



Kansas Register

Ron Thornburgh, Secretary of State

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City of Fort Scott, Kansas

Notice of Proposed DBE Program

The city of Fort Scott has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation, 49 CFR Part 26, for the Fort Scott Municipal Airport. The city anticipates receiving federal financial assistance from the Department of Transportation, and, as a condition of receiving this assistance, the city will sign an assurance that it will comply with 49 CFR Part 26.

The city's overall project-specific goal for FY 2008 is 3.90 percent of the federal financial assistance.

The proposed DBE Program is available for public inspection and comment at the office of the Director of Human Resources, 1 E. Third, Fort Scott, 66701. The city will accept comments on the goals for 30 days from the date of this notice. Comments can be sent to Bob Johnson, DBE liaison officer.

Diane K. Clay
City Clerk

Doc. No. 035474

State of Kansas

**Department of Revenue
Division of Motor Vehicles**

**Notice of Intent to Establish a New
Motor Vehicle Dealer Licence**

Notice has been received from KC Watersports, LLC, d/b/a Xtreme Marine, 12425 W. 92nd St, Lenexa, Kansas, of its intent to establish a new Legacy Trailer, d/b/a Rolco Trailer dealership, Xtreme Marine at 12425 W. 92nd St., Lenexa, Kansas. The vehicle dealer operators and the principal investors are Scott Gulledege, Robert Holloway and Ricky Bailey. The proposed date of completion is immediately upon approval.

Pursuant to K.S.A. 8-2430(a)(5), any existing new motor vehicle dealer may protest the proposed establishment of the new Legacy Trailer, d/b/a Rolco Trailer dealership, Xtreme Marine at 12425 W. 92nd St., Lenexa, Kansas, if that existing new motor vehicle dealer has a franchise agreement for the same line-make vehicle as that which is to be sold or offered for sale at Xtreme Marine at 12425 W. 92nd St., Lenexa, Kansas, and provided that the existing new motor vehicle dealer is physically located such that its relevant market area, as defined in K.S.A. 8-2430(e), includes the location where the new Legacy Trailer, d/b/a Rolco Trailer dealership, will be located.

Pursuant to K.S.A. 8-2430(a), any petition or complaint by any dealer with standing to protest must be filed with the Director of Vehicles within 30 days of this notice. Such petitions or complaints must be directed to the Kansas Department of Revenue, Director of Motor Vehicles, 1st Floor, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612.

Carmen Alldritt
Director of Motor Vehicles

Doc. No. 035481

State of Kansas

Secretary of State

Code Mortgage Rate for March

Pursuant to the provisions of K.S.A. 16a-1-301, Section 11, the code mortgage rate during the period of March 1, 2008 through March 31, 2008, is 12 percent.

Ron Thornburgh
Secretary of State

Doc. No. 035464

State of Kansas

Secretary of State

Usury Rate for March

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 March 1, 2008 through March 31, 2008, is 7.36 percent.

Ron Thornburgh
Secretary of State

Doc. No. 035463

State of Kansas

Kansas Judicial Council

Notice of Meetings

The Kansas Judicial Council, its Advisory Committees, the Commission on Judicial Performance and the Kansas Criminal Code Recodification Commission will meet according to the following schedule at the Kansas Judicial Center, 301 S.W. 10th Ave., Topeka, unless otherwise designated:

Date	Committee	Time	Location
March 7	Family Law	9:30 a.m.	Suite 140, West Conf.
March 7	Civil Code	9:00 a.m.	Room 269
March 14	Commission on Judicial Performance	9:30 a.m.	Suite 140, West Conf.
March 21	Administrative Procedure	9:30 a.m.	Suite 140, West Conf.
March 21	PIK-Civil	9:30 a.m.	Room 269
March 28	Juvenile Offender/ Child in Need of Care	9:30 a.m.	Suite 140, West Conf.
April 4	Civil Code	9:00 a.m.	Room 269
April 4	Family Law	9:30 a.m.	Suite 140, West Conf.
April 11	Commission on Judicial Performance	9:30 a.m.	Suite 140, West Conf.
April 18	Probate Law	9:30 a.m.	Suite 140, West Conf.
April 18	Administrative Procedure	9:30 a.m.	Suite 140, East Conf.
April 18	PIK-Civil	9:30 a.m.	Room 269

Hon. Robert E. Davis
Chairman

Doc. No. 035467

State of Kansas

Wireless Enhanced 911 Advisory Board**Notice of Grant Award Meeting**

Grant funds are available from the Kansas Wireless Enhanced 911 grant program. The purpose of the grant program is to support local Public Safety Answering Points in making the required improvements to establish wireless enhanced 911 services.

The Kansas Wireless Enhanced 911 Advisory Board will meet at 8:30 a.m. Thursday, March 27, at the SRS Learning Center, 2600 S.W. East Circle Drive South, Topeka, to determine additional grant awards for calendar year 2008.

Juliene Maska
Governor's Grants Program Administrator

Doc. No. 035478

State of Kansas

Kansas Development Finance Authority**Notice of Hearing**

A public hearing will be conducted at 9 a.m. Thursday, March 20, in the conference room in the offices of the Kansas Development Finance Authority, 555 S. Kansas Ave., Suite 202, Topeka, on the proposal for the K DFA to issue not to exceed \$35 million principal amount of the K DFA's Athletic Facilities Revenue Bonds for Kansas Athletics, Incorporated, a Kansas nonprofit corporation organized pursuant to Internal Revenue Code Section 501(c)(3) (the corporation). The bonds will be issued, pursuant to K.S.A. 74-8901 et seq. and in accordance with the Kansas Athletics, Incorporated Facilities Master Plan, to finance renovations to and the expansion of Allen Fieldhouse and certain related facilities of the corporation, located at the principal address of 1651 Naismith Drive, Lawrence, KS 66045 (the project).

The bonds, when issued, will be a limited obligation of the K DFA and will not constitute a general obligation or indebtedness of the state of Kansas or any political subdivision thereof, including the K DFA, nor will the bonds constitute an indebtedness for which the faith and credit and taxing powers of the state of Kansas are pledged. The bonds will be payable solely from amounts received from the corporation, the obligation of which will be sufficient to pay the principal of, interest and redemption premium, if any, on the bonds when they become 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 K DFA at its offices at 555 S. Kansas Ave., Suite 202, Topeka, 66603, will be considered. Additional information regarding the project may be obtained by contacting the K DFA.

Steven R. Weatherford
President

Doc. No. 035488

State of Kansas

African American Affairs Commission**Notice of Meeting**

The Kansas African American Affairs Commission will meet at 9:30 a.m. Wednesday, March 12, at the Jack Rendon Convention Center, 500 Minnesota Ave., Kansas City, Kansas. This meeting is a joint meeting with the Kansas Hispanic and Latino American Affairs Commission.

Danielle Dempsey-Swopes
Executive Director

Doc. No. 035468

State of Kansas

Kansas Development Finance Authority**Notice of Hearing**

A public hearing will be conducted at 9 a.m. Thursday, March 20, in the offices of the Kansas Development Finance Authority, 555 S. Kansas Ave., Suite 202, Topeka, on the proposal for the K DFA 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 borrower named below (who will be the owner and operator of the project) to finance the cost in the amount of the bond, which is then typically purchased by a lender bank who then, through the K DFA, loans the bond proceeds to the borrower for the purposes of acquiring the project. The project shall be located as shown:

Project No. 000713—Maximum Principal Amount: \$250,000. Owner/Operator: Eric J. Cole. Description: Acquisition of 137 acres of agricultural land and related improvements and equipment to be used by the owner/operator for farming purposes. The project is being financed by the lender for Eric J. Cole and is located at Section 19, Township 2, Range 20, Doniphan County, Kansas, approximately 3 miles east of Highland.

The bond, when issued, will be a limited obligation of the K DFA and will not constitute a general obligation or indebtedness of the state of Kansas or any political subdivision thereof, including the K DFA, 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 K DFA at its offices at 555 S. Kansas Ave., Suite 202, Topeka, 66603, will be considered. Additional information regarding the project may be obtained by contacting the K DFA.

Stephen R. Weatherford
President

Doc. No. 035480

State of Kansas

Hispanic and Latino American
Affairs Commission

Notice of Meeting

The Kansas Hispanic and Latino American Affairs Commission will meet at 9:30 a.m. Wednesday, March 12, at the Jack Reardon Convention Center, 500 Minnesota Ave., Kansas City, Kansas. This meeting is a joint meeting with the Kansas African American Affairs Commission.

Steven A. Cisneros
Executive Director

Doc. No. 035469

State of Kansas

Department of Administration
Division of Purchases

Notice to Bidders

Sealed bids for items listed will be received by the Director of Purchases until 2 p.m. on the date indicated. For more information, call (785) 296-2376:

03/17/2008	11124	Marketing Research, Technical Education
03/18/2008	11149	Fan Coil Units
03/18/2008	11151	Solar Lighting
03/18/2008	11156	Elevator Modernization and Upgrade
03/18/2008	11159	Rotary Tillers (Bituminous Material Mixers)
03/18/2008	11160	Trucks, Pickup, ¾-Ton Extended Cab
03/19/2008	11107	Janitorial Services
03/20/2008	11080	Fitness Equipment
03/20/2008	11142	Lightbars
03/21/2008	11148	Bituminous Plant Mixture
03/21/2008	11155	Maintenance of Highway Lighting
03/25/2008	11167	Diesel Generator Maintenance
03/28/2008	11147	External Auditing and Accounting Services
04/07/2008	10713	Information Technology Services Master Contract—Groups 3 and 4

The above-referenced bid documents can be downloaded at the following Web site:

<http://www.da.ks.gov/purch/>

Additional files may be located at the following Web site (please monitor this Web site on a regular basis for any changes/addenda):

<http://da.state.ks.us/purch/adds/default.htm>

Contractors wishing to bid on the projects listed below must be prequalified. Information regarding prequalification, projects and bid documents can be obtained by calling (785) 296-8899 or by visiting www.da.ks.gov/fp/.

03/25/2008	A-010592	Campus Walk Repair, Various Locations, Wichita State University, Wichita
04/10/2008	A-010656	Painting/Maintenance, Eck Stadium, Wichita State University, Wichita

Chris Howe
Director of Purchases

Doc. No. 035487

(Published in the Kansas Register March 6, 2008.)

City of Overland Park, Kansas

Notice to Bidders

Sealed bids for **Five (5) Alternate Fuel Vehicles, KDOT Project No. 46 N-0453-01**, will be received by the city of Overland Park, Kansas, at the office of the City Clerk, City Hall, 8500 Santa Fe Drive, Overland Park, 66212, until 2 p.m. local time Tuesday, April 8, 2008. At that time all sealed bids will be transferred to the City Council Chamber, City Hall, where they will be publicly opened and read aloud. Any bid received after the designated closing time will be returned unopened.

All bids shall be submitted in sealed envelopes addressed to the city clerk of Overland Park, Kansas, and marked "Bid For: Five (5) Alternate Fuel Vehicles."

Vendors should read and be fully familiar with all bid documents before submitting a bid. In submitting a bid, the vendor warrants that it has read the bid documents and is fully familiar therewith.

Questions regarding the specifications should be referred to Mary Parrott at (913) 895-6090. Copies of bid documents and specifications are on file at the office of the contract specialist, (913) 895-6282.

Bids shall be made upon the form provided, in ink or typewritten. No oral, telegraphic, facsimile or telephonic bids or alterations will be considered. Bidders submitting bids on vehicles not conforming to the detailed specifications must state variances on the bid form where applicable. Bids cannot be altered or changed after they have been received by the city and opened. If more than one bid is submitted, please submit each bid in a separate envelope.

The city of Overland Park reserves the right to accept or reject any and all bids and to waive any technicalities or irregularities therein. Bids may be modified or withdrawn by written request of the bidder received in the office of the city clerk prior to the time and date for bid opening; provided, however, that no bidder may withdraw its bid for a period of 45 days from the date set for the opening thereof. All bidders agree that rejection shall create no liability on the part of the city because of such rejection. It is understood by all bidders that an unsuccessful bidder has no cause of action against the city for bid preparation costs. The filing of any bid in response to this invitation shall constitute an agreement of the bidder to these conditions.

Bid prices shall include delivery of the equipment to the location on the bid form. Delivery date shall be stated on the bid form.

Nancy Sappington
Contract Specialist
Public Works Department
City of Overland Park, Kansas

Doc. No. 035479

State of Kansas

Commission on Veterans' Affairs**Notice of Meeting**

The Kansas Commission on Veterans' Affairs will meet at 1 p.m. Friday, March 14, in the Florentine Room, Jayhawk Tower, 700 S.W. Jackson, Topeka. The public is invited to attend. For more information, call (785) 296-3976.

George S. Webb
Executive Director

Doc. No. 035477

State of Kansas

Department of Revenue**Notice of Hearing on Proposed
Administrative Regulations**

A public hearing will be conducted by the Department of Revenue at 1 p.m. Monday, May 12, in Room 230, Docking State Office Building, 915 S.W. Harrison, Topeka, to consider the adoption of several income tax regulations and the revocation of a sales tax regulation. Copies of these proposed regulations may be found at www.ksrevenue.org.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written comments on the proposed regulations. All interested parties may submit written public comments on the proposed regulations prior to the hearing to Kathleen Smith, Tax Specialist, Office of Policy and Research, Room 230, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612, or through e-mail at kathleen_smith@kdor.state.ks.us.

All interested parties will be given a reasonable opportunity to present their views, either orally or in writing or both, concerning the adoption of the proposed regulations. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and 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 Kathleen Smith at (785) 296-3081 or TTY (785) 296-6461. Disabled parking is located in State Parking Lot No. 2, south of the Docking Building facing Harrison Street. The east entrance to the Docking Building is accessible.

These regulations are proposed for adoption on a permanent basis. A summary of the proposed regulations and the economic impact follows:

Article 12.—INCOME TAX

Adoption of K.A.R. 92-12-114. Determining transportation income within a unitary group. This regulation provides the formula to be used in determining transportation income within a unitary group.

Economic Impact: The Department of Revenue does not anticipate any impact on the department, other government agencies, or private businesses or individuals.

Adoption of K.A.R. 92-12-140. Definitions. This regulation provides the definitions for the tax credit allowed under K.S.A. 79-32,261.

Economic Impact: The Department of Revenue does not anticipate any impact on the department, other government agencies, or private businesses or individuals.

