education or related service that the child would be entitled to receive if enrolled in a public school, and a pri-

ate school child with a disability may receive a different amount of special education or related services than a child with a disability who is enrolled in a public school.

(e) (1) Each board shall consult, annually and in a timely and meaningful way, with appropriate representatives of private schools to determine the following matters:

(A) Which private school children with disabilities will receive special education and related services;

(B) what special education and related services will be provided;

(C) how and where the special education and related services will be provided; and

(D) how the special education and related services that are provided will be evaluated.

(2) Each board shall give the representatives of private schools a genuine opportunity to express their views regarding each matter listed in paragraph (1) of this subsection.

(3) Each board shall ensure that the consultation required in this subsection occurs before the board makes any final decisions affecting the opportunity of private school children with disabilities to participate in special education and related services provided by the board.

(f) Each board shall make the final decision in regard to each matter listed in paragraph (e) (1) of this regulation. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-966 and 72-5393; effective May 19, 2000.)

**91-40-44. Allocation and expenditure of federal funds.** (a) To meet the requirement of K.A.R. 91-40-43 (a), each board shall allocate, for expenditure in providing special education and related services to private school children with disabilities, the amounts specified below:

(1) For children with disabilities aged three through 21, an amount calculated as follows:

(A) Divide the number of private school children who have been identified as children with disabilities aged three through 21 residing in the school district by the total number of children with disabilities aged three through 21 residing in the school district; and

(B) multiply the quotient determined under paragraph (1) (A) times the total amount of federal funds received by the school district under section 1411 (g) of the federal law; and

(2) for children with disabilities aged three through 5, an amount calculated as follows:

(A) Divide the number of private school children who have been identified as children with disabilities aged three through five residing in the school district by the total number of children with disabilities aged three through five residing in the school district; and

(B) multiply the quotient determined under paragraph (2) (A) times the total amount of federal funds received by the school district under section 1419 (g) of the federal law.

(b) In making the calculations under subsection (a) of this regulation, each board shall include all private school children who have been identified as children with disabilities whether or not those children are actually receive-

(continued)

ing special education or related services from the school district.

(c) Each board, to the extent necessary, shall expend the amounts calculated under subsection (a) of this regulation to provide private school children with disabilities those special education and related services that have been determined will be provided to those children under the provisions of K.A.R. 91-40-43 (e).

(d) (1) A board, in meeting the requirement of subsection (c) of this regulation, shall not be authorized to include expenditures made by the board for child find activities under K.A.R. 91-40-42 (a).

(2) A board, in meeting the requirement of subsection (c) of this regulation, shall be authorized to include expenditures made by the board to provide transportation to private school children with disabilities to receive special education and related services. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-966; effective May 19, 2000.)

**91-40-45. Services plan or IEP.** (a) Each board shall develop and implement a services plan for each private school child with a disability who meets both of the following criteria:

(1) The child is a member of the group of private school children with disabilities that has been designated to receive special education and related services under the provisions of K.A.R. 91-40-43 (e).

(2) The child is not receiving special education and related services by request of the child's parent under the provisions of K.S.A. 72-5393 and amendments thereto.

(b) A board shall ensure that the services plan for each private school child with a disability meets each of the following requirements:

(1) The services plan shall describe the specific special education and related services that the board will provide to the child, based upon the services the board has determined that it will make available to private school children with disabilities under the provisions of K.A.R. 91-40-43.

(2) The services plan shall be developed, reviewed, and revised, as necessary, in the same manner in which IEP's are developed, reviewed, and revised under this article, except the board shall ensure that a representative of the child's private school is invited to attend, or to otherwise participate in, each meeting held to develop or review the child's services plan.

(3) The services plan shall meet the requirements of K.A.R. 91-40-18 with respect to the services that the child is designated to receive.

(c) Each board shall develop, review, and revise, as necessary, in accordance with this article, an IEP for the following children:

(1) Each private school child with a disability whose parent requests special education and related services under the provisions of K.S.A. 72-5393 and amendments thereto; and

(2) each identified gifted child residing in the school district and enrolled in a private school whose parent elects to have the child receive special education and related services from the board. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-966 and 72-5393; effective May 19, 2000.)

**91-40-46. Mediation and due process rights of private school children.** (a) The parent of a private school exceptional child may request mediation or initiate a due process hearing as authorized under this article, if the parent believes a board has failed to properly identify and evaluate the parent's child, in accordance with K.A.R. 91-40-42 (a).

(b) The parent of a private school exceptional child who is receiving special education and related services in accordance with an IEP may request mediation or initiate a due process hearing as authorized under this article on any matter concerning the child's education.

(c) The parent of a private school child with a disability who is receiving special education and related services under a services plan shall not be entitled to request mediation or to initiate a due process hearing on any matter concerning the child's education, but shall be entitled to take either, or both, of the following actions:

(1) Request that a meeting be conducted, in accordance with K.A.R. 91-40-45 (b), to review and revise the child's services plan; or

(2) file a complaint with the state board, in accordance with K.A.R. 91-40-51. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-966 and 72-5393; effective May 19, 2000.)

**91-40-47. Transportation for exceptional children enrolled in private schools.** (a) Except as otherwise provided in this regulation, each board, to the extent necessary for an exceptional child to benefit from, or to participate in, special education and related services provided to the child by the board, shall furnish or provide for the following transportation services for the child:

(1) Transportation from the child's private school or home to the site at which the child is provided special education and related services; and

(2) transportation from the site at which special education and related services are provided to the child to the child's private school or the child's home, as appropriate.

(b) Except as provided in K.S.A. 72-8306 and amendments thereto, a board shall not be required to furnish or provide transportation from an exceptional child's home to the child's private school.

(c) A board shall not be required to furnish or provide transportation services outside of its school district. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-966 and 72-5393; effective May 19, 2000.)