Adoption of K.A.R. 92-12-141. Tax credit agreement. This regulation provides the required information for tax credit agreements between the department and the educational institution through the deferred maintenance tax credit program.

Economic Impact: The Department of Revenue does not anticipate any impact on the department, other government agencies, or private businesses or individuals.

Adoption of K.A.R. 92-12-142. Tax credit application. This regulation describes the tax credit application through the deferred maintenance tax credit program.

Economic Impact: The Department of Revenue does not anticipate any impact on the department, other government agencies, or private businesses or individuals.

Adoption of K.A.R. 92-12-143. Quarterly reports. This regulation requires quarterly reports by each educational institution through the deferred maintenance tax credit program.

Economic Impact: The Department of Revenue does not anticipate any impact on the department, other government agencies, or private businesses or individuals.

Adoption of K.A.R. 92-12-144. Reallocation of credits. This regulation provides the process of reallocation of credits through the deferred maintenance tax credit program.

Economic Impact: The Department of Revenue does not anticipate any impact on the department, other government agencies, or private businesses or individuals.

Adoption of K.A.R. 92-12-145. Transfer of tax credits. This regulation provides the process of transferring credits through the deferred maintenance tax credit program.

Economic Impact: The Department of Revenue does not anticipate any impact on the department, other government agencies, or private businesses or individuals.

Revocation of K.A.R. 92-19-70. K.A.R. 92-19-70 is an interpretive regulation that explains how Kansas sales tax law applies to computer software sales and services. This 1988 regulation no longer provides a clear explanation how Kansas taxes computer sales and services. The department has published EDU-71, Sales Tax Guidelines: Taxing Charges for Computer Products and Services and Internet Related Sales and Services to provide an explanation of sales taxation of software sales and services.

Economic Impact: The Department of Revenue does not anticipate any impact on the department, other government agencies, or private businesses or individuals.

A copy of the regulations and the economic impact statement may be obtained from the Kansas Department of Revenue, Office of Policy and Research, Room 230, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612-1588, or via the department's Web site at www.ksrevenue.org.

Joan Wagnon
Secretary of Revenue

Doc. No. 035472

State of Kansas

Kansas Sentencing Commission

Notice of Meetings

The Kansas Sentencing Commission's (KSC) Level of Service Inventory-Revised (LSI-R) Committee will meet from 9:30 a.m. to noon March 21 and April 25 in the Senate Room of the Jayhawk Tower, 700 S.W. Jackson, Topeka. Any individual with a disability may request accommodation to attend a KSC meeting. Requests for accommodation should be made at least five working days in advance of the meeting by contacting Brenda Harmon at (785) 296-0923.

Helen Pedigo
Executive Director

Doc. No. 035471

State of Kansas

Office of the Securities Commissioner

Notice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 10 a.m. Thursday, May 15, at the Office of the Securities Commissioner, 618 S. Kansas Ave., first floor, Topeka, to consider the amendment of K.A.R. 81-5-7, 81-7-2, 81-14-1, 81-14-5 and 81-14-9. The regulations are proposed for adoption on a permanent basis.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing by addressing them to the Kansas Securities Commissioner, 618 S. Kansas Ave., Topeka, 66603. All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation. Following the hearing, all written and oral comments submitted by interested parties will be considered by the commissioner as a basis for making changes to the proposed regulations.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation should be made at least five working days in advance of the hearing by contacting Michelle Lancaster at (785) 296-5215 or the Kansas Relay Center at (800) 766-3777. Handicapped parking is located on Kansas Avenue, and the first floor hearing room is accessible to individuals with disabilities.

The proposed rules and regulations to be considered at the hearing are summarized as follows. With the exception of K.A.R. 81-7-2, the economic impact of each proposed amendment is expected to be immaterial. The proposed regulations have no impact upon other governmental units or agencies.

K.A.R. 81-5-7 contains an exemption from registration for securities sold on certain stock exchanges. The pro-

posed amendment updates the list of exchanges because the names of some of the stock exchanges have changed. The amendment also adds exemptions for securities sold on the NASDAQ Capital Market and options sold on the International Securities Exchange because federal law now preempts state regulation of those securities.

K.A.R. 81-7-2 contains standards for the registration of various types of securities offerings. The standards have been adopted by reference from guidelines and statements of policy of the North American Securities Administrators Association (NASAA). Several of the statements of policy were amended by NASAA in 2007 to increase the financial suitability standards for investors. The increases in suitability standards were intended primarily to adjust for inflation since the last increases in the early 1990s, and the proposed amendment of 81-7-2 adopts the new standards. In addition, the amendment adds a new suitability threshold in subsection (d) that is designed to promote diversification of investments so that investors do not hold more than 10 percent of their liquid net worth in any particular type of security.

K.A.R. 81-14-1 contains the registration procedures for investment advisers and investment adviser representatives. The process requires the filing of Part 1 and Part 2 of Form ADV. Previously, Part 2 could not be filed electronically via the nationwide Investment Advisor Registration Depository (IARD), so applicants were required to make paper filings of Part 2. The IARD system now accommodates electronic filing of part 2, and the proposed amendment would require electronic filing of Part 2. In addition, the proposed amendment expands the list of documents that are required to be submitted either electronically or in paper form as part of the application process, including copies of the applicant's surety bond and written supervisory procedures.

K.A.R. 81-14-5 contains ethical standards for investment advisers, investment adviser representatives, and federal covered investment advisers. The proposed amendment clarifies that an investment adviser representative is in a fiduciary relationship with his or her clients. Furthermore, the amendment clarifies the financial disclosures that an investment adviser must make to its clients.

K.A.R. 81-14-9 contains financial reporting requirements for any investment adviser that requires prepayment of fees or obtains custody of clients' funds or securities. The proposed amendment applies the financial reporting requirements to any adviser that accepts prepaid fees, and it creates exceptions to the financial reporting requirements. The proposed amendment also requires every adviser to maintain a positive net worth at all times and excludes certain liabilities from the calculation of net worth.

Copies of the full text of the proposed regulations and the economic impact statements may be obtained by writing to the Office of the Securities Commissioner at the address above or by e-mail request to ksc@ksc.ks.gov.

Chris Biggs
Securities Commissioner

Doc. No. 035475

State of Kansas

Department of Health and Environment

Notice Concerning Kansas/Federal Water Pollution Control Permits and Applications

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, various draft water pollution control documents (permits, notices to revoke and reissue, notices to terminate) have been prepared and/or permit applications have been received for discharges to waters of the United States and the state of Kansas for the class of discharges described below.

The proposed actions concerning the draft documents are based on staff review, applying the appropriate standards, regulations and effluent limitations of the state of Kansas and the Environmental Protection Agency. The final action will result in a Federal National Pollutant Discharge Elimination System Authorization and/or a Kansas Water Pollution Control permit being issued, subject to certain conditions, revocation and reissuance of the designated permit or termination of the designated permit.

Public Notice No. KS-AG-08-056

Application(s) for New or Expansion of Existing Swine Facilities

Name and Address of Applicant	Owner of Property Where Facility Will Be Located	Legal Description	Receiving Water
Mark Nelson, N & N Farms Inc. 8725 County Farm Road Wamego, KS 66547	Mark Nelson, N & N Farms Inc. 8725 County Farm Road Wamego, KS 66547	NW/4 of Section 07, T09S, R10E, Pottawatomie County	Kansas River Basin
Kansas Permit No. A-KSPT-S033			

This is an application for a permit at an existing swine facility with a maximum capacity for 800 head (320 animal units) of swine more than 55 pounds. The facility was previously certified by KDHE. A new or modified permit will not be issued without additional public notice.

Public Notice No. KS-AG-08-057/064

Pending Permits for Confined Feeding Facilities

Name and Address of Applicant	Legal Description	Receiving Water
Carpenter Ranch Feedyard Lowell Carpenter 209 County Road U Brewster, KS 67732	NW/4 of Section 29, T07S, R36W, Thomas County	Upper Republican River Basin
Kansas Permit No. A-URTH-C005 Federal Permit No. KS0099457		

This is a new permit for an expanding facility for 1,500 head (1,500 animal units) of beef cattle weighing more than 700 pounds. The facility currently consists of 2.7 acres for the feeding of a maximum of 300 head (300 animal units) of beef cattle weighing more than 700 pounds. The facility is proposing to expand the facility to consist of 16.0 acres for the feeding of a maximum of 1,500 head (1,500 animal units) of beef cattle weighing more than 700 pounds. The facility is

proposing to construct a drainage channel, additional confinement pens, a sediment basin, and a retention control structure.

Name and Address of Applicant	Legal Description	Receiving Water
Luthi Farms Steve Luthi 1178 Navajo Road Clay Center, KS 67432	NW/4 of Section 08 & NE/4 of Section 07, T09S, R03E, Clay County	Lower Republican River Basin
Kansas Permit No. A-LRCY-S017		

This permit is being reissued with a modification to an existing swine facility with a maximum capacity for 1,860 head (744 animal units) of swine more than 55 pounds, 900 head (90 animal units) of swine 55 pounds or less, 60 head (60 animal units) of cattle more than 700 pounds and 60 head (30 animal units) of cattle less than 700 pounds. The modification includes demolition of two old swine barns and replacing them with one new swine barn. This permit includes a slight decrease in animal unit capacity from the previous permit.

Name and Address of Applicant	Legal Description	Receiving Water
Cranor Purebreds Steven A. Cranor 1899 5000 Road Chetopa, KS 67336	NE/4 of Section 27, T34S, R20E, Labette County	Neosho River Basin
Kansas Permit No. A-NELB-S008		

This is a reissuance of a permit for an existing facility for 300 head (120 animal units) of swine weighing greater than 55 pounds and 240 head (24 animal units) of swine weighing 55 pounds or less, for a total of 540 head (144 animal units) of swine.

Name and Address of Applicant	Legal Description	Receiving Water
Mueller Dairy Scott Mueller P.O. Box 128 Iola, KS 66749	SW/4 of Section 10, T25S, R18E, Allen County	Neosho River Basin
Kansas Permit No. A-NEAL-M014		

This is a reissuance of a permit with a decrease of animal units for an existing facility for 45 head (63 animal units) of mature dairy cattle. The previous permit was issued for 50 head (70 animal units) of mature dairy cattle.

Name and Address of Applicant	Legal Description	Receiving Water
Merle Sterling Swine 608 600 St. Humboldt, KS 66748	SE/4 of Section 36, T25S, R17E, Allen County	Neosho River Basin
Kansas Permit No. A-NEAL-S012		

This is a reissuance of a permit for an existing facility for a maximum capacity of 150 head (60 animal units) of swine weighing greater than 55 pounds and 200 head (20 animal units) of swine weighing 55 pounds or less, for a total of 350 head (80 animal units) of swine.

Name and Address of Applicant	Legal Description	Receiving Water
Wilbur Stainbrook 11343 W. 1900 Road La Cygne, KS 66040	NW/4 of Section 20, T20S, R23E, Linn County	Marais des Cygnes River Basin
Kansas Permit No. A-MCLN-S005		

This is a reissuance of a permit for an existing facility for 450 head (180 animal units) of swine weighing greater than 55 pounds.

Name and Address of Applicant	Legal Description	Receiving Water
Clayton Carothers 18803 Maddox Road La Cygne, KS 66040	NW/4 of Section 23, T20S, R23E, Linn County	Marais des Cygnes River Basin
Kansas Permit No. A-MCLN-S007		

This is a reissuance of a permit for an existing facility for 878 head (351.2 animal units) of swine weighing greater than 55 pounds and 360 head (36 animal units) of swine weighing 55 pounds or less, for a total of 1,238 head (387.2 animal units) of swine.

Name and Address of Applicant	Legal Description	Receiving Water
Brady Inc. Truck Wash Robert Brady 1990 N. Road L Johnson, KS 67855	SE/4 of Section 36, T27S, R41W, Stanton County	Cimarron River Basin

Kansas Permit No. A-CIST-T001

This is a reissuance of a permit for an existing private truck washing facility washing two or fewer trucks.

Public Notice No. KS-08-043/048

Name and Address of Applicant	Receiving Stream	Type of Discharge
Allen County Sewer District #1 c/o Allen County Clerk 1 N. Washington Iola, KS 66749	Rock Creek	Treated Domestic Wastewater

Kansas Permit No. M-NE37-OO02 Federal Permit No. KS0085201
 Legal Description: SW¼, NW¼, SW¼, S30, T24S, R19E, Allen County
 Facility Description: The proposed action is to reissue an existing permit for an existing wastewater treatment facility. The proposed permit contains limits for biochemical oxygen demand and total suspended solids, as well as monitoring of ammonia, fecal coliform/E. coli, total recoverable zinc and copper, and pH. 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 technology based.

Name and Address of Applicant	Receiving Stream	Type of Discharge
Altamont, City of P.O. Box 305 Altamont, KS 67330	Labette Creek via Hackberry Creek via Deer Creek	Treated Domestic Wastewater

Kansas Permit No. M-NE01-OO01 Federal Permit No. KS0045918
 Legal Description: W½, SW¼, SE¼, S11, T33S, R19E, Labette County
 Facility Description: The proposed action is to reissue an existing permit for an existing wastewater treatment facility. The proposed permit contains limits for biochemical oxygen demand and total suspended solids, as well as monitoring of ammonia, fecal coliform/E. coli and pH. 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 technology based.

Name and Address of Applicant	Receiving Stream	Type of Discharge
James and Judith Anderson 2624 N.E. 39th St. Topeka, KS 66617	Muddy Creek	Treated Domestic Wastewater

Kansas Permit No. C-KS43-OO01 Federal Permit No. KS0079251
 Legal Description: S½, NW¼, S31, T10S, R17E, Jefferson County
 Facility Name: Anderson's Mobile Home Park
 Facility Address: 3770 Park Drive, Meriden, KS 66512
 Facility Description: The proposed action is to reissue an existing permit for an existing wastewater treatment facility. The proposed permit contains limits for biochemical oxygen demand, total suspended solids and fecal coliform/E. coli, as well as monitoring of ammonia and pH. 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.

Name and Address of Applicant	Receiving Stream	Type of Discharge
Hospira Inc. 1776 N. Centennial Drive McPherson, KS 67460	Dry Turkey Creek via Lake via Pipeline	Process Wastewater

Kansas Permit No. I-LA11-PO11 Federal Permit No. KS0092517
 Legal: NE¼, S22, T19S, R3W, McPherson County
 Facility Description: The proposed action is to reissue an existing permit for the discharge from an existing wastewater treatment facility. This is a pharmaceutical drug manufacturing facility. Reverse osmosis

(RO) reject water, normally discharged to the sanitary sewer, if needed, may be discharged to a nearby lake owned by the permittee. All other wastewater (water softener regenerate, domestic wastewater and process wastewater) generated at the facility is discharged to the city sanitary sewer. The proposed permit includes generic water-quality language to protect waters of the state. The proposed permit contains a schedule of compliance requiring the permittee to submit an acceptable "No Exposure Certification for Exclusion from NPDES Storm Water Permitting" or, if not applicable, a stormwater pollution prevention plan within one year of the effective date of the permit. 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.

Name and Address of Applicant	Receiving Stream	Type of Discharge
Lebo, City of P.O. Box 14 Lebo, KS 66856	Lebo Creek	Treated Domestic Wastewater

Kansas Permit No. M-NE40-OO01 Federal Permit No. KS0024767
 Legal Description: SW¼, SW¼, SE¼, S9, T19S, R14E, Coffey County
 Facility Description: The proposed action is to reissue an existing permit for an existing wastewater treatment facility. The proposed permit contains limits for biochemical oxygen demand and total suspended solids, as well as monitoring of ammonia, fecal coliform/E. coli and pH. 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 technology based.

Name and Address of Applicant	Receiving Stream	Type of Discharge
LeRoy, City of P.O. Box 356 LeRoy, KS 66857-0356	Neosho River via Crooked Creek	Treated Domestic Wastewater

Kansas Permit No. M-NE42-OO01 Federal Permit No. KS0030813
 Legal Description: SW¼, SW¼, NW¼, S2, T23S, R16E, Coffey County
 Facility Description: The proposed action is to reissue an existing permit for an existing wastewater treatment facility. The proposed permit contains limits for biochemical oxygen demand and total suspended solids, as well as monitoring of ammonia, fecal coliform/E. coli, total recoverable copper and zinc, and pH. 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 technology based.

Public Notice No. KS-ND-08-011

Name and Address of Applicant	Legal Location	Type of Discharge
Mid America Pipeline P.O. Box 4324 Houston, TX 77210	SE¼, S17, T14S, R12E, Wabaunsee County	Nonoverflowing

Kansas Permit No. I-MC09-NP01 Federal Tracking No. KSJ000639
 Facility Name: Mid America Pipeline - Eskridge Pump Station
 Facility Address: Hentzler and Hwy. 99, Eskridge, KS 66423
 Facility Description: The proposed action is to issue a new permit for operation of a new nonoverflowing wastewater storage tank/collection system. This facility is a pipeline pumping facility. The stormwater collected from the gas turbine concrete pads gravitates to a sub-grade polyethylene, 1,500-gallon storage tank. Periodically, the liquid contents of the tank are pumped through a series of filters and then irrigated to a vegetated area of the facility. Residual oil material remaining in the tank is removed and disposed of off-site. Annual testing of the irrigated wastewater is required to verify compliance with the permit requirements. Approximately 5,000 gallons of wastewater is irrigated on-site annually. The proposed permit requires various annual reporting for wastewater, soil analytical results and land application. Discharge of wastewater from this treatment facility to surface waters of the state of Kansas is prohibited by this permit.

(continued)

Public Notice No. KS-PT-08-001

Name and Address of Applicant	Receiving Facility	Type of Discharge
Great Plains Manufacturing, Inc.	Kipp POTW	Process Wastewater

1525 E. North St.
Salina, KS 67402-5060

Kansas Permit No. P-SH46-0001 Federal Tracking No. KSP000099

Facility Name: Great Plains Manufacturing, Inc. - Kipp Facility

Facility Address: 244 N. Hugh, Salina, KS 67402

Facility Description: The proposed action is to issue a new pretreatment permit for this facility. This facility manufactures various types of farm tillage equipment such as dirt blades, rakes and disc harrows. Steel parts are welded, phosphated and painted to produce the final products. Regulated wastes consist of wastewater from the conversion coating (phosphating) operation, which is a pressure spray gun system in a wash booth. Spent phosphating wastes are collected in a sump and pumped to one of three tanks in the treatment system, which is the designated sampling location. Since this facility recently connected to the city of Kipp POTW, the on-site lagoon is being closed out and is regulated under a separate permit. The proposed permit includes limits for total toxic organics, cadmium, chromium, copper, lead, nickel, silver, zinc, total cyanide and pH, as well as monitoring of effluent flow. The permit limits are pursuant to state and federal pretreatment requirements.

Persons wishing to comment on the draft documents 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 considered in the decision-making process. Comments should be submitted to the attention of the Livestock Waste Management Section for agricultural-related draft documents or applications, or to the Technical Services Section for all other permits, at the Kansas Department of Health and Environment, Division of Environment, Bureau of Water, 1000 S.W. Jackson, Suite 420, Topeka, 66612-1367.

All comments regarding the draft documents or application notices received on or before April 5 will be considered in the formulation of the final determinations regarding this public notice. Please refer to the appropriate Kansas document number (KS-AG-08-056/064, KS-08-043/048, KS-ND-08-011, KS-PT-08-001) and name of the applicant/permittee when preparing comments.

After review of any comments received during the public notice period, the Secretary of Health and Environment will issue a determination regarding final agency action on each draft document/application. If response to any draft document/application indicates significant public interest, a public hearing may be held in conformance with K.A.R. 28-16-61 (28-46-21 for UIC).

All draft documents/applications and the supporting information including any comments received are on file and may be inspected at the offices of the Kansas Department of Health and Environment, Bureau of Water. These documents are available upon request at the copying cost assessed by KDHE. Application information and components of plans and specifications for all new and expanding swine facilities are available on the Internet at <http://www.kdhe.state.ks.us/feedlots>. Division of Environment offices are open from 8 a.m. to 5 p.m. Monday through Friday, excluding holidays.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 035476

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. MFG Construction Products Company has applied for a Class I operating permit renewal 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.

MFG Construction Products Company, Astabula, Ohio, owns and operates a fiberglass products manufacturing and repair facility located at 1018 W. Sycamore St., Independence, 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, 1000 S.W. Jackson, Suite 310, Topeka; and a copy of the proposed permit can be reviewed at the KDHE Southeast District Office, 1500 W. 7th, Chanute. To obtain or review the proposed permit and supporting documentation, contact Justin Cunningham, (785) 296-0776, at the KDHE central office; and to review the proposed permit only, contact Doug Cole, (620) 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 Justin Cunningham, KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating a final permit decision, written comments must be received before the close of business April 7.

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 Christy Thurman, Bureau of Air and Radiation, not later than the close of business April 7 in order for the Secretary of Health and Environment to consider the request.

The U.S. 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's 45-day review 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 im-

practicable to raise such objections within such period, or unless the grounds for such objection arose after such period. Contact Jon Knodel, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th St., Kansas City, KS 66101, (913) 551-7622, to determine when the 45-day EPA review period ends and the 60-day petition period commences.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 035483

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. Southern Star Central Gas Pipeline has applied for a Class I operating permit renewal 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.

Southern Star Central Gas Pipeline, Owensboro, Kentucky, owns and operates Hesston compressor station on Section 8, T22S, R1W in Harvey County, 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, 1000 S.W. Jackson, Suite 310, Topeka; and a copy of the proposed permit can be reviewed at the KDHE South Central District Office, 130 S. Market, Suite 6050, Wichita. To obtain or review the proposed permit and supporting documentation, contact Michael Parhomek, (785) 296-1580, at the KDHE central office; and to review the proposed permit only, contact Dave 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 Michael Parhomek, KDHE, Bureau of Air and Radiation, 1000 S.W. Jackson, Suite 310, Topeka, 66612-1366. In order to be considered in formulating a final permit decision, written comments must be received before the close of business April 7.

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 Melanie Stewart, Bureau of Air and Radiation, not later than the close of business April 7 in order for the Secretary of Health and Environment to consider the request.

The U.S. 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's 45-day review 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 Patricia Scott, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th St., Kansas City, KS 66101, (913) 551-7312, to determine when the 45-day EPA review period ends and the 60-day petition period commences.

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 035484

State of Kansas

Legislature

Legislative Bills and Resolutions Introduced

The following numbers and titles of bills and resolutions were introduced February 21-27 by the 2008 Kansas Legislature. Copies of bills and resolutions are available free of charge from the Legislative Document Room, 145-N, State Capitol, 300 S.W. 10th Ave., Topeka, 66612, (785) 296-4096. Full texts of bills, bill tracking and other information may be accessed at www.kslegislature.org.

House Bills

HB 2925, An act concerning sales taxation; relating to exemptions; Franklin county agricultural society, Paola senior center, Anderson county fair association, Linn county fair association, Miami county fair association and Douglas county senior services, inc.; amending K.S.A. 2007 Supp. 79-3606 and repealing the existing section, by Committee on Appropriations.

HB 2926, An act relating to cities; concerning the provision of equipment and personnel by the department of transportation and the Kansas national guard for demolition of housing damaged by flood waters, by Committee on Taxation.

HB 2927, An act concerning income taxation; relating to Kansas adjusted gross income; deductions; health care sharing ministries; amending K.S.A. 2007 Supp. 79-32,117 and repealing the existing section, by Committee on Taxation.

HB 2928, An act relating to property taxation; enacting the senior citizen property tax deferral act, by Special Committee on Assessment and Taxation.

HB 2929, An act concerning sales taxation; relating to exemptions; Kansas art education association; amending K.S.A. 2007 Supp. 79-3606 and repealing the existing section, by Committee on Taxation.

HB 2930, An act concerning sales taxation; relating to countywide retailers' sales tax in Barton county; amending K.S.A. 2007 Supp. 12-187 and 12-189 and repealing the existing sections, by Committee on Taxation.

HB 2931, An act concerning income taxation; relating to credits; adoption expenses; amending K.S.A. 2007 Supp. 79-32,202 and repealing the existing section, by Committee on Taxation.

HB 2932, An act concerning sales taxation; relating to countywide retailers' sales tax in Butler county; amending K.S.A. 2007 Supp. 12-187,

(continued)

12-189 and 12-192 and repealing the existing sections, by Committee on Taxation.

HB 2933, An act concerning sales taxation; relating to exemptions; Stella Wells Christmas Basket, inc.; amending K.S.A. 2007 Supp. 79-3606 and repealing the existing section, by Committee on Taxation.

HB 2934, An act enacting the health care reform act of 2008; amending K.S.A. 21-3851, 40-2119, 40-2124, 40-2209d, 40-2209m and K.S.A. 2007 Supp. 39-709, 40-19c06, 40-2209, 40-2240, 40-3209, 65-7402, 65-7403, 75-6501, 75-7423, 75-7427 and 79-32,117 and repealing the existing sections, by Committee on Appropriations.

HB 2935, An act concerning cemetery corporations; relating to the dissolution thereof; amending K.S.A. 17-1367 and repealing the existing section, by Committee on Appropriations.

HB 2936, An act making and concerning appropriations for the fiscal years ending June 30, 2009, and June 30, 2010, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, by Committee on Appropriations

HB 2937, An act concerning workers compensation; relating to bilateral scheduled injuries; amending K.S.A. 44-510e and repealing the existing section, by Committee on Federal and State Affairs.

HB 2938, An act concerning sales taxation; relating to certain exemptions; nonprofit organizations; amending K.S.A. 2007 Supp. 79-3603, 79-3606 and 79-3692 and repealing the existing sections, by Committee on Taxation.

HB 2939, An act concerning sales taxation; relating to exemptions; hospitalized veterans writing project; amending K.S.A. 2007 Supp. 79-3606 and repealing the existing section, by Committee on Taxation.

HB 2940, An act concerning sales taxation; relating to exemptions; boys and girls club of Manhattan, inc.; amending K.S.A. 2007 Supp. 79-3606 and repealing the existing section, by Committee on Taxation.

HB 2941, An act concerning sales taxation; relating to countywide retailers' sales tax; Jefferson county; amending K.S.A. 2007 Supp. 12-187, 12-189 and 12-192 and repealing the existing sections, by Committee on Taxation.

HB 2942, An act concerning sales taxation; relating to exemptions; GM Fairfax salaried retiree club; amending K.S.A. 2007 Supp. 79-3606 and repealing the existing section, by Committee on Taxation.

HB 2943, An act concerning civil actions and civil penalties; relating to the submission of false or fraudulent claims to or the performance of fraudulent acts upon the state or a political subdivision thereof, by Committee on Appropriations.

HB 2944, An act concerning sales taxation; relating to exemptions; Kansas City symphony; amending K.S.A. 2007 Supp. 79-3606 and repealing the existing section, by Committee on Taxation.

HB 2945, An act concerning sales taxation; relating to exemptions; Kansas State catbackers, inc. and Kansas City catbackers, inc.; amending K.S.A. 2007 Supp. 79-3606 and repealing the existing section, by Committee on Taxation.

HB 2946, An act making and concerning appropriations for the fiscal years ending June 30, 2008, June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012, and June 30, 2013, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2007 Supp. 2-223, 55-193, 75-6702, 79-2959, 79-2964, 79-3425i and 79-4801 and repealing the existing sections, by Committee on Appropriations

HB 2947, An act making and concerning appropriations for the fiscal years ending June 30, 2008, June 30, 2009, June 30, 2010, and June 30, 2011, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, by Committee on Appropriations

House Resolutions

HR 6014, A resolution concerning workers compensation insurance premium rates; urging legislative hearings regarding workers compensation premium rates and urging the Commissioner of Insurance to exercise greater diligence regarding increases in workers compensation premiums rates.

HR 6015, A resolution honoring Mary Spurgeon for her contribution to art in Kansas.

Senate Bills

SB 646, An act concerning school districts; relating to special education and the distribution of moneys therefor; amending K.S.A. 2007 Supp. 72-978 and repealing the existing section, by Committee on Ways and Means.

SB 647, An act concerning cities and counties; relating to the transportation development district act; special assessments; amending K.S.A. 2007 Supp. 12-17,143, 12-17,145 and 12-17,148 and repealing the existing sections, by Committee on Federal and State Affairs.

SB 648, An act concerning income taxation; relating to apportionment of net income; business income; corporations, surtax; amending K.S.A. 79-3285 and K.S.A. 2007 Supp. 79-3271 and 79-32,110 and repealing the existing sections, by Committee on Ways and Means.

SB 649, An act concerning capital improvement projects; relating to state educational institutions; amending K.S.A. 2007 Supp. 75-3717b and repealing the existing section, by Committee on Ways and Means.