**91-40-48. Use of funds and equipment.** (a) Subject to subsection (d), an agency may use state and federal funds to make personnel available at locations other than at its facilities to the extent necessary to provide special education and related services to exceptional children enrolled in private schools, if those services are not normally provided by the private schools.

(b) Subject to subsection (d), an agency may use state and federal funds to pay for the services of an employee of a private school to provide special education and related services if both of the following conditions are met:

(1) The employee performs the services outside of the employee's regular hours of duty.

(2) The employee performs the services under public supervision and control.

(c) Subject to subsection (d), an agency may use state and federal funds to provide for the special education and related services needs of exceptional children enrolled in private schools, but shall not use those funds for either of the following purposes:

(1) To enhance the existing level of instruction in the private school or to otherwise generally benefit the private school; or

(2) to generally benefit the needs of all students enrolled in the private school.

(d) An agency's authority to use federal funds under this regulation shall be limited to providing special education and related services to children with disabilities.

(e) An agency shall not offer or maintain classes that are organized separately on the basis of public or private school enrollment or the religion of the students, if the classes offered to students are provided at the same site and the classes include students enrolled in a public school and students enrolled in a private school.

(f) (1) An agency shall keep title to, and exercise continuing administrative control over, all property, equipment, and supplies that are acquired by the agency to be used for the benefit of exceptional children enrolled in private schools.

(2) An agency may place equipment and supplies in a private school, to the extent allowed by law, for the period of time needed to provide special education and related services to exceptional children enrolled in the school.

(g) (1) An agency shall ensure that any equipment or supplies placed in a private school are used to provide special education and related services and can be removed from the private school without the necessity of remodeling the private school.

(2) An agency shall remove its equipment or supplies from a private school if either of the following conditions exists:

(A) The equipment or supplies are no longer needed to provide special education or related services to students enrolled in the private school.

(B) Removal is necessary to avoid unauthorized use of the equipment or supplies.

(h) An agency shall not use public funds to construct, remodel, or repair any private school facility. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-966; effective May 19, 2000.)

**91-40-50. Parental access to student records; confidentiality.** (a) (1) Subject to subsection (b), each agency shall permit, in accordance with K.S.A. 72-6214 and amendments thereto, parents to review and inspect any educational records relating to their children that are collected, maintained, or used by the agency.

(2) Each agency shall disclose personally identifiable information in the educational records of an exceptional child only in accordance with K.S.A. 72-6214 and amendments thereto.

(b) When an exceptional child reaches the age of 18 years, the right specified in paragraph (a) (1) shall apply to the child and not to the child's parents, unless the child has been adjudicated to be an incapacitated person.

(c) Each agency shall inform parents or adult students, as appropriate, when the agency believes that personally identifiable information collected, maintained, or used to provide special education and related services is no longer needed to provide those services.

(d) Information that is no longer needed to provide special education and related services to a child shall be destroyed at the request of the child's parents or the adult student, as appropriate. An agency, however, may maintain a permanent record of the following information:

(1) The student's name, address, and telephone number;

(2) the student's grades and attendance record;

(3) the classes attended by the student;

(4) the grade level completed by the student; and

(5) the year that the student graduated from high school or otherwise exited school. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-988; effective May 19, 2000.)

**91-40-51. State board monitoring of compliance with state and federal requirements.** (a) State board action based on a complaint of noncompliance.

(1) (A) Any person may file a written, signed complaint alleging that an agency has violated a state or federal special education law or regulation. Also, a prevailing party in a due process hearing may file a complaint alleging that the other party has failed to implement the hearing decision. The complaint shall state the facts upon which it is based and shall be filed with the commissioner of education.

(B) The complaint shall allege a violation that occurred not more than one year before the date the complaint is received, unless the violation is continuing or the complainant is requesting compensatory services for a violation that occurred not more than three years before the date the complaint is received.

(2) Upon receipt of a complaint, an investigation shall be initiated. At a minimum, each investigation shall include the following:

(A) An interview with the complainant during which additional information may be gathered and specific allegations of noncompliance identified, verified, and recorded;

(B) a letter or telephone call advising the party against whom the complaint is filed of the complaint and soliciting relevant information or documents; and

(C) a written report of findings and any corrective action or actions that are required and the time period within which each action is to be taken. This report shall be sent to the parties within 30 days of the receipt of the complaint. An on-site investigation may be conducted before issuing a report.

(3) If a report requires corrective action by an agency, that agency, within 10 days of the date of the report, shall submit to the state director of special education one of the following:

(A) Documentation to verify acceptance of the corrective action or actions specified in the report;

(B) a written request for an extension of time within which to complete one or more of the corrective actions

(continued)

specified in the report, together with justification for the request; or

(C) a written notice of appeal. Any such appeal shall be in accordance with subsection (c) of this regulation.

(4) If an agency files a request for an extension of time within which to complete one or more corrective actions required in a report, a review committee of at least three department of education members shall be appointed by the commissioner to review the request and the offered justification for the extension of time. A decision on the request shall be made by the committee within five business days of the date the request was received. The decision of the review committee shall be final.

(5) If a local education agency fails to respond to a report within the time allowed, the sanctions listed in paragraph (c) (2) may be invoked.

(b) Scheduled on-site compliance reviews. On-site compliance reviews shall be conducted periodically by the special education section of the department. If noncompliance is established, the agency shall be given a written report specifying the deficiencies found and prescribing a timeline for remedying the deficiencies. A report shall be sent to the agency not more than 12 weeks after conclusion of the on-site review.

(c) Appeals.

(1) Any agency or complainant may appeal any of the findings or conclusions of a compliance report prepared by the special education section of the department by filing a written notice of appeal with the state commissioner of education. Each notice shall be filed within 10 days from the date of the report. Each notice shall specify, in detail, the basis for alleging that the report is incorrect.

Upon receiving an appeal, an appeal committee of at least three department of education members shall be appointed by the commissioner to review the report and to consider the information provided by the local education agency, the complainant, or others. The appeal process, including any hearing conducted by the appeal committee, shall be completed within 15 days from the date of receipt of the notice of appeal, and a decision shall be rendered within five days after the appeal process is completed unless the appeal committee determines that exceptional circumstances exist with respect to the particular complaint. In this event, the decision shall be rendered as soon as possible by the appeal committee.

(2) If an appeal committee affirms a compliance report that requires corrective action by an agency, that agency shall initiate the required corrective action immediately. If, after five days, no required corrective action has been initiated, the agency shall be notified of the action that will be taken to assure compliance as determined by the department. This action may include any of the following:

(A) The issuance of an accreditation deficiency advisement;

(B) the withholding of state or federal funds otherwise available to the agency;

(C) the award of monetary reimbursement to the complainant; or

(D) any combination of the above actions.

(c) (1) If a complaint is received that is also the subject of a due process hearing or that contains multiple issues

of which one or more are part of the due process hearing, the complaint or the issues that are part of the due process hearing shall be set aside until conclusion of the hearing.

(2) If an issue that has previously been decided in a due process hearing involving the same parties is raised in a complaint, the hearing decision shall be affirmed and the complainant informed of that action. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-988; effective May 19, 2000.)

**91-40-52. School district eligibility for funding.**

(a) (1) To be eligible to receive state and federal funding, each board shall submit to the state board documentation that the board has policies, procedures, and programs in effect to achieve compliance with the special education for exceptional children act and this article.

(2) In school districts having an enrollment of more than 5,000 students, the board's policies shall provide for the employment of a full-time administrator of special education.

(b) (1) Each board shall be eligible to receive state funding for the following related services, if provided under an exceptional child's IEP or services plan:

(A) Art therapy;

(B) assistive technology devices and services;

(C) audiology;

(D) counseling services;

(E) dance movement therapy;

(F) medical services for diagnostic or evaluation purposes;

(G) music therapy;

(H) occupational therapy;

(I) parent counseling and training;

(J) physical therapy;

(K) recreation;

(L) rehabilitation counseling services;

(M) school health services;

(N) school psychological services;

(O) school social work services;

(P) special education administration and supervision;

(Q) special music education;

(R) speech or language services; and

(S) transportation.

(2) A board shall submit requests for reimbursement for any other related service to the state board for its consideration. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-978; effective May 19, 2000.)

**91-40-53. Resolution of interagency agreement disputes.** (a) If a dispute arises under an interagency agreement entered into under K.S.A. 72-966 and amendments thereto, the parties to the dispute shall resolve the matter under either of the procedures specified in this regulation.

(b) (1) Parties to an interagency agreement dispute may select a mutually agreed-upon mediator, or they may make a joint request to the commissioner of education to appoint a person to serve as mediator. Upon receiving a request for the appointment of a mediator, a mediator shall be promptly appointed by the commissioner of education.



(2) The parties to any interagency agreement dispute shall divide equally the costs of the mediation process.

(c) (1) If the parties to an interagency agreement dispute do not agree to mediate the disagreement or are unable to resolve the dispute through mediation, either party may initiate an administrative hearing by filing a request for a hearing with the commissioner of education.

(2) Upon receiving a request for an administrative hearing under this regulation, an attorney in private practice shall be appointed by the commissioner of education to conduct the hearing. The hearing officer shall be selected from the list of special education due process hearing officers that is required to be maintained under K.S.A. 72-973 and amendments thereto.

(3) Upon being appointed, the hearing officer shall notify the parties of the appointment and shall commence the hearing procedures. The hearing officer shall conduct the hearing in accordance with the Kansas administrative procedure act and shall issue a final order in regard to the matter.

(4) The hearing officer, as part of the order, shall assess the costs of the hearing as determined appropriate based upon the outcome of the hearing. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-966; effective May 19, 2000.)