SB 650, An act concerning the department of social and rehabilitation services; relating to a land transfer from property adjacent to Kansas neurological institute to the Topeka association for retarded citizens, inc, by Committee on Ways and Means.

SB 651, An act concerning the state board of regents; relating to the Kansas academy for math and science; making and concerning appropriations for the fiscal years ending June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012, June 30, 2013, June 30, 2014, and June 30, 2015, by Committee on Ways and Means.

SB 652, An act making and concerning appropriations for the fiscal years ending June 30, 2009, and June 30, 2010, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, by Committee on Ways and Means.

SB 653, An act concerning the department of health and environment; relating to maternal and child health; making and concerning appropriations for the fiscal years ending June 30, 2009, and June 30, 2010, by Committee on Ways and Means.

SB 654, An act establishing the nursing faculty and supplies grant program; making appropriations for the fiscal year ending June 30, 2008, by Committee on Ways and Means.

SB 655, An act making and concerning appropriations for the fiscal years ending June 30, 2008, June 30, 2009, June 30, 2010, and June 30, 2011, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing, by Committee on Ways and Means.

SB 656, An act concerning long-term care services; relating to home and community based services, by Committee on Ways and Means.

SB 657, An act creating the lifespan respite care program; concerning duties of the department of social and rehabilitation services; making and concerning appropriations for the fiscal years ending June 30, 2009 and June 30, 2010, by Committee on Ways and Means.

SB 658, An act making and concerning appropriations for the fiscal years ending June 30, 2008, June 30, 2009, June 30, 2010, June 30, 2011, June 30, 2012, and June 30, 2013, for state agencies; authorizing certain transfers, capital improvement projects and fees, imposing certain restrictions and limitations, and directing or authorizing certain receipts, disbursements and acts incidental to the foregoing; amending K.S.A. 2007 Supp. 2-223, 55-193, 75-6702, 79-2959, 79-2964, 79-3425i and 79-4801 and repealing the existing sections, by Committee on Ways and Means.

SB 659, An act relating to salaries, compensation and certain expense allowances for state officers and legislators; establishing a legislative compensation commission and abolishing the existing compensation commission; amending K.S.A. 40-102, 46-137a and 46-137b and K.S.A. 2007 Supp. 75-3101, 75-3103, 75-3104, 75-3108, 75-3110 and 75-3111a and repealing the existing sections; also repealing K.S.A. 46-3101, by Committee on Federal and State Affairs.

SB 660, An act concerning crimes and punishments; relating to smoking; amending K.S.A. 21-4009, 21-4010, 21-4011, 21-4012 and 65-530 and repealing the existing sections; also repealing K.S.A. 21-4016 and 21-4017, by Committee on Ways and Means.

Senate Resolutions

SR 1814, A resolution congratulating and commending the Kansas recipients of the 2007 Milken Family Foundation National Educator Award.

SR 1815, A resolution congratulating and commending Amy Wilson, the winner of the Miss Rodeo America 2008 pageant.

SR 1816, A resolution honoring Pauline Johnson for her 40 years of volunteer service to the Community Thanksgiving Dinner in Topeka.

Doc. No. 035465

**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. 12-1675(b)(c)(d), 75-4201(l) and 75-4209(a)(1)(B).

Effective 3-3-08 through 3-9-08

Term	Rate
1-89 days	2.98%
3 months	1.80%
6 months	1.86%
1 year	1.62%
18 months	1.56%
2 years	1.62%

Daniel J. Nackley
Director of Investments

Doc. No. 035462

**State of Kansas
University of Kansas**

Notice to Bidders

The University of Kansas encourages interested vendors to visit the University of Kansas Purchasing Services Web site at <http://www.purchasing.ku.edu/> for a complete listing of all transactions for which KU Purchasing Services, or one of the consortia commonly utilized by KU, are seeking competitive bids. Paper postings of KU Purchasing Services bid transactions may be viewed at the Purchasing Services office located at 1246 W. Campus Road, Room 7, Lawrence, 66045, or persons may contact Purchasing Services at (785) 864-3790, by fax at (785) 864-3454 or by e-mail at purchasing@ku.edu to request a copy of a current bid.

Barry K. Swanson
Associate Comptroller/
Director of Purchasing Services

Doc. No. 035466

State of Kansas

**Office of Judicial Administration
Court of Appeals Docket**

(Note: Dates and times of arguments are subject to change.)

**Kansas Court of Appeals
Supreme Court Courtroom
Kansas Judicial Center
301 S.W. 10th Ave.
Topeka, Kansas**

Before Buser, P.J., Green and Caplinger, JJ.

**Tuesday, March 18, 2008
9:30 a.m.**

Case No. / Case Name	Attorneys	Jurisdiction
96,054 State of Kansas, Appellee v. Edwin Vargas, Appellant	Attorney General Steven J. Obermeier, Asst. D.A. Michael J. Bartee	Johnson
96,894 State of Kansas, Appellee v. Brad Lee Jones, Appellant	Attorney General Gerald R. Kuckelman, C.A. Patrick H. Dunn, A.D.	Atchison
97,057 Marian Bonura, et al., Appellants v. Timothy L. Sifers, et al., Appellees	Leland F. Dempsey B.K. Christopher	Johnson

**Wednesday, March 19, 2008
Summary Calendar — No Oral Argument**

These cases shall be deemed submitted without oral argument, and an opinion may be released prior to the regularly scheduled docket without further notice.
The cases will receive full consideration by the assigned panel of Judges.

96,130 Marcus D. Clemons v. State	98,806 State v. Dallas Auch	96,786 State v. Baltazar Quintero
96,395 State v. Delbert J. Jelks	98,508 State v. Troy A. Davis	98,397 In the Matter of the Estate of: William B. Smith, Jr.
98,517 State v. Gregory J. Keller	98,786 State v. Christopher Erker	97,808 Arturo Arevalo v. State
98,088 Sharon K. Lenz v. State	97,544 State v. Erin F. West	97,315 John W. Jones v. State
97,568 Richard G. Stanton v. State	96,685 State v. Mark William Palmer	96,933 State v. Todd Randall Bartlow
97,360 State v. Timothy E. Collins	97,508 State v. Daniel G. Rivera	97,798 State v. Luke L. Newton
98,122 State v. Fred Stepnay, Jr.	97,313 State v. Robert Johnson	98,500 State v. Daniel R. Meyer

(continued)

**Kansas Court of Appeals
Court of Appeals Courtroom
Kansas Judicial Center
301 S.W. 10th Ave.
Topeka, Kansas**

Before Malone, P.J., Pierron, J., and Bukaty, S.J.

Tuesday March 18, 2008

1:30 p.m.

Case No. / Case Name	Attorneys	Jurisdiction
96,370 State of Kansas, Appellee v. Johnny Chambers, Jr., Appellant	Attorney General Steven J. Obermeier, Asst. D.A. Rachel Pickering, A.D.	Johnson
96,231 State of Kansas, Appellant/Cross-Appellee v. Earl Wayne Brinklow, Appellee/Cross-Appellant	Attorney General Brenton G. Lonker Richard N. Raleigh, D.A. Patrick H. Dunn, A.D.	Barber
97,035 In the Matter of the Marriage of: Brenda S. Loscher (f/k/a Hudson), Appellee and William B. Hudson, Appellant	Allan E. Coon Gregory D. Kincaid Diana L. Miller	Johnson

Wednesday, March 19, 2008

Summary Calendar — No Oral Argument

These cases shall be deemed submitted without oral argument, and an opinion may be released prior to the regularly scheduled docket without further notice.
The cases will receive full consideration by the assigned panel of Judges.

96,041 Southwestern Bell Yellow Pages, Inc. v. Durand Dickerson, dba Dickerson Recycling Center	98,499 State v. Santos Corpus	97,303 State v. Maurice A. White
97,767 State v. Stephen G. Thomas	98,445 Sandra Kay Myers v. Lincoln Center OB/GYN, P.A., and Twin City Fire Insurance Co.	98,146 Richard J. Pence v. Rescar, Inc., and St. Paul Fire & Marine Ins. Co., and Zurich U.S. Insurance Co., and Zurich U.S. Insurance Co., and Zurich U.S. Insurance Co.
97,920 State v. Eric Salsberry	97,771 State v. Sean R. Shobe	98,836 State v. Ernie Wayne Vanek
98,993 David Hurry, v. Jay Shelton, Warden, NCF, et al.	97,944 State v. Nicomedes Barahona	98,148 State v. Lonnie R. LaPorte
97,489 Earnest Walker v. State of Kansas, et al.	97,504 State v. Keith Devin Proctor	98,070 State v. Michael J. Banks
99,058 State v. Christopher Steven Murphy	98,210 Wal Mart 0557 v. Doreen A. Decker	98,477 State v. James Austin Johnson
	98,366 State v. Raymond Dean Roberts	97,961 State v. Spence Ashley Upham
	97,992 State v. Robert Jones, Jr.	

**Kansas Court of Appeals
Fatzner Courtroom
Kansas Judicial Center
301 S.W. 10th Ave.
Topeka, Kansas**

Before McAnany, P.J., Elliott and Leben, JJ.

Tuesday, March 18, 2008

9:30 a.m.

Case No. / Case Name	Attorneys	Jurisdiction
98,101 Jose Rondon, Appellant v. Tyson Fresh Meats, Inc., Appellee	Stanley R. Ausemus Douglas M. Greenwald Gregory D. Worth	Work. Comp.
97,488 Patricia McCabe, as Trustee of the Gladys E. Harris Trust, Dated September 7, 1995, Appellee v. Delphine M. Duran, as Executrix of the Estate of Rhea L. Bess-Littrell, Deceased, Appellant	Russel B. Prophet Trish Rose	Saline

97,073
 Marvin L. Canaan, Appellant
 v.
 State of Kansas, Appellee

Tamatane Aga, Jr.
 Attorney General
 Steven J. Obermeier, Asst. D.A.

Johnson

Wednesday, March 19, 2008
Summary Calendar — No Oral Argument

These cases shall be deemed submitted without oral argument, and an opinion may be released prior to the regularly scheduled docket without further notice.
 The cases will receive full consideration by the assigned panel of Judges.

98,534	Citibank (South Dakota), N.A. v. Jackson J. Gumb	97,794	State v. Demico Lockett	98,903	State v. Ronald Murray
97,747	State v. Donnie Hampton	97,378	State v. Rojelio Barron	97,436	Dillon Companies, Inc., dba Dillon's #55 v. Marvin Davis, aka Marvin B. Davis, Jr.
96,919	Sherry Taylor v. State	98,166	M. Damaris Rawlins v. Mitchell C. Mellick (KHP)	97,826	Charles W. Campbell v. Dirk L. Hubbard, et al.
98,112	In the Matter of the Application of Larry D. Crisler and Joyce E. Billinsley	97,926	State v. Montee L. Lamb	97,870	Kirby E. Coleman v. State of Kansas
98,079/		98,094	State v. Rolly O. Kinnell	97,347	State v. Ronald Ray Thomas
98,080	State v. Scott Holloway	98,792	Clinton E. Wilkins v. Fedex Ground Packaging System, Inc.	97,475	Joseph H. Schale, Jr. v. State
98,230	State v. April D. Miller	98,570	City of Dodge City v. Ronald Bruce Hartnett	97,445	State v. Eloy B. Mendoza

Kansas Court of Appeals
Court of Appeals Courtroom
Kansas Judicial Center
301 S.W. 10th Ave.
Topeka, Kansas

Before Rulon, P.J., Marquardt and Greene, JJ.

Tuesday, March 18, 2008
9:00 a.m.

Case No. / Case Name	Attorneys	Jurisdiction
98,909 In the Interest of K.J.B., YOB 1990	Elizabeth Sweeney-Reeder, Asst. C.A. Melissa Kelly Schroeder	Miami
98,037 Sheriff David A. Zoellner, Appellee v. Civil Service Board of Leavenworth County, Kansas, Appellant and David Freeman, Appellee	Kirk T. Ridgway Keyta D. Kelly	Leavenworth
97,332 In the Matter of the Appeal of Goddard, Jerry D. and Pat	Glenn H. Griffeth Robert A. Walsh, C.A.	Tax Appeal

Wednesday, March 19, 2008
Summary Calendar — No Oral Argument

These cases shall be deemed submitted without oral argument, and an opinion may be released prior to the regularly scheduled docket without further notice.
 The cases will receive full consideration by the assigned panel of Judges.

96,790	State v. Sandra Orr	97,997	State v. Greg K. Teasley	97,667	State v. Charles Burnett
97,906	State v. Joshua W. Branine	97,142	State v. Kenneth Combs	98,915	State v. John R. Reavis
96,044	State v. Ernest R. Eads	97,753	Clifford Bliss v. State	97,700	State v. Aaron J. Scott
97,995	Gary T. Richardson v. State	97,930	State v. Jamie Scott Brown	98,066	State v. Christopher M. Struzik
98,048	State v. Marvin Jay Gifford	98,215	State v. Gary L. Lembke	97,757	State v. Alberto Jorge Diaz
97,919	Narvinder Singh v. Donald C. Krueger	97,817	State v. Lonnie F. Orr	98,140	State v. Jason K. Walker
98,328	Nancy Kay Klausmeyer v. Padgett Enterprises, Inc., and Nationwide Mutual Insurance Co.	98,528	State v. Clifford Rust	98,525	State v. Jennifer S. Ross

Carol G. Green
 Clerk of the Appellate Courts

(Published in the Kansas Register March 6, 2008.)

Heartland Works, Inc.

Request for Proposals

Heartland Works, Inc. is accepting bids for lease of office space in Topeka. To receive a request for proposal, including all specifications, contact the Heartland Works office at 610 S.W. 10th Ave., Suite 210, Topeka, 66612-1616, (785) 234-0500. Bids are due not later than 3 p.m. March 19. All companies and/or property owners are encouraged to bid.

Nancy Leonard
Executive Assistant

Doc. No. 035489

(Published in the Kansas Register March 6, 2008.)