Dr. Andy Tompkins  
Commissioner of Education

Doc. No. 025150

**INDEX TO ADMINISTRATIVE REGULATIONS**

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28-29-2101		
through		
28-29-2113	New	V. 18, p. 1949-1963
28-31-1	Amended	V. 18, p. 673
28-31-2	Amended	V. 18, p. 673
28-31-3	Amended	V. 18, p. 674
28-31-4	Amended	V. 18, p. 674
28-31-6	Amended	V. 18, p. 678
28-31-8	Amended	V. 18, p. 679
28-31-8b	Amended	V. 18, p. 680
28-31-9	Amended	V. 18, p. 680
28-31-10	Amended	V. 18, p. 681
28-31-12	Amended	V. 18, p. 681
28-31-13	Amended	V. 18, p. 682
28-31-14	Amended	V. 18, p. 682
28-31-15	New	V. 18, p. 682
28-31-16	New	V. 18, p. 682
28-36-10		
through		
28-36-18	Revoked	V. 18, p. 1099
28-36-20		
through		
28-36-29	Revoked	V. 18, p. 1099, 1100
28-36-40f		
through		
28-36-108	New	V. 18, p. 1100-1102
28-36-10		
through		
28-36-18	Revoked	V. 18, p. 1099
28-36-20		
through		
28-36-29	Revoked	V. 18, p. 1099, 1100
28-36-101		
through		
28-36-108	New	V. 18, p. 1100-1102
28-39-133	Revoked	V. 18, p. 1393
28-39-134		
through		
28-39-137	Revoked	V. 18, p. 1393
28-39-144	Amended	V. 18, p. 1393
28-39-145	Revoked	V. 18, p. 1395
28-39-145a	New	V. 18, p. 1395
28-39-152	Amended	V. 18, p. 1397
28-39-160	Amended	V. 18, p. 1399
28-39-161	Amended	V. 18, p. 1400
28-39-162a	Amended	V. 18, p. 1401
28-39-162c	Amended	V. 18, p. 1405
28-39-163	Amended	V. 18, p. 1410
28-39-240	Amended	V. 18, p. 1412
28-39-245	Amended	V. 18, p. 1413
28-39-247	Amended	V. 18, p. 1414
28-39-275		
through		
28-39-291	New	V. 18, p. 1416-1423
28-39-300		
through		
28-39-312	Revoked	V. 18, p. 1423
28-39-425		
through		
28-39-437	New	V. 18, p. 1423-1429
28-50-1	Amended	V. 18, p. 1353
28-50-2	Amended	V. 18, p. 1355
28-50-4	Amended	V. 18, p. 1356
28-50-5	Amended	V. 18, p. 1356
28-50-6	Amended	V. 18, p. 1356
28-50-7	Revoked	V. 18, p. 1358
28-50-8	Amended	V. 18, p. 1358
28-50-9	Amended	V. 18, p. 1359
28-50-10	Amended	V. 18, p. 1363
28-50-14	Amended	V. 18, p. 1363
28-65-1	Amended	V. 18, p. 682
28-65-2	Amended	V. 18, p. 683
28-65-3	Amended	V. 18, p. 683
28-72-1	New (T)	V. 18, p. 1459
28-72-1	New	V. 18, p. 1888
28-72-2	New (T)	V. 18, p. 1462
28-72-2	New	V. 18, p. 1891
28-72-3	New (T)	V. 18, p. 1462
28-72-3	New	V. 18, p. 1891
28-72-4	New (T)	V. 18, p. 1463
28-72-4	New	V. 18, p. 1892
28-72-4a	New (T)	V. 18, p. 1466
28-72-4a	New	V. 18, p. 1895
28-72-4b	New (T)	V. 18, p. 1468
28-72-4b	New	V. 18, p. 1897
28-72-4c	New (T)	V. 18, p. 1470

28-72-4c	New	V. 18, p. 1898
28-72-5	New (T)	V. 18, p. 1471
28-72-5	New	V. 18, p. 1900
28-72-6	New (T)	V. 18, p. 1473
28-72-6	New	V. 18, p. 1902
28-72-7	New (T)	V. 18, p. 1475
28-72-7	New	V. 18, p. 1904
28-72-8	New (T)	V. 18, p. 1476
28-72-8	New	V. 18, p. 1905
28-72-9	New (T)	V. 18, p. 1478
28-72-9	New	V. 18, p. 1907
28-72-10	New (T)	V. 18, p. 1480
28-72-10	New	V. 18, p. 1909
28-72-11	New (T)	V. 18, p. 1481
28-72-11	New	V. 18, p. 1910
28-72-12	New (T)	V. 18, p. 1482
28-72-12	New	V. 18, p. 1911
28-72-13	New (T)	V. 18, p. 1483
28-72-13	New	V. 18, p. 1912
28-72-14	New (T)	V. 18, p. 1483
28-72-14	New	V. 18, p. 1912
28-72-15	New (T)	V. 18, p. 1484
28-72-15	New	V. 18, p. 1913
28-72-16	New (T)	V. 18, p. 1484
28-72-16	New	V. 18, p. 1913
28-72-17	New (T)	V. 18, p. 1485
28-72-17	New	V. 18, p. 1914
28-72-18	New (T)	V. 18, p. 1486
28-72-18	New	V. 18, p. 1915
28-72-18a	New (T)	V. 18, p. 1487
28-72-18a	New	V. 18, p. 1916
28-72-18b	New (T)	V. 18, p. 1487
28-72-18b	New	V. 18, p. 1916
28-72-18c	New (T)	V. 18, p. 1488
28-72-18c	New	V. 18, p. 1917
28-72-18d	New (T)	V. 18, p. 1489
28-72-18d	New	V. 18, p. 1918
28-72-18e	New (T)	V. 18, p. 1490
28-72-18e	New	V. 18, p. 1919
28-72-19	New (T)	V. 18, p. 1491
28-72-19	New	V. 18, p. 1920
28-72-20	New (T)	V. 18, p. 1491
28-72-20	New	V. 18, p. 1920
28-72-21	New (T)	V. 18, p. 1491
28-72-21	New	V. 18, p. 1920
28-72-22	New (T)	V. 18, p. 1491
28-72-22	New	V. 18, p. 1920

**AGENCY 30: SOCIAL AND REHABILITATION SERVICES**

Reg. No.	Action	Register
30-2-12	Amended	V. 18, p. 271
30-2-16	Amended	V. 18, p. 895
30-4-64	Amended	V. 18, p. 1722
30-5-64	Amended	V. 19, p. 304
30-6-59	Revoked	V. 18, p. 895
30-6-86	Amended	V. 18, p. 895
30-6-103	Amended	V. 18, p. 896
30-14-30	Amended	V. 18, p. 896
30-44-2	Amended	V. 18, p. 1843

**AGENCY 36: DEPARTMENT OF TRANSPORTATION (BY DEPARTMENT OF EDUCATION)**

Reg. No.	Action	Register
36-13-20	Revoked	V. 18, p. 1823
36-13-30		
through		
36-13-35	Revoked	V. 18, p. 1823
36-13-37	Revoked	V. 18, p. 1823
36-13-38	Revoked	V. 18, p. 1823
36-13-39	Revoked	V. 18, p. 1823