**Summary Notice of Bond Sale
City of Frontenac, Kansas**

\$1,885,000*

**General Obligation Refunding and
Improvement Bonds, Series 2008**

**(General obligation bonds payable from
unlimited ad valorem taxes)**

Bids

Subject to the notice of bond sale dated March 3, 2008, bids will be received by the city clerk of the city of Frontenac, Kansas, on behalf of the governing body at address set forth herein, or, in the case of electronic proposals, via PARITY electronic bid submission system, until 1 p.m. March 17, 2008, for the purchase of \$1,885,000* principal amount of General Obligation Refunding and Improvement Bonds, Series 2008. No bid of less than the entire par value of the bonds, plus accrued interest 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 be dated April 1, 2008 (the dated date), and will become due on September 1 in the years as follows:

Year	Principal Amount*
2009	\$ 25,000
2010	65,000
2011	65,000
2012	70,000
2013	75,000
2014	75,000
2015	80,000
2016	85,000
2017	85,000
2018	90,000
2019	95,000
2020	100,000
2021	105,000
2022	110,000
2023	115,000
2024	120,000
2025	125,000

2026	125,000
2027	135,000
2028	140,000

The bonds will bear interest from the dated date at rates to be determined when the bonds are sold as provided in the notice of sale, which interest will be payable semi-annually on March 1 and September 1 in each year, beginning March 1, 2009. A bidder may elect to have all or a portion of the bonds scheduled to mature in consecutive years issued as term bonds subject to the requirements set forth in the notice of sale.

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 drawn on a bank located in the United States or a financial surety bond in a form that complies with the requirements set forth in the notice of sale in the amount of \$37,700 (2 percent of the principal amount of the bonds).

Delivery

The city will pay for preparation of the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or about April 10, 2008, at the offices of the Depository Trust Company, New York, New York.

Assessed Valuation and Indebtedness

The equalized assessed tangible valuation for computation of bonded debt limitations for the year 2007 is \$22,751,220. The total general obligation indebtedness of the city as of the date of the bonds, including the bonds being sold, is \$4,240,000.

Approval of Bonds

The bonds will be sold subject to the legal opinion of Kutak Rock LLP, Kansas City, Missouri, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the city and available for delivery to the successful bidder when the bonds are delivered.

Additional Information

Additional information regarding the bonds may be obtained from the city clerk or from bond counsel, Kutak Rock LLP, 1010 Grand Blvd., Suite 500, Kansas City, MO 64106-2220, (816) 960-0090, Attention: Dorothea Riley.

Dated March 6, 2008.

City of Frontenac, Kansas
By Doug Sellars, City Clerk
City Hall
313 E. McKay
Frontenac, KS 66763
(620) 231-9210

*Subject to change.

Doc. No. 035486

(Published in the Kansas Register March 6, 2008.)

**Statutory Notice of Bond Sale
Unified School District No. 202
Wyandotte County, Kansas (Turner)
\$2,040,000
General Obligation Capital Outlay Bonds
Series 2008-A**

Bids

Bids will be received by the undersigned, superintendent of Unified School District No. 202, Wyandotte County, Kansas (Turner) (the issuer), on behalf of the Board of Education at the address hereinafter set forth, on or before noon Tuesday, March 18, 2008, for the purchase of all of the \$2,040,000 principal amount of General Obligation Capital Outlay Bonds, Series 2008-A, of the issuer. All bids will be publicly opened and read at said time and place and will be acted upon by the Board of Education at 6:30 p.m. on the date of sale. No oral, telephone or auction bids will be considered. No bid of less than the par value of the bonds and accrued interest thereon to the date of delivery of the bonds will be considered.

Sealed bids may be submitted in a sealed envelope marked "Proposal for the Bonds" by mail, delivered in person or via facsimile to the undersigned. Facsimile transmissions must be sent to the following number: (913) 288-3401. The issuer assumes no responsibility or liability for inaccurate bids submitted by facsimile transmission, including garbled transmissions, or the inability of a bidder to access the facsimile number prior to the indicated sale time. Facsimile facilities are limited and bidders using them should plan to allow time to compensate. The deadline for facsimile bids is based on the time the transmission is printed through the facsimile facilities as opposed to the time the transmission is sent by the bidder.

Electronic bids will be accepted only through PARITY electronic bid submission system. Each bidder shall be solely responsible for making the necessary arrangements to access PARITY for the purpose of submitting its electronic bid in a timely manner and in compliance with the requirements of the complete notice of bond sale. If any provisions in this statutory notice of bond sale conflict with information provided by PARITY, this statutory notice of bond sale will control. Further information about PARITY, including any fee charged and registration requirements, may be obtained from i-Deal, LLC, 1359 Broadway, 2nd Floor, New York, NY 10018, Customer Support, (212) 849-5000. The issuer assumes no responsibility or liability for bids submitted through PARITY. The issuer is using the services of PARITY solely as a communication mechanism to conduct the electronic bidding for the bonds. PARITY is not an agent of the issuer.

Bond Details

The bonds will be issued in book-entry-only form without certificates. The bonds will be issued in the denomination of \$5,000 or any integral multiple thereof; will be dated April 1, 2008; and will become due on March 1 and September 1, in each of the years as follows:

Maturity	Principal Amount
September 1, 2008	\$315,000
March 1, 2009	330,000
September 1, 2009	335,000
March 1, 2010	345,000
September 1, 2010	355,000
March 1, 2011	360,000

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 March 1 and September 1 in each year, beginning September 1, 2008.

Delivery and Payment

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder on or about April 9, 2008, through the facilities of the Depository Trust Company in New York, New York.

Good Faith Deposit

A good faith deposit in the form of a certified or cashier's check or financial surety bond in the amount of \$40,800 must accompany each bid for the bonds.

Costs

The school district will pay the cost of printing the bonds and the expense of all legal services, including the opinion of Kutak Rock LLP, Kansas City, Missouri, bond counsel, approving the legality of the bonds and the exclusion of the interest thereon (with specified minor exceptions) from federal and Kansas gross income taxes.

Assessed Valuation and Indebtedness

The total assessed valuation of the taxable tangible property within the issuer for the year 2007 is \$173,151,935. The total general obligation bond indebtedness of the issuer as of the date of the bonds, including the bonds being sold, is \$36,255,000.

Additional Information

A complete notice of bond sale, preliminary official statement and bid forms approved by the school district will be mailed to all interested parties. Bidders may be required to be qualified in a manner established by the school district before submitting a bid. Additional information regarding the bonds may be obtained from the financial advisor, George K. Baum & Company, 4801 Main St., Suite 500, Kansas City, MO 64112, Attention: David Arteberry, (816) 474-1100. Arrangements may be made with the financial advisor to deliver a sealed bid for the bonds to the issuer.

Unified School District No. 202
Wyandotte County, Kansas (Turner)
By: Bobby Allen, Superintendent
800 S. 55th St.
Kansas City, KS 66106
(913) 288-4100

Doc. No. 035485

(Published in the Kansas Register March 6, 2008.)

Summary Notice of Bond Sale
City of Andover, Kansas
\$5,640,000*
General Obligation Bonds
Series A, 2008

Details of the Sale

Subject to the terms and requirements of the official notice of bond sale dated February 12, 2008, of the city of Andover, Kansas, bids to purchase the city's General Obligation Bonds, Series A, 2008, will be received at the office of the city administrator/city clerk at City Hall, 909 N. Andover Road, Andover, KS 67002, or by telefacsimile at (316) 733-4634, until 2 p.m. Tuesday, March 25, 2008. The bids will be considered by the governing body at its meeting at 7 p.m. on the sale date.

No oral or auction bids for the bonds shall be considered, and no bids for less than 99 percent of the total principal amount of the bonds and accrued interest to the date of delivery shall be considered.

Good Faith Deposit

Each bidder must submit a good faith deposit in the form of a certified or cashier's check made payable to the order of the city, or a financial surety bond, in an amount equal to 2 percent of the principal amount of the bonds.

Details of the Bonds

The bonds are dated April 1, 2008, and will be issued as registered bonds in the denomination of \$5,000, or any integral multiple thereof. Interest on the bonds is payable semiannually on April 1 and October 1 of each year, beginning April 1, 2009. Principal of the bonds becomes due on October 1 in the years and amounts as shown below:

Maturity Schedule*

Principal Amount*	Maturity Date
\$200,000	2009
300,000	2010
315,000	2011
325,000	2012
340,000	2013
355,000	2014
365,000	2015
375,000	2016
390,000	2017
405,000	2018
420,000	2019
435,000	2020
455,000	2021
470,000	2022
490,000	2023

Payment of Principal and Interest

The Kansas State Treasurer will serve as the bond registrar and paying agent for the bonds.

Book-Entry Bonds

The bonds will be issued and registered under a book-entry-only system administered by the Depository Trust Company, New York, New York (DTC).

Delivery of the Bonds

The city will prepare the bonds at its expense and will deliver the registered bonds to DTC on or about April 10, 2008.

Legal Opinion

The bonds will be sold subject to the legal opinion of Triplett, Woolf & Garretson, LLC, Wichita, Kansas, bond counsel, whose fees will be paid by the city.

Financial Matters

The city's current assessed valuation for purposes of calculating statutory debt limitations is \$111,604,962. As of April 1, 2008, the city's total outstanding general obligation debt (including the bonds) is estimated at \$33,891,878*, which excludes temporary notes outstanding in the amount of \$4,273,000, which will be retired out of the proceeds of the bonds herein offered for sale. The city's total indebtedness that is subject to debt limitation (if the estimated amounts of the bonds is issued), as of April 1, 2008, is estimated to be \$10,091,756.94, which is 9.04 percent of the assessed valuation of the city.

Additional Information

For additional information, contact the city administrator/city clerk at the address and telephone number shown below or the financial advisor, Larry A. Kleeman, Dewaay Financial Network, LLC, 245 N. Waco, Suite 525, Wichita, KS 67202, (316) 265-9411.

City of Andover, Kansas
 By Jeffrey K. Bridges, Jr.
 City Administrator/City Clerk
 City Hall, 909 N. Andover Road
 Andover, KS 67002
 (316) 733-1303
 Fax (316) 733-4634

*Principal amounts subject to change.

Doc. No. 035482

State of Kansas**Department of Transportation****Notice to Contractors**

Sealed proposals for the construction of road and bridge work in the following Kansas counties will be received at the Bureau of Construction and Maintenance, KDOT, Topeka, or at the Eisenhower State Office Building, fourth floor west wing, 700 S.W. Harrison, Topeka, until 1 p.m. March 19 and then publicly opened:

District One — Northeast

Douglas—23 U-2125-01 — 19th Street from Ohio Street to Alabama Street in Lawrence, grading, surfacing and traffic signals. (Federal Funds)

Johnson—35-46 — K-9903-01 — I-35 from Antioch Road north to the Johnson-Wyandotte county line, 1.7 miles, overlay. (State Funds)

Johnson—69-46 KA-0865-01 — Four U.S. 69 bridges north of the Johnson-Miami county line, bridge repair. (State Funds)

Leavenworth-Wyandotte—5-106 KA-1214-01 — K-5/U.S. 73 junction then south 7.6 miles to the Leavenworth-Wyandotte county line; K-5 from the Leavenworth/Wy-

andotte county line then 1.8 miles south, 9.4 miles, crack repair. (State Funds)

Riley—81 U-2103-01 — Claflin and Sunset in Manhattan, intersection improvement. (Federal Funds)

Shawnee—89 KA-0792-01 — Kansas River boat ramp access road, 0.6 mile, grading and surfacing. (State Funds)

Wyandotte—105 C-3864-01 — Woodend Road over Wolf Creek in Bonner Springs, 1 mile, grading, bridge and surfacing. (Federal Funds)

Wyandotte—70-105 KA-1213-01 — I-70 and 18th Street then west 0.7 mile, overlay. (State Funds)

Wyandotte—435-105 KA-1217-01 — I-435 from 98th Street north to the Leavenworth Road Interchange, 4 miles, overlay. (State Funds)

Wyandotte—35-105 KA-1220-01 — I-35 from Lamar Avenue to Southwest Boulevard, including ramps, 1.8 miles, pavement patching, surfacing, pavement markings. (State Funds)

District Two — Northcentral

Geary—70-31 K-8255-02 — Intersection improvement including roundabout at the I-70 Exit 298/Chestnut Street/East Street, intersection improvement. (State Funds)

Geary—31 U-1946-01 — East Chestnut Street east of U.S. 40B at Junction City, 0.4 mile, grading and surfacing. (Federal Funds)

Washington—101 C-4094-01 — County road 0.2 mile north and 1.3 miles east of Morrowville, 0.2 mile, grading and bridge. (Federal Funds)

Mitchell—62 C-4188-01 — County road 6 miles east of Hunter, then east 7 miles, surfacing. (Federal Funds)

Ellsworth—27 C-4229-01 — County road 4.1 miles east of Kanopolis, 0.2 mile, grading and bridge. (Federal Funds)

District Three — Northwest

Gove—23-32 KA-0884-01 — K-23 bridge at the junction of I-70, bridge repair. (State Funds)

Logan—83-55 KA-0885-01 — U.S. 83 bridge, 8.1 miles south of U.S. 40, bridge repair. (State Funds)

Russell—281-84 KA-1206-01 — U.S. 281 from the Barton-Russell county line north to the south city limits of Russell, 11.7 miles, seal. (State Funds)

Sheridan—23-90 KA-0146-01 - K-23 from Utah Avenue north to Queen Avenue in Hoxie, 0.3 mile, grading and surfacing. (State Funds)

Thomas—70-97 KA-0886-01 — I-70 bridge east of the Thomas-Sheridan county line, bridge repair. (State Funds)

Trego—98 C-4309-01 — County road 5.7 miles north and 9 miles east of WaKeeney, 0.2 mile, grading and bridge. (Federal Funds)

Trego—147-98 KA-1205-01 — K-147 from the Ness-Trego county line north, 22 miles, seal. (State Funds)

District Four — Southeast

Franklin—35-30 KA-0896-01 — I-35 bridge, 8.3 miles east of the Franklin-Osage county line, bridge repair. (State Funds)

District Five — Southcentral

Barber—4 KA-0485-01 — County Road 1346 from U.S. 160 north 5.3 miles, grading and surfacing. (Federal Funds)

Barton—156-5 KA-1221-01 — K-156 from the U.S. 56 junction to the Barton-Ellsworth county line, 17.3 miles, seal, (State Funds)

Barber-Pratt-Kingman—106 X-2665-01 — Kansas and Oklahoma Rail Line in Pratt, Kingman and Barber counties, signing. (State Funds)

Harper—2-39 KA-1218-01 — K-2 from the north city limits of Anthony to the junction of K-14, 8.3 miles, crack seal. (State Funds)

Sedgwick—87 N-0368-01 — 71st Street south from U.S. 81 to the Kansas Turnpike Authority ramp at Haysville, 0.4 mile, grading and surfacing. (Federal Funds)

Sumner—49-96 KA-1219-01 — K-49 from the north city limits of Caldwell to the U.S. 160 junction, 16.7 miles, crack repair. (State Funds)

District Six — Southwest

Gray—35 KA-1210-01 — U.S. 50 from the Finney-Gray county line east to west city limits of Cimarron; K-23 from the junction of U.S. 56 north to the south city limits of Cimarron, 30.1 miles, crack repair. (State Funds)

Lane—96-51 KA-1208-01 — K-96 from the Scott-Lane county line east to the west city limits of Dighton, 11.4 miles, seal. (State Funds)

Morton—51-65 KA-1207-01 — K-51 from the Colorado-Kansas state line east to the west K-27/K-51 junction, 7.9 miles, seal. (State Funds)

Scott—96-86 KA-1209-01 — K-96 from the east city limits of Scott City east to the Scott/Lane county line, 11.5 miles, crack repair. (State Funds)

Proposals will be issued upon request to all prospective bidders who have been prequalified by the Kansas Department of Transportation on the basis of financial condition, available construction equipment and experience. Also, a statement of unearned contracts (Form No. 284) must be filed. There will be no discrimination against anyone because of race, age, religion, color, sex, handicap or national origin in the award of contracts.