**AGENCY 40: KANSAS INSURANCE DEPARTMENT**

Reg. No.	Action	Register
40-2-26	Amended	V. 18, p. 1058
40-3-26	Amended	V. 19, p. 303
40-3-32	Amended	V. 19, p. 303
40-3-33	Amended	V. 18, p. 1016
40-3-45	Amended	V. 19, p. 303
40-3-49	Amended	V. 19, p. 303
40-4-34	Amended	V. 18, p. 124
40-4-35	Amended (T)	V. 18, p. 358
40-4-35	Amended	V. 18, p. 1148
40-4-42	New	V. 18, p. 1883
40-4-42a	New	V. 18, p. 1883
40-4-42b	New	V. 18, p. 1884
40-4-42c	New	V. 18, p. 1884

40-4-42d	New	V. 18, p. 1885
40-4-42e	New	V. 18, p. 1886
40-4-42f	New	V. 18, p. 1887
40-4-42g	New	V. 18, p. 1887

**AGENCY 44: DEPARTMENT OF CORRECTIONS**

Reg. No.	Action	Register
44-1-103	Amended	V. 18, p. 390

**AGENCY 45: KANSAS PAROLE BOARD**

Reg. No.	Action	Register
45-9-1	Amended	V. 18, p. 1597
45-9-2	Amended	V. 18, p. 1597
45-9-3	Amended	V. 18, p. 1598
45-9-4	New (T)	V. 18, p. 1034
45-9-4	New	V. 18, p. 1599

**AGENCY 49: DEPARTMENT OF HUMAN RESOURCES**

Reg. No.	Action	Register
49-45-1		
through		
49-45-4	Amended	V. 19, p. 504
49-45-4a	New	V. 19, p. 504
49-45-5		
through		
49-45-9	Amended	V. 19, p. 504
49-45-20		
through		
49-45-28	Amended	V. 19, p. 504, 505
49-45-29		
through		
49-45-34	New	V. 19, p. 505
49-45a-1	Amended	V. 19, p. 505
49-45a-2		
through		
49-45a-27	Revoked	V. 19, p. 506
49-46-1	Amended	V. 19, p. 506
49-47-1	Amended	V. 19, p. 507
49-47-1a	New	V. 19, p. 507
49-47-1b	New	V. 19, p. 507
49-47-2	Amended	V. 19, p. 507
49-48-1	Amended	V. 19, p. 508
49-49-1a	New	V. 19, p. 508
49-50-1		
through		
49-50-4	Amended	V. 19, p. 509, 510
49-50-6		
through		
49-50-15	Amended	V. 19, p. 510-513
49-50-17		
through		
49-50-20	Amended	V. 19, p. 513, 514
49-50-21	New	V. 19, p. 514
49-50-22	New	V. 19, p. 515
49-51-1	Amended	V. 19, p. 515
49-51-2	Amended	V. 19, p. 515
49-51-3	Amended	V. 19, p. 515
49-51-3a	New	V. 19, p. 516
49-51-6		
through		
49-51-12	Amended	V. 19, p. 516-518
49-51-14	Revoked	V. 19, p. 518
49-52-5		
through		
49-52-9	Amended	V. 19, p. 518-520
49-52-11	Amended	V. 19, p. 520
49-52-13	Amended	V. 19, p. 520
49-52-14	Amended	V. 19, p. 521
49-52-15	Revoked	V. 19, p. 521
49-52-16	New	V. 19, p. 521
49-52-17	New	V. 19, p. 521
49-54-1		
through		
49-54-3	Revoked	V. 19, p. 521

**AGENCY 51: DEPARTMENT OF HUMAN RESOURCES—DIVISION OF WORKERS COMPENSATION**

Reg. No.	Action	Register
51-9-7	Amended	V. 18, p. 1170

**AGENCY 60: BOARD OF NURSING**

Reg. No.	Action	Register
60-3-101	Amended	V. 18, p. 342
60-3-106	Amended	V. 18, p. 342
60-6-101	Amended	V. 19, p. 342
60-7-101	Amended	V. 18, p. 52

60-11-101	Amended	V. 19, p. 344
60-11-103	Amended	V. 19, p. 345
60-11-104a	Amended	V. 19, p. 346
60-11-106	Amended	V. 19, p. 346
60-11-108	Revoked	V. 19, p. 346
60-16-101	Amended	V. 18, p. 1558
60-16-102	Amended	V. 18, p. 1558
60-16-104	Amended	V. 18, p. 1559
60-17-101	through	
60-17-111	New	V. 19, p. 346-350

**AGENCY 63: BOARD OF MORTUARY ARTS**  
63-4-1 Amended V. 18, p. 1650

**AGENCY 65: BOARD OF EXAMINERS IN OPTOMETRY**

Reg. No.	Action	Register
65-5-10	Amended	V. 18, p. 1727
65-9-1	Amended	V. 18, p. 357
65-10-2	Amended	V. 18, p. 357
65-11-3	Amended	V. 18, p. 357

**AGENCY 66: BOARD OF TECHNICAL PROFESSIONS**

Reg. No.	Action	Register
66-6-4	Amended	V. 19, p. 69
66-6-6	Amended	V. 19, p. 70
66-7-2	Amended	V. 19, p. 70
66-8-7	New	V. 19, p. 70
66-9-4	Amended	V. 19, p. 71
66-9-6	New	V. 19, p. 71
66-10-12	Amended	V. 19, p. 71
66-10-13	New	V. 19, p. 71
66-11-4	New	V. 19, p. 72
66-12-1	Amended	V. 19, p. 72
66-14-1	Amended	V. 19, p. 72
66-14-6	Amended	V. 19, p. 72

**AGENCY 67: BOARD OF HEARING AID EXAMINERS**

Reg. No.	Action	Register
67-2-4	Amended	V. 19, p. 626
67-3-2	Amended	V. 19, p. 626
67-4-7	Amended	V. 19, p. 626
67-4-10	Amended	V. 19, p. 626
67-4-13	New	V. 19, p. 626
67-5-3	Amended	V. 19, p. 626
67-5-4	Amended	V. 19, p. 626
67-6-4	Amended	V. 19, p. 626
67-7-4	Amended	V. 19, p. 627