Each bidder shall file a sworn statement executed by or on behalf of the person, firm, association or corporation submitting the bid, certifying that such person, firm, association or corporation has not, either directly or indirectly, entered into any agreement, participated in any collusion, or otherwise taken any action in restraint of free competitive bidding in connection with the submitted bid.

This sworn statement shall be in the form of an affidavit executed and sworn to by the bidder before a person who is authorized by the laws of the state to administer oaths. The required form of affidavit will be provided by the state to each prospective bidder. Failure to submit the sworn statement as part of the bid approval package will make the bid nonresponsive and not eligible for award consideration.

Plans and specifications for the projects may be examined at the office of the respective county clerk or at the KDOT district office responsible for the work.

Deb Miller
Secretary of Transportation

Doc. No. 035456

State of Kansas

Fort Hays State University

Notice to Bidders

Fort Hays State University encourages interested vendors to visit the Fort Hays State University Purchasing Web site, <http://www.fhsu.edu/adminfin/purchasing/bids/>, for a complete list of all goods and services currently out for bid. Paper postings of all open bids may be reviewed at Purchasing, Room 318, Sheridan Hall, 601 Park St., Hays. Copies of open bids also may be requested by contacting Purchasing at (785) 628-4251, by fax at (785) 628-4046, or by e-mail at purchasing@fhsu.edu.

Kathy Herrman
Purchasing Director

Doc. No. 035470

State of Kansas

Department of Education

Permanent Administrative
Regulations

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 any board or state agency.

(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. The term shall not include any medical device that is surgically implanted or the replacement of the device.

(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 who are enrolled in private schools and exceptional children who are homeless, regardless of the severity of any disability, 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 ages three through nine, a child who is experiencing developmental delays and, by reason thereof, needs special education and related services.

(l) "Consent" means that all of the following conditions are met:

(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.

(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 the needs 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:

- (1) Physical;
- (2) cognitive;
- (3) adaptive behavior;
- (4) communication; or
- (5) 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 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.

(t) "Educational placement" and "placement" mean the instructional environment in which special education services are provided.

(u) "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.

(v) "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.

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

(x) "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 parent or parents of the child.

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

(z) "Free appropriate public education" and "FAPE" mean 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.

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

(bb) "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.

(cc) "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.

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

(ee) "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.

(ff) "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 agency responsible for the education of the child but who meet state and local standards to conduct the examination.

(gg) "Individualized education program" and "IEP" mean a written statement for each exceptional child that meets the requirements of K.S.A. 72-987, and amendments thereto, and the following criteria:

(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.

(continued)

(hh) "Individualized education program team" and "IEP team" mean a group of individuals composed of the following:

- (1) The parent or 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 child's parent or the 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.

(ii) "Individualized family service plan" and "IFSP" mean 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.

(jj) "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.

(kk) "Interpreting services" means the following:

(1) For children who are deaf or hard of hearing, oral transliteration services, cued language transliteration services, sign language transliteration and interpreting services, and transcription services, including communication access real-time translation (CART), C-Print, and TypeWell; and

(2) special interpreting services for children who are deaf-blind.

(ll) "Least restrictive environment" and "LRE" mean the educational placement in which, to the maximum extent appropriate, children with disabilities, including children in institutions or other care facilities, are educated with children who are not disabled, with this placement meeting the requirements of K.S.A. 72-976, and amendments thereto, and 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 re-

lated 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 parent or 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 the 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 the 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 or a service animal 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 condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette syndrome; 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) "Private school children" means children with disabilities who are enrolled by their parents in private elementary or secondary schools.

(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.

(1) Related services shall include the following:

(A) Art therapy;

(B) assistive technology devices and services;

(C) audiology;

(D) counseling services;

(E) dance movement therapy;

(F) early identification and assessment of disabilities;

(G) interpreting services;

(H) medical services for diagnostic or evaluation purposes;

(I) music therapy;

(J) occupational therapy;

(K) orientation and mobility services;

(L) parent counseling and training;

(M) physical therapy;

(N) recreation, including therapeutic recreation;

(O) rehabilitation counseling services;

(P) school health services;

(Q) school nurse services;

(R) school psychological services;

(S) school social work services;

(T) special education administration and supervision;

(U) special music education;

(V) speech and language services;

(W) transportation; and

(X) other developmental, corrective, or supportive services.

(2) Related services shall not include the provision of any medical device that is surgically implanted, including a cochlear implant, the optimization of the device's functioning, including mapping and maintenance of the device, and replacement of the device.

(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 that are specified in the IEP of a child with a disability and that are provided by a school nurse or other qualified person.

(ggg) "School nurse services" means nursing services that are provided by a qualified nurse in accordance with the child's IEP.

(hhh) "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

(continued)

(6) assisting in developing positive behavioral intervention strategies.

(iii) "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 the parent or 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.

(jjj) "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.

(kkk) "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 the service 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.

(lll) "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 education curriculum, so that the child can meet the educational standards within the jurisdiction of the agency that apply to all children.

(mmm) "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.

(nnn) "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.

(ooo) "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.

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

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

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

(sss) "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.

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

(uuu) "Transition services" means a coordinated set of activities for a student with disabilities, designed within a results-oriented process, that is focused on improving the academic and functional achievement of the child with a disability to facilitate the child's movement from school to postsecondary activities, including postsecondary education, vocational education, 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 post-school adult living objectives; and

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

(vvv) "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.

(www) "Traumatic brain injury" means an acquired injury to the brain that is 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.

(xxx) "Travel training" means providing instruction, as appropriate, to children with significant cognitive disabilities, and any other children with disabilities who require 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.

(yyy) "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.

(zzz) "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. 2007 Supp. 72-963; effective May 19, 2000; amended March 21, 2008.)

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) An agency shall not be required to provide FAPE to any child with a disability who is eligible for preschool services under the federal law but whose parent has elected to have the child receive early intervention services under the law.

(d)(1) Each agency shall make FAPE available to any child with a disability even though the child has not failed or been retained in a course or grade and 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.

(e) Each agency shall provide special education and related services based upon the child's unique needs and not upon the child's area of exceptionality.

(f) 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 and did not have an IEP.

(g) (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.

(5) As used in this subsection, the term "regular high school diploma" shall mean the same diploma as that awarded to nonexceptional students and shall not include any certificate of completion or any other certificate, or a general educational development credential (GED). (Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-966; effective May 19, 2000; amended May 4, 2001; amended March 21, 2008.)

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

(b) (1) Each agency shall provide nonacademic and extracurricular services and activities in the manner neces-

(continued)

sary to afford children with disabilities an equal opportunity for participation in those services and activities, including the provision of supplementary aids and services as determined to be necessary by the child's IEP team.

(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, unless the agency does not provide physical education to any children who are enrolled in the same grade.

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

(2) Each agency shall ensure that the external components of surgically implanted medical devices of children with disabilities are functioning properly. However, an agency shall not be responsible for the maintenance, programming, or replacement of any surgically implanted medical device or any external component of the device.

(g) Each gifted child shall be permitted to test out of, or work at an individual rate, and receive credit for re-

quired or prerequisite courses, or both, at all grade levels, if so specified in that child's individualized education program.

(h) Any 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. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-966; effective May 19, 2000; amended March 21, 2008.)

91-40-5. FAPE for detained or incarcerated children with disabilities. (a) Local detention facilities.

(1) 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 or other facility at the direction 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 conditions of 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

(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.

(3) 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 before incarceration, was not identified as a child with a disability.

(4)(A) Except as otherwise provided in paragraph (4)(B) 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.

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

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

(ii) that, except as otherwise expressly provided in paragraph (c)(2), each IEP shall have the content specified in K.S.A. 72-987 and amendments thereto. (Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-966; effective May 19, 2000; amended March 21, 2008.)

91-40-6. Reserved.

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) Any board may refer a child who is enrolled in public school for an evaluation if one of the following conditions is met:

(1) School personnel have data-based documentation indicating that general education interventions and strategies would be inadequate to address the areas of concern for the child.

(2) School personnel have data-based documentation indicating that before the referral or as a part of the referral, all of the following conditions were met:

(A) The child was provided with appropriate instruction in regular education settings that was delivered by qualified personnel.

(B) The child's academic achievement was repeatedly assessed at reasonable intervals that reflected formal assessment of the student's progress during instruction.

(C) The assessment results were provided to the child's parent or parents.

(D) The assessment results indicate that an evaluation is appropriate.

(3) 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.

(e) Each agency shall ensure that the collection and use of data under this regulation are subject to the confidentiality requirements of K.A.R. 91-40-50. (Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-966; effective May 19, 2000; amended May 4, 2001; amended March 21, 2008.)

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. Each evaluation shall include procedures 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), 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 and, if applicable, K.A.R. 91-40-11.

(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) As a part of an initial evaluation, if appropriate, and as a part of any reevaluation, 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 parent or parents of the child;

(B) current classroom-based, local, and state assessments and classroom-based observations; and

(C) observations by teachers and related services providers.

(2) On the basis of that review and input from the child's parent or 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 academic achievement and educational and related developmental 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

(continued)

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 education curriculum.

(d) The team described in subsection (c) may conduct its review without a meeting.

(e) (1) If the team described in subsection (c) determines that additional data is required to make any of the determinations specified in paragraph (2) of subsection (c), 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 (c) determines that no additional data is needed to make any of the determinations specified in paragraph (2) of subsection (c), 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 a parent.

(f) Unless an agency has obtained written parental consent to an extension of time and except as otherwise provided in subsection (g), 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 the 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 child's parent or 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.

(g) An agency shall not be subject to the time frame prescribed in subsection (f) if either of the following conditions is met:

(1) The parent or parents of the child who is to be evaluated repeatedly fail or refuse to produce the child for the evaluation.

(2) The child enrolls in a different school before the evaluation is completed, and the parent and new school agree to a specific date by which the evaluation will be completed.

(h) In complying with subsection (f), 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. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-966 and 72-986; effective May 19, 2000; amended March 21, 2008.)

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

(1) The 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 and in the form most likely to yield accurate information on what the child knows and can do academically, developmentally, and functionally, unless this is clearly not feasible.

(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 could assist in determining whether the child is an exceptional child and what the content of the child's IEP should be.

(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 assessment.

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

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

(9) Each agency shall use assessment tools and strategies that provide relevant information that directly assists persons in determining the educational needs of 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, whether or not commonly linked to the disability category in which the child has been classified.

(c) If a child is suspected of having a specific learning disability, the agency also shall follow the procedures prescribed in K.A.R. 91-40-11 in conducting the evaluation of the child. (Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-986; effective May 19, 2000; amended May 4, 2001; amended March 21, 2008.)

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; and
- (F) if the child was evaluated for a specific learning disability, the additional information specified in subsection (e).

(2) Each team member shall certify in writing whether the report reflects the member's conclusion. If the report does not reflect that member's conclusion, the team member shall 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 appropriate 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 what the educational needs of the child are, 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) If the evaluation team and the parent determine the parent's child to be a child with a specific learning disa-

bility, the evaluation team and the parent shall prepare a written evaluation report that includes a statement regarding each of the following matters:

- (1) An indication of whether the child has a specific learning disability;
- (2) the basis for making the determination, including an assurance that the determination has been made in accordance with applicable laws and regulations;
- (3) the relevant behavior, if any, noted during the observation of the child and the relationship of that behavior to the child's academic functioning;
- (4) educationally relevant medical findings, if any;
- (5) an indication of whether the child meets the following criteria:

(A) Does not achieve adequately for the child's age or meet state-approved grade-level standards; and

(B)(i) Does not make sufficient progress to meet age standards or state-approved grade-level standards; or

(ii) exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, state-approved grade-level standards, or intellectual development; and

(6) the determination of the team concerning the effect of the following factors on the child's achievement level:

(i) Visual, hearing, or motor skills disability;

(ii) mental retardation;

(iii) emotional disturbance;

(iv) cultural factors;

(v) environmental or economic disadvantage; and

(vi) limited English proficiency.

(f) If the child has participated in a process that assessed the child's response to scientific, research-based intervention, the evaluation report shall also address the following matters:

(1) The instructional strategies used and the student-centered data collected; and

(2) the documentation indicating that the child's parent or parents were notified about the following:

(A) The state's policies regarding the amount and nature of student performance data that would be collected and the general education services that would be provided;

(B) strategies for increasing the child's rate of learning; and

(C) the right of a parent to request an evaluation.

(g) (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.

(3) An agency shall provide prior written notice before terminating special education services for either of the reasons stated in paragraph (g)(2).

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(h) 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.

(i) With regard to children ages three through nine who are determined to need special education and related services, an agency shall use one or more of the categories of disabilities described in the definition of the term "child with a disability" or the term "developmental delay." (Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-986; effective May 19, 2000; amended May 4, 2001; amended March 21, 2008.)

91-40-11. Evaluation for specific learning disability; use of response to intervention process. (a) If a child is suspected of having a specific learning disability and believed to need special education services because of that disability, the agency shall ensure that the evaluation of the child is made by the child's parent and a group of qualified professionals, including the following individuals:

(1)(A) The child's regular education teacher or, if the child does not have a regular education teacher, a regular classroom teacher qualified to teach a child of the child's age; or

(B) for a child of less than school age, an individual who is qualified to teach a child of the child's age; and

(2) at least one person qualified to conduct individual diagnostic examinations of children, including a school psychologist, speech-language pathologist, or remedial reading teacher.