**AGENCY 68: BOARD OF PHARMACY**

Reg. No.	Action	Register
68-2-12a	Amended	V. 18, p. 1813
68-2-20	Amended	V. 18, p. 1813
68-2-22	Amended	V. 18, p. 1814
68-3-5	New	V. 18, p. 1309
68-3-6	New	V. 18, p. 1309
68-5-1	Amended	V. 19, p. 501
68-5-15	New	V. 18, p. 993
68-7-11	Amended	V. 19, p. 501
68-7-12	Amended	V. 18, p. 1815
68-7-14	Amended	V. 19, p. 502
68-7-18	Amended	V. 19, p. 503
68-7-19	Amended	V. 18, p. 994
68-11-1	Amended	V. 18, p. 81
68-14-1	Amended	V. 18, p. 1019
68-14-2	through	
68-14-5	Amended	V. 18, p. 996, 997
68-14-7	Amended	V. 18, p. 997
68-14-8	New	V. 18, p. 998
68-15-1	New	V. 18, p. 998
68-15-2	New	V. 18, p. 1309
68-15-4	New	V. 18, p. 1309
68-20-10	Amended	V. 18, p. 1816
68-20-10a	Amended	V. 18, p. 1819
68-20-15a	Amended	V. 18, p. 1819
68-20-16	Amended	V. 18, p. 1820
68-20-17	Amended	V. 18, p. 1820
68-20-18	Amended	V. 18, p. 1820
68-20-19	Amended	V. 18, p. 1821
68-20-21	Amended	V. 18, p. 1822

**AGENCY 71: KANSAS DENTAL BOARD**

Reg. No.	Action	Register
71-1-18	Amended	V. 18, p. 1844
71-1-20	New	V. 19, p. 573

71-1-21	New	V. 19, p. 573
71-3-7	New	V. 18, p. 104
71-6-1	through	
71-6-6	New	V. 18, p. 104, 105

**AGENCY 74: BOARD OF ACCOUNTANCY**

Reg. No.	Action	Register
74-4-10	Amended	V. 18, p. 1238
74-5-103	Amended	V. 18, p. 1238
74-5-104	Amended	V. 18, p. 1238
74-5-202	Amended	V. 18, p. 1239
74-5-203	Amended	V. 18, p. 1239
74-5-406	Amended	V. 18, p. 1240
74-11-6	Amended	V. 18, p. 1240
74-12-1	Amended	V. 18, p. 1721

**AGENCY 80: KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM**

Reg. No.	Action	Register
80-1-1	Amended	V. 18, p. 1230
80-1-2	Amended	V. 18, p. 1230
80-1-3	Amended	V. 18, p. 1230
80-1-4	Revoked	V. 18, p. 1230
80-1-5	Amended	V. 18, p. 1230
80-1-6	Amended	V. 18, p. 1231
80-1-9	Amended	V. 18, p. 1231
80-1-10	Amended	V. 18, p. 1231
80-1-11	Amended	V. 18, p. 1231
80-1-12	Revoked	V. 18, p. 1231
80-2-1	Amended	V. 18, p. 1231
80-3-1	Revoked	V. 18, p. 1232
80-3-2	Revoked	V. 18, p. 1232
80-3-4	Amended	V. 18, p. 1232
80-3-5	Revoked	V. 18, p. 1232
80-3-6	Revoked	V. 18, p. 1232
80-3-8	Revoked	V. 18, p. 1232
80-3-9	Amended	V. 18, p. 1232
80-3-13	Revoked	V. 18, p. 1232
80-3-15	Amended	V. 18, p. 1232
80-3-16	Amended	V. 18, p. 1232
80-4-1	Amended	V. 18, p. 1233
80-4-2	Revoked	V. 18, p. 1233
80-4-3	Revoked	V. 18, p. 1233
80-4-4	Amended	V. 18, p. 1233
80-4-5	Revoked	V. 18, p. 1233
80-4-6	Revoked	V. 18, p. 1233
80-5-1	Amended	V. 18, p. 1233
80-5-2	Revoked	V. 18, p. 1233
80-5-3	Revoked	V. 18, p. 1233
80-5-6	Amended	V. 18, p. 1233
80-5-7	Revoked	V. 18, p. 1234
80-5-9	Amended	V. 18, p. 1234
80-5-10	Amended	V. 18, p. 1234
80-5-11	Amended	V. 18, p. 1234
80-5-12	Revoked	V. 18, p. 1234
80-5-13	Amended	V. 18, p. 1234
80-5-14	Revoked	V. 18, p. 1234
80-5-15	Amended	V. 18, p. 1234
80-5-16	Amended	V. 18, p. 1235
80-5-18	Amended	V. 18, p. 1235
80-7-1	Amended	V. 18, p. 1235
80-8-2	Amended	V. 18, p. 1236
80-8-7	Amended	V. 18, p. 1236
80-50-1	Revoked	V. 18, p. 1236
80-50-2	Amended	V. 18, p. 1236
80-50-3	Amended	V. 18, p. 1236
80-50-4	Revoked	V. 18, p. 1236
80-50-5	Revoked	V. 18, p. 1236
80-50-6	Amended	V. 18, p. 1236
80-50-8	Revoked	V. 18, p. 1237
80-51-1	Revoked	V. 18, p. 1237
80-51-2	Revoked	V. 18, p. 1237
80-51-3	Revoked	V. 18, p. 1237
80-51-4	Amended	V. 18, p. 1237
80-51-5	Revoked	V. 18, p. 1237
80-51-7	Revoked	V. 18, p. 1237
80-52-1	Revoked	V. 18, p. 1237
80-52-2	Revoked	V. 18, p. 1237
80-52-3	Revoked	V. 18, p. 1237
80-53-2	through	
80-53-6	Revoked	V. 18, p. 1237
80-54-1	through	
80-54-4	Revoked	V. 18, p. 1237
80-55-1	through	
80-55-4	Revoked	V. 18, p. 1237

80-55-8	Amended	V. 18, p. 1237
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**AGENCY 82: STATE CORPORATION COMMISSION**

Reg. No.	Action	Register
82-1-221a	New	V. 18, p. 231
82-1-221b	New	V. 18, p. 232
82-1-228	Amended	V. 18, p. 232
82-1-235	Amended	V. 18, p. 233
82-3-101	Amended	V. 18, p. 273
82-3-401b	New	V. 18, p. 276
82-3-408	Amended	V. 18, p. 276
82-3-900	through	
82-3-908	New	V. 18, p. 276, 277
82-4-3	Amended (T)	V. 19, p. 575
82-4-3	Amended	V. 19, p. 208
82-11-3	Amended	V. 18, p. 234
82-11-4	Amended	V. 18, p. 234
82-11-9	Amended	V. 18, p. 238
82-11-10	Amended	V. 18, p. 239
82-11-11	New	V. 18, p. 239
82-12-2	Amended	V. 18, p. 239

**AGENCY 86: REAL ESTATE COMMISSION**

Reg. No.	Action	Register
86-1-11	Amended	V. 18, p. 1291

**AGENCY 88: BOARD OF REGENTS**

Reg. No.	Action	Register
88-23-1	through	
88-23-6	New	V. 19, p. 41-43

**AGENCY 91: DEPARTMENT OF EDUCATION**

Reg. No.	Action	Register
91-31-16	Amended	V. 18, p. 1171
91-31-18	Amended	V. 18, p. 1172
91-31-19	Amended	V. 18, p. 1309
91-31-24	Amended	V. 18, p. 1173
91-38-1	through	
91-38-10	New	V. 18, p. 1823-1828

**AGENCY 99: DEPARTMENT OF AGRICULTURE—DIVISION OF WEIGHTS AND MEASURES**

Reg. No.	Action	Register
99-25-1	Amended	V. 18, p. 189

**AGENCY 100: BOARD OF HEALING ARTS**

Reg. No.	Action	Register
100-6-2	Amended (T)	V. 18, p. 1747
100-6-2	Amended	V. 19, p. 241
100-10a-1	Amended	V. 19, p. 241
100-10a-3	Amended	V. 19, p. 241
100-11-5	Revoked	V. 18, p. 1230
100-22-3	New	V. 19, p. 571
100-24-3	New	V. 18, p. 483
100-60-9	Amended	V. 19, p. 571
100-60-10	Amended	V. 19, p. 571
100-60-13	Amended	V. 19, p. 572

**AGENCY 102: BEHAVIORAL SCIENCES REGULATORY BOARD**

Reg. No.	Action	Register
102-4-10a	Amended (T)	V. 18, p. 1035
102-4-10a	Amended	V. 18, p. 1556
102-5-7a	Amended	V. 18, p. 1520

**AGENCY 105: BOARD OF INDIGENTS' DEFENSE SERVICES**

Reg. No.	Action	Register
105-1-1	Amended	V. 18, p. 1141
105-2-1	Amended	V. 18, p. 1142
105-3-1	Amended	V. 18, p. 1142
105-3-2	Amended	V. 18, p. 1142
105-3-4	Revoked	V. 18, p. 1143
105-3-5	Amended	V. 18, p. 1143
105-3-8	Revoked	V. 18, p. 1143
105-3-9	Amended	V. 18, p. 1143
105-3-11	Amended	V. 18, p. 1144
105-3-12	Amended	V. 18, p. 1144
105-5-2	Amended	V. 18, p. 1144
105-5-3	Amended	V. 18, p. 1144
105-5-6	Amended	V. 18, p. 1144
105-5-7	Amended	V. 18, p. 1145

(continued)

105-5-8	Amended	V. 18, p. 1145
105-6-2	Amended	V. 18, p. 1145
105-7-2	Amended	V. 18, p. 1146
105-7-4		
through		
105-7-9	Amended	V. 18, p. 1146
105-8-1	Amended	V. 18, p. 1146
105-8-2	Amended	V. 18, p. 1146
105-8-3	Amended	V. 18, p. 1146
105-10-1a	Amended	V. 18, p. 1146
105-10-3	Amended	V. 18, p. 1147
105-10-5	Amended	V. 18, p. 1147
105-21-3	Amended	V. 18, p. 1147
105-21-6	Amended	V. 18, p. 1147
105-31-4	Revoked	V. 18, p. 1147

#### AGENCY 108: STATE EMPLOYEES HEALTH CARE COMMISSION

Reg. No.	Action	Register
108-1-3	New (T)	V. 18, p. 1392
108-1-3	New	V. 19, p. 68

#### AGENCY 109: BOARD OF EMERGENCY MEDICAL SERVICES

Reg. No.	Action	Register
109-1-1	Amended	V. 18, p. 1650
109-5-1	Amended	V. 18, p. 1653
109-5-2	Amended	V. 18, p. 1654
109-5-3	Amended	V. 18, p. 1654
109-5-4	Amended	V. 18, p. 1655
109-6-2	Amended	V. 18, p. 1655
109-9-1	Amended	V. 18, p. 1656
109-9-2	Revoked	V. 18, p. 1656
109-4-4	Amended	V. 18, p. 1656
109-9-5	Revoked	V. 18, p. 1657
109-10-1	Amended	V. 18, p. 1657
109-10-2	Amended	V. 18, p. 1658
109-10-6	New	V. 18, p. 1660
109-11-1	Amended	V. 18, p. 1662
109-11-2	Revoked	V. 18, p. 1662
109-11-3	Amended	V. 18, p. 1662
109-11-4	Amended	V. 18, p. 1663
109-11-5	Amended	V. 18, p. 1664
109-11-6	Amended	V. 18, p. 1664
109-12-1	Revoked	V. 18, p. 1665
109-12-2	Revoked	V. 18, p. 1665
109-13-1	Amended	V. 18, p. 1666
109-13-3	Revoked	V. 18, p. 1666

#### AGENCY 111: KANSAS LOTTERY

A complete index listing all regulations filed by the Kansas Lottery from 1988 through 1999 can be found in the Vol. 18, No. 52, December 30, 1999 Kansas Register. The regulations listed below were published after December 31, 1999.