(b)(1) A group evaluating a child for a specific learning disability may determine that the child has that disability only if the following conditions are met:

(A) The child does not achieve adequately for the child's age or meet state-approved grade-level standards, if any, in one or more of the following areas, when the child is provided with learning experiences and instruction appropriate for the child's age and grade level:

- (i) Oral expression;
- (ii) listening comprehension;
- (iii) written expression;
- (iv) basic reading skill;
- (v) reading fluency skills;
- (vi) reading comprehension;
- (vii) mathematics calculation; and
- (viii) mathematics problem solving; and

(B)(i) The child does not make sufficient progress to meet age or state-approved grade-level standards in one or more of the areas identified in paragraph (b)(1)(A) when using a process based on the child's response to scientific, research-based intervention; or

(ii) the child exhibits a pattern of strengths and weaknesses in performance, achievement, or both, relative to age, grade-level standards, or intellectual development that is determined by the group conducting the evaluation to be relevant to the identification of a specific learning disability, using appropriate assessments.

(2) A child shall not be determined to be a child with a specific learning disability unless the group evaluating the child determines that its findings under paragraphs (b)(1) (A) and (B) are not primarily the result of any of the following:

(i) A visual, hearing, or motor disability;

(ii) mental retardation;

(iii) emotional disturbance;

(iv) cultural factors;

(v) environmental or economic disadvantage; or

(vi) limited English proficiency.

(c) (1) The group evaluating the child shall ensure that the child is observed in the child's learning environment, including the regular classroom setting, to document the child's academic performance and behavior in the areas of difficulty.

(2) In conducting the observation, the group may employ either of the following procedures:

(A) Use information from an observation in routine classroom instruction and monitoring of the child's performance that was done before the child was referred for an evaluation; or

(B) have at least one member of the group conduct an observation of the child's academic performance in the regular classroom after the child has been referred for an evaluation and parental consent is obtained. (Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-986; effective May 19, 2000; amended March 21, 2008.)

91-40-12. Right to independent educational evaluation. (a) (1) Subject to the conditions specified in this regulation, a parent of an exceptional child shall have the right to request an independent educational evaluation at public expense if the parent disagrees with the evaluation obtained by the agency.

(2) The parent shall be eligible for only one independent educational evaluation at public expense in response to an evaluation conducted 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) 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 shall still have 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 public expense or provides the agency with an evaluation obtained 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 impose 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. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-986 and 72-988; effective May 19, 2000; amended March 21, 2008.)

91-40-13. Reserved.

91-40-14. Reserved.

91-40-15. Reserved.

91-40-16. IEP requirements. (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 for which written consent has been granted 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 parent 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 parent or parents a detailed explanation of the differences between an IFSP and an IEP.

(B) If an IFSP is chosen, the agency shall obtain written consent from the parent for use of the IFSP as the child's IEP. (Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-987; effective May 19, 2000; amended March 21, 2008.)

91-40-17. IEP team meetings and 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 team 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 regulation; and

(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 IEP team 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 IEP team 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) If the meeting is for a child who has been receiving special education services under the infant and toddler provisions of the federal law but is now transitioning to the provisions for older children, the notice shall specify that the parent may require that a representative of the infant and toddler program be invited to attend the initial IEP team meeting to assist with the smooth transition of services.

(3) The notice shall indicate the following information, if a purpose is to consider postsecondary goals and transition services for the child:

(A) The agency will invite the child to attend.

(B) One of the purposes of the meeting will be to consider the postsecondary goals and needed transition services for the student.

(4) The notice shall inform the parent that the parent has the right to invite to the IEP team meeting individuals whom the parent believes to have knowledge or special expertise about the child.

(c) If a parent of an exceptional child cannot be physically present for an IEP team 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 team 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 team meeting without parental participation if the agency, despite re-

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peated attempts, has been unable to contact the parent or parents or to convince them that they should participate.

(2) If an agency conducts an IEP team 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 their 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 parent's home, including the date, time, and person making the visit and the results of the visit;

(C) copies of correspondence sent to each parent 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 a child with a disability, regardless of the child's age, to attend any IEP team meeting for the child if a purpose of the meeting is consideration of the child's postsecondary goals and transition services needs.

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

(g) If a purpose of any IEP team meeting for a child with a disability is consideration of the postsecondary goals of the child and the transition services needed to assist the child to reach those goals, the agency, with the consent of a parent or the child if the child is at least 18 years old, shall invite a representative of any other agency that is likely to be responsible for providing or paying for 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. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-987; effective May 19, 2000; amended May 4, 2001; amended March 21, 2008.)

91-40-20. Reserved.

91-40-21. Educational placement. (a) Each agency shall ensure that the 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)(1) 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:

(A) The decision shall be made by a group of persons, including the child's parent or parents and other persons who are knowledgeable about the child, the meaning of the evaluation data, and the placement options.

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

(2) In determining the educational placement of a gifted child, each agency shall ensure that the placement decision is made by a group of persons, including the child's parent or parents and other persons who are knowledgeable about the child, the meaning of the evaluation data, and appropriate placement options for gifted children.

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

(2) If a parent cannot participate in person at a meeting relating to the educational placement of the child, the agency shall offer to use other methods to allow the parent to participate, including conference calls and video conferencing.

(3) An agency may conduct a meeting to determine the appropriate educational placement of a child with a disability without participation of a parent if the agency, despite repeated attempts, has been unable to contact the parent or to convince the parent to participate.

(4) If an agency conducts a meeting to determine the appropriate educational placement of a child without the participation of a parent, 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 parent.

(5) An agency shall take action to ensure that parents understand, and are able to participate in, any discussions concerning the educational placement of their children, 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 exceptional child's placement meets the following criteria:

(1) Is determined at least annually;

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

(3) for a child with a disability, is as close as possible to the child's home.

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

(g) In selecting the LRE for a child with a disability, 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) (1) In providing, or arranging for the provision of, nonacademic 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.

(2) Each agency shall ensure that each child with a disability receives the supplementary aids and services specified in the child's IEP as being appropriate and necessary for the child to participate in nonacademic settings.

(j) If it is determined that the placement in a specialized public or private school or facility is necessary to provide FAPE to a child with a disability in accordance with the child's IEP, the agency shall provide for the placement, including nonmedical care and room and board, at no cost to the parent or 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. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-976; effective May 19, 2000; amended March 21, 2008.)

91-40-22. Agency placement in private schools or facilities. (a) 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 is afforded all the rights granted by the law.

(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.

(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 a parent 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. 2007 Supp. 72-963; implementing

K.S.A. 2007 Supp. 72-966 and 72-976; effective May 19, 2000; amended March 21, 2008.)

91-40-23. Reserved.

91-40-26. Notice requirements. (a) In providing any notice to the parent or parents of an exceptional child in accordance with K.S.A. 72-990 and amendments thereto regarding any action proposed or refused by an agency, each agency shall ensure that the notice includes the following information:

(1) A description of other options that the agency considered and the reasons why those options were rejected; and

(2) a description of other factors that are relevant to the agency's proposal or refusal.

(b) The notice shall be written in language understandable to the general public and 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.

(c) 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.

(d) The agency shall be required to provide a parent with a copy of the procedural safeguards available to parents only one time during each school year, except that a copy shall also be provided to the parent in the following circumstances:

(1) Upon initial referral of the child for an evaluation or upon parental request for an evaluation;

(2) upon receipt by the state department of education of the first complaint filed with it by the parent;

(3) upon receipt by an agency of the first due process complaint filed against it by the parent;

(4) upon the parent's child being subjected to disciplinary removal from the child's current placement; and

(5) at any time, upon request of the parent.

(e) The agency shall inform the parent of any free or low-cost legal or other relevant services available in the agency's area if the parent requests the information or the parent or agency initiates a due process complaint involving the parent's child. (Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-988; effective May 19, 2000; amended March 21, 2008.)

91-40-27. Parental consent. (a) Except as otherwise provided in this regulation, each 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,

(continued)

unless the change is made under the provisions of K.A.R. 91-40-33 through 91-40-38 or is based upon the child's graduation from high school or exceeding the age of eligibility for special education services.

(b) When screening or other methods used by an agency indicate that a child may have a disability and need special education services, the agency shall make reasonable and prompt efforts to obtain informed parental consent from the child's parent to conduct an initial evaluation of the child and, if appropriate, to make the initial provision of services to the child.

(c) Unless a judicial order specifies to the contrary, each agency shall recognize the biological or adoptive parent of an exceptional child who is a minor as the educational decision maker for the child if the parent exerts the parent's rights on behalf of the child, even if one or more other persons meet the definition of parent for the particular child.

(d) 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.

(e) 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, reevaluation, 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.

(f)(1) If a parent of an exceptional child who is enrolled or is seeking to enroll in a public school does not provide consent for an initial evaluation or any reevaluation, or for a proposed material change in services or a substantial change in the placement of the parent's child, an agency may, but shall not be required to, pursue the evaluation or proposed change by initiating due process or mediation procedures.

(2) If a parent of an exceptional child who is being homeschooled or has been placed in a private school by the parent does not provide consent for an initial evaluation or a reevaluation, or fails to respond to a request to provide consent, an agency shall not pursue the evaluation or reevaluation by initiating mediation or due process procedures.

(3) An agency shall not be in violation of its obligations for identification, evaluation, or reevaluation if the agency declines to pursue an evaluation or reevaluation because a parent has failed to provide consent for the proposed action.

(4) Each agency shall document its attempts to obtain parental consent for action proposed under this regulation.

(g) 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 parent or parents have failed to respond.

(h) 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. 2007 Supp. 72-963; implementing K.S.A. 2007

Supp. 72-988; effective May 19, 2000; amended May 4, 2001; amended March 21, 2008.)

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 K.S.A. 72-996 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 or other impartial basis.

(c) If a disagreement as described in subsection (a) arises, the parent or the agency, or both, may initiate a special education due process hearing by filing a due process complaint notice. 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 complaint notice is filed, the provisions of K.S.A. 72-972a 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 complaint notice is received, 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 five days of receiving the list, 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

provided 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.

(f) (1) Unless the agency and parent have agreed to waive a resolution meeting or to engage in mediation, the agency and parent shall participate in a resolution meeting as required by K.S.A. 72-973 and amendments thereto. The parent and agency shall determine which members of the IEP team will attend the meeting.

(2) If a parent who files a due process complaint fails to participate in a resolution meeting for which the agency has made reasonable efforts to give the parent notice, the timelines to complete the resolution process and begin the due process hearing shall be delayed until the parent attends a resolution meeting or the agency, at the end of the 30-day resolution period, requests the hearing officer to dismiss the due process complaint.

(3) If an agency fails to hold a resolution meeting within 15 days of receiving a due process complaint or to participate in a meeting, the parent may request the hearing officer to begin the due process hearing and commence the 45-day timeline for its completion.

(g) The 45-day timeline for completion of a due process hearing shall start on the day after one of the following events occurs:

(1) Both parties to the due process proceedings agree, in writing, to waive the resolution meeting.

(2) The parties participate in a resolution meeting or in mediation but agree, in writing, that resolution of their dispute is not possible by the end of the 30-day resolution period.

(3) Both parties agreed, in writing, to continue to engage in mediation beyond the end of the 30-day resolution period, but later one or both of the parties withdraw from the mediation process. (Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-963a, 72-973, and 72-996; effective May 19, 2000; amended March 21, 2008.)

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

(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) Each person who is 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 programs in special education law that are conducted or approved by the state board. (Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-963a; effective May 19, 2000; amended March 21, 2008.)

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 either party shall have the right to prohibit the presentation of any evidence at the expedited hearing that has not been disclosed by the opposite party at least two business days before the hearing.

(d) (1) Each hearing officer shall conduct the expedited due process hearing within 20 school days of the agency's receipt of the request for the expedited due process hearing and shall render a decision in the matter within 10 school days after the close 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. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-992 and 72-993; effective May 19, 2000; amended March 21, 2008.)

91-40-31. Educational placement during proceedings. (a) Except as otherwise provided in K.S.A. 72-993 and amendments thereto and this regulation, during the pendency of any special education due process or judicial proceeding, the child's educational placement shall be determined in accordance with K.S.A. 72-973 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,

(continued)

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.

(c) If the due process hearing involves the evaluation of or initial services for a child who is transferring from the infant and toddler program under the federal law because the child has reached three years of age, the agency shall not be required to provide the services that the child had been receiving under the infant and toddler program. However, if the child is determined to be eligible for special education and related services, the agency shall provide appropriate services to which the parent consents. (Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-973 and 72-993; effective May 19, 2000; amended March 21, 2008.)

91-40-32. Reserved.

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 in this regulation:

(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 constituting a pattern that meets all of the following criteria:

(i) The suspensions cumulate to more than 10 school days in a school year.

(ii) Each incident of misconduct resulting in a suspension involved substantially the same behavior.

(iii) The length of each suspension, the total amount of time the child is suspended, and the proximity of the suspensions to one another indicate a pattern.

(C) The child is placed in an interim alternative educational setting.

(2) (A) 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).

(B) School officials shall have the authority to make the determination of whether a series of short-term suspensions of a child with a disability constitutes a change in placement for disciplinary reasons. This determination shall be subject to review through due process proceedings.

(b) "School officials" 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. 2007 Supp. 72-963; implementing

K.S.A. 2007 Supp. 72-991a; effective May 19, 2000; amended May 4, 2001; amended March 21, 2008.)

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. 72-991a and amendments thereto, school personnel 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. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-991a and 72-8902; effective May 19, 2000; amended March 21, 2008.)

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), 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 needed to enable the child to continue to participate in the general education curriculum and to progress toward meeting 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. 72-991a 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. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-966 and 72-991a; effective May 19, 2000; amended March 21, 2008.)

91-40-37. (Authorized by K.S.A. 2000 Supp. 72-963; implementing K.S.A. 2000 Supp. 72-991; effective May 19, 2000; amended May 4, 2001; revoked March 21, 2008.)

91-40-38. Manifestation determination; appeal. (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. 72-991a and amendments thereto.

(b) An agency may conduct the manifestation determination at the same IEP team meeting that is held in regard to developing or reviewing a behavioral intervention plan under K.S.A. 72-991a and amendments thereto.

(c) If, in making a manifestation determination, deficiencies are identified 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.