Reg. No.	Action	Register
111-2-66	Revoked	V. 19, p. 14
111-2-84	Revoked	V. 19, p. 14
111-2-95	Amended	V. 19, p. 174
111-2-100	New	V. 19, p. 14
111-2-101	New	V. 19, p. 15
111-2-102	New	V. 19, p. 174
111-2-104	New	V. 19, p. 15
111-2-105	New	V. 19, p. 16
111-2-106	New	V. 19, p. 175
111-2-107	New	V. 19, p. 174
111-2-108	New	V. 19, p. 175
111-2-109	New	V. 19, p. 175
111-3-1	Amended	V. 19, p. 176
111-3-12	Amended	V. 19, p. 16
111-3-14	Amended	V. 19, p. 521
111-3-20	Amended	V. 19, p. 17
111-3-35	Amended	V. 19, p. 177
111-4-1594	Amended	V. 19, p. 17
111-4-1595	Amended	V. 19, p. 17
111-4-1597	Amended	V. 19, p. 18
111-4-1598	Amended	V. 19, p. 18
111-4-1621		
through		
111-4-1636	New	V. 19, p. 177-181
111-4-1617	Amended	V. 19, p. 19
111-4-1637		
through		
111-4-1649	New	V. 19, p. 19-22
111-4-1673		
through		
111-4-1698	New	V. 19, p. 522-528
111-5-30	Amended	V. 19, p. 529
111-5-77	New	V. 19, p. 529
111-6-1	Amended	V. 19, p. 529
111-6-5	Amended	V. 19, p. 530
111-6-24	New	V. 19, p. 531
111-7-73	Amended	V. 19, p. 531
111-7-77	Amended	V. 19, p. 531
111-7-78	Amended	V. 19, p. 532
111-7-80	Amended	V. 19, p. 532
111-7-81	Amended	V. 19, p. 533

111-7-126	Amended	V. 19, p. 534
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#### AGENCY 112: KANSAS RACING AND GAMING COMMISSION

Reg. No.	Action	Register
112-6-4a	New	V. 18, p. 1458
112-7-21	Amended	V. 19, p. 118
112-10-6	Amended	V. 18, p. 954
112-10-38	Amended	V. 19, p. 119
112-18-22	Amended	V. 19, p. 119

#### AGENCY 115: DEPARTMENT OF WILDLIFE AND PARKS

Reg. No.	Action	Register
115-2-1	Amended	V. 18, p. 1019
115-4-13	Amended	V. 18, p. 1020
115-5-2	Amended	V. 18, p. 1723
115-7-1	Amended	V. 18, p. 1334
115-7-5	Amended	V. 18, p. 1334
115-8-6	Amended	V. 18, p. 1724
115-11-2	Amended	V. 18, p. 484
115-15-1	Amended	V. 18, p. 1724
115-15-2	Amended	V. 18, p. 1725
115-16-4	Amended	V. 18, p. 780
115-17-21	New	V. 18, p. 781
115-18-4	Amended	V. 18, p. 1334
115-18-7	Amended	V. 18, p. 1335
115-18-13	Amended	V. 18, p. 1336
115-18-14	Amended	V. 18, p. 1336
115-18-16	New (T)	V. 19, p. 242
115-30-10	Amended	V. 18, p. 781

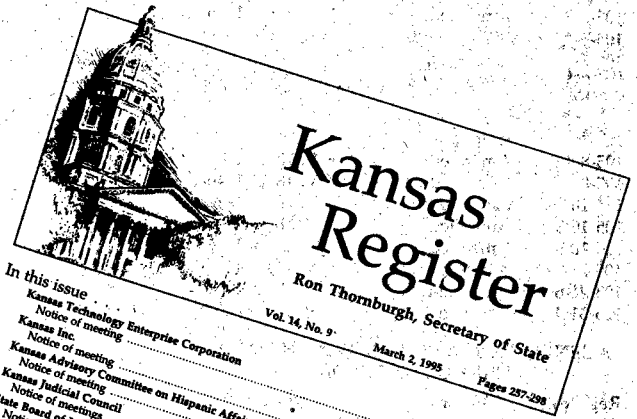
#### AGENCY 117: REAL ESTATE APPRAISAL BOARD

Reg. No.	Action	Register
117-2-1	Amended	V. 18, p. 294
117-2-2	Amended	V. 18, p. 295
117-3-1	Amended	V. 18, p. 296
117-3-2	Amended	V. 18, p. 296
117-4-1	Amended	V. 18, p. 297
117-4-2	Amended	V. 18, p. 298
117-6-1	Amended	V. 18, p. 955
117-6-3	Amended	V. 19, p. 472
117-7-1	Amended	V. 19, p. 41
117-8-1	Amended	V. 19, p. 473
117-9-1	Amended	V. 19, p. 473

#### AGENCY 118: KANSAS STATE HISTORICAL SOCIETY

Reg. No.	Action	Register
118-4-1		
through		
118-4-4	New	V. 18, p. 672, 673

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