(d) An agency shall convene meetings under this regulation as expeditiously as possible and shall be required to give only 24 hours' prior notice of a meeting to the child's parent or parents.

(e)(1) If a parent files a due process complaint concerning the manifestation determination, a resolution meeting between the parties shall be held within seven days of the filing of the complaint, unless the parties agree, in writing, to waive the resolution meeting or to engage in mediation.

(2) If the matter has not been resolved to the satisfaction of both parties within 15 days of the filing of the due process complaint, the due process hearing may proceed. (Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-991a; effective May 19, 2000; amended May 4, 2001; amended March 21, 2008.)

91-40-39. (Authorized by K.S.A. 1999 Supp. 72-963; implementing K.S.A. 1999 Supp. 72-994; effective May 19, 2000; revoked March 21, 2008.)

91-40-40. Reserved.

91-40-41. Private school placement by parents to obtain FAPE. (a) (1) If the parent of an exceptional child who previously was receiving special education and related services from an agency enrolls the child, without the consent of or referral by the agency, in a private preschool or a private elementary or secondary school because the parent believes 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 parent 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 parent 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), 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 parent attended before making the private school placement, the parent did not inform the IEP team that the parent was rejecting the services or placements proposed by the agency to provide FAPE to the child, including a statement of concerns and the intent to enroll the 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 parent did not give written notice to the public agency of the information specified in paragraph (1) (A) of this subsection.

(2) Before the parent's removal of the child from public school, the agency notified the parent, 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 parent did not make the child available for the evaluation.

(3) The actions of the parent in removing the child from public school were unreasonable.

(c) Notwithstanding the notice requirements in subsection (b), 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) Compliance with the prior notice requirement would likely have resulted in physical harm to the child.

(2) The agency prevented the parent from providing the required prior notice.

(3) The parent had not been given notice by the agency of the prior notice requirement prescribed in subsection (b).

(d) At the discretion of a court or due process hearing officer, the court or hearing officer may allow a parent full or partial reimbursement of the cost of a private school placement even though the parent failed to provide the notice required in subsection (b), if the court or hearing officer finds either of the following:

(1) The parent is not literate and cannot write in English.

(2) Compliance with the prior notice requirement would likely have resulted in serious emotional harm to the child. (Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-966; effective May 19, 2000; amended March 21, 2008.)

91-40-42. Child find and count of children with disabilities enrolled in private schools; determination of children to receive services. (a) Child find activities.

(continued)

(1) Each board, in accordance with K.A.R. 91-40-7, shall locate, identify, and evaluate all children with disabilities who are enrolled in private elementary or secondary schools located in the school district, including children with disabilities who reside in another state.

(2) The activities undertaken to carry out this responsibility shall meet the following criteria:

(A) Be similar to the activities undertaken for exceptional children enrolled in the public schools;

(B) provide for the equitable participation of private school children;

(C) provide for an accurate count of children with disabilities enrolled in the private schools; and

(D) be completed in a time period comparable to the time for these activities in the public schools.

(3) Each board, in accordance with K.A.R. 91-40-42a, shall consult with representatives of private schools and parents of private school children concerning the activities described in paragraph (1) of this subsection.

(4) The cost of carrying out the child find activities required under this regulation, including individual evaluations of private school children, shall not be considered in determining if an agency has met its obligation to provide a proportionate share of its federal funds for private school children.

(b) Child count activities.

(1) Each board shall annually conduct a count of the number of children with disabilities who are enrolled in private schools located in the school district. This count, at the discretion of each board, shall be conducted on either December 1 or the last Friday of October of each school year.

(2) Each board, in accordance with K.A.R. 91-40-42a, shall consult with representatives of private schools and parents of private school children concerning 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), shall consult with representatives of private schools and parents of children with disabilities enrolled in private schools and then determine which private school children will be provided special education and related services by the board. (Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-966; effective May 19, 2000; amended March 21, 2008.)

91-40-42a. Consultation. (a) Each board shall engage in timely and meaningful consultation with representatives of private schools located in the school district and representatives of parents of children with disabilities enrolled in those private schools before making determinations regarding the following matters:

(1) How the consultation process among the board, private school officials, and representatives of parents of private school children shall be organized and carried out, including how the process will operate throughout the

school year to ensure that children with disabilities who are identified throughout the school year can receive the special education and related services that are provided to private school children;

(2) how the child find process will be conducted, including the following:

(A) How children enrolled in private schools who are suspected of having a disability can participate equitably in the child find process; and

(B) how parents, teachers, and private school officials will be informed of the process;

(3)(A) How the determination of the proportionate share of federal funds that will be available to serve private school children will be made, including a review of how the proportionate share of those funds must be calculated under the federal law; and

(B) how special education and related services will be apportioned if the proportionate share of federal funds are insufficient to serve all of the private school children who are designated to receive services; and

(4)(A) How, where, and by whom special education and related services will be provided to private school children, including a discussion of the means by which services will be delivered, including direct services and services through contracts; and

(B) how and when final decisions on these issues will be made by the board.

(b)(1) When a board believes that it has completed timely and meaningful consultation as required by this regulation, the board shall seek to obtain a written affirmation, signed by representatives of participating private schools, affirming that the consultation did occur.

(2) If representatives of the private schools do not provide the affirmation within 30 days of the date the affirmation is requested, the board shall forward documentation of the consultation to the state department.

(c)(1) A representative of a private school may submit a complaint to the state department alleging that the board of the school district in which the private school is located failed to engage in consultation that was meaningful and timely or did not give due consideration to the views of private school representatives. A copy of the complaint shall also be submitted to the board.

(2) Each complaint submitted by a private school representative shall include a statement of the specific requirement that the board allegedly failed to meet and the facts that support the allegation.

(3) Within 30 days of receiving a complaint, the board shall prepare a reply to the complaint and submit the reply and documentation supporting its position to the state department.

(4)(A) Within 60 days of receiving a complaint, the state department shall issue a determination on whether the complaint is justified and any corrective action that is to be taken.

(B) If the private school representative is dissatisfied with the decision of the state department, the representative may appeal the decision by submitting an appeal to the secretary of the United States department of education as specified in the federal regulations. (Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-966; effective March 21, 2008.)

91-40-43. Services to private school children. (a) Consistent with the number and location of private school children 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.

Each board also shall provide services to gifted children who reside in the district and are enrolled in a private school.

(b) The parent of an exceptional child may request that the 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 private school child unless one of the following conditions is met:

(1) The child is a member of a group of private school children that has been designated to receive 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 private school child 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 private school child 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) Each board shall ensure that the special education and related services provided to private school children are provided by personnel who meet the same standards as the standards for public school personnel, except that private school teachers who provide services to private school children shall not be required to be highly qualified under the federal law. (Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-966 and 72-5393; effective May 19, 2000; amended March 21, 2008.)

91-40-44. Allocation and expenditure of federal funds; reports. (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, the amounts specified below.

(1) For private school children aged three through 21, an amount calculated as follows:

(A) Divide the number of private school children aged three through 21 who are enrolled in private schools located in the school district by the total number of children with disabilities aged three through 21 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 (f) of the federal law; and

(2) for private school children aged three through five, an amount calculated as follows:

(A) Divide the number of private school children aged three through five who are enrolled in private elementary

schools located in the school district by the total number of children with disabilities aged three through five 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), each board shall include all private school children whether or not those children are actually receiving special education or related services from the school district.

(c) (1) Each board, to the extent necessary, shall expend the amounts calculated under subsection (a) of this regulation to provide private school children with 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.

(2) If a board does not expend all of the funds allocated for the provision of special education and related services to private school children during a school year, the board shall allocate the unexpended funds for the purpose of providing services to private school children during the next succeeding school year.

(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.

(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 to receive special education and related services.

(e) Each board shall maintain records regarding the following information related to children enrolled in private schools located in the school district:

(1) The number of children evaluated;

(2) the number of children determined to be children with disabilities; and

(3) the number of children provided with special education and related services. (Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-966; effective May 19, 2000; amended March 21, 2008.)

91-40-45. Services plan or IEP. (a) Each board shall develop and implement a services plan for each private school child who meets both of the following criteria:

(1) The child is a member of the group of private school children that has been designated to receive special education and related services under the provisions of K.A.R. 91-40-43.

(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) Each board shall ensure that the services plan for each private school child 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 under the provisions of K.A.R. 91-40-43.

(continued)

(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 that 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 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. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-966 and 72-5393; effective May 19, 2000; amended March 21, 2008.)

91-40-46. Mediation and due process rights of private school children. (a)(1) The parent of a private school child may request mediation or initiate a due process hearing as authorized under this article, if the parent believes that a board has failed to properly identify and evaluate the parent's child, in accordance with K.A.R. 91-40-42 (a).

(2) Each due process complaint by the parent of a private school child shall be filed with the board of education of the school district in which the private school is located. The parent of the child shall provide a copy of the complaint to the state board of education.

(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. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-966 and 72-5393; effective May 19, 2000; amended March 21, 2008.)

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) (1) 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:

(A) To enhance the existing level of instruction in the private school or to otherwise generally benefit the private school; or

(B) to generally benefit the needs of all students enrolled in the private school.

(2) Each agency shall ensure that special education and related services provided to exceptional children enrolled in private schools are provided in a secular and nonideological manner.

(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. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-966; effective May 19, 2000; amended March 21, 2008.)

91-40-49. Reserved.

91-40-50. Parental access to student records; confidentiality. (a) As used in this regulation, the following

terms shall have the meanings specified in this subsection:

(1) "Destruction" means physically destroying the medium on which information is recorded or removing all personal identifiers from the information so that no one can be identified.

(2) "Education records" means any document or medium on which information directly related to one or more students is maintained by a participating agency in accordance with K.S.A. 72-6214 and amendments thereto.

(3) "Participating agency" means any educational agency or institution that collects, maintains, or uses personally identifiable student information to provide special education and related services to children with disabilities.

(b) The provisions in 34 C.F.R. §§ 300.612 through 300.624, as in effect on August 14, 2006, and published in 71 fed. reg. 46802-46804 (2006), which concern parental access to education records and confidentiality of those records, are hereby adopted by reference. (Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-963 and 72-988; effective May 19, 2000; amended March 21, 2008.)

91-40-51. Filing complaints with the state department of education. (a) Any person or organization 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 include the following information:

(1) A statement that the agency has violated a requirement of state or federal special education laws or regulations;

(2) the facts on which the statement is based;

(3) the signature of and contact information for the complainant; and

(4) if the complaint involves a specific child, the following information:

(A) The child's name and address of residence, or other contact information if the child is a homeless child or youth;

(B) the name of the school the child is attending;

(C) a description of the problem involving the child; and

(D) a proposed resolution to the problem, if a possible resolution is known and available to the complainant.

(b)(1) The complaint shall allege a violation that occurred not more than one year before the date the complaint is received and shall be filed with the commissioner of education.

(2) The party filing the complaint shall forward a copy of the complaint to the agency against which the allegations are made at the same time the complaint is filed with the commissioner of education.

(c) Upon receipt of a complaint, an investigation shall be initiated. At a minimum, each investigation shall include the following:

(1) A discussion with the complainant during which additional information may be gathered and specific allegations of noncompliance identified, verified, and recorded;

(2) contact with the agency against which the complaint is filed to allow the agency to respond to the complaint with facts and information supporting its position, offer a proposal to resolve the complaint, or offer to engage in mediation to resolve the complaint; and

(3) a written report of findings of fact and conclusions, including reasons for the decision, and any corrective action or actions that are required, including the time period within which each action is to be taken. Unless the parent and the agency agree to engage in mediation, this report shall be sent to the parties within 30 days of the receipt of the complaint. If the parties mediate but fail to resolve the issues, the report shall be sent 30 days after the department received notice that mediation has failed.

(d) An on-site investigation may be conducted before issuing a report.

(e)(1) 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 specified in the report, together with justification for the request; or

(C) a written notice of appeal. Each appeal shall be made in accordance with subsection (f).

(2) 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.

(3) If a local education agency fails to respond to a report within the time allowed, the sanctions listed in paragraph (f) (2) may be invoked.

(f) 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 provide a detailed statement of 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 partic-

(continued)

ular 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 actions specified in paragraph (f)(2).

(g) (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 due process hearing decision shall be binding on that issue and the complainant informed of this fact. (Authorized by K.S.A. 2007 Supp. 72-963; implementing K.S.A. 2007 Supp. 72-988; effective May 19, 2000; amended March 21, 2008.)

Alexa Posny
Commissioner of Education

Doc. No. 035442

INDEX TO ADMINISTRATIVE REGULATIONS

This index lists in numerical order the new, amended and revoked administrative regulations and the volume and page number of the *Kansas Register* issue in which more information can be found. Temporary regulations are designated with a (T) in the Action column. This cumulative index supplements the 2006 Volumes and the 2007 Supplement of the *Kansas Administrative Regulations*.

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4-3-51	Amended	V. 27, p. 16
4-8-14a	Amended	V. 26, p. 489
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4-8-28	Amended	V. 26, p. 489
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5-40-2b	New	V. 26, p. 647
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5-40-5a	New	V. 26, p. 648
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11-8-4	Amended	V. 26, p. 1543
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100-54-8	Amended	V. 26, p. 1044
100-55-4	Amended	V. 27, p. 209
100-73-1	Amended	V. 26, p. 1258
100-73-9	New	V. 26, p. 1044

AGENCY 102: BEHAVIORAL SCIENCES REGULATORY BOARD

Reg. No.	Action	Register
102-1-7	Revoked	V. 26, p. 881
102-1-13	Amended	V. 26, p. 1774

102-2-3	Amended	V. 26, p. 1775
102-2-10	Revoked	V. 26, p. 881
102-3-2	Amended	V. 26, p. 1775
102-3-8a	Revoked	V. 26, p. 881
102-4-2	Amended	V. 26, p. 1775
102-4-8a	Revoked	V. 26, p. 881
102-5-2	Amended	V. 26, p. 1776
102-5-8	Revoked	V. 26, p. 881
102-6-8	Amended	V. 26, p. 881

AGENCY 105: BOARD OF INDIGENTS' DEFENSE SERVICES

Reg. No.	Action	Register
105-11-1	Amended	V. 26, p. 1752

AGENCY 110: DEPARTMENT OF COMMERCE

Reg. No.	Action	Register
110-13-10	Amended	V. 26, p. 1752
110-15-1 through 110-15-4	New	V. 26, p. 1864
110-16-1 through 110-16-4	New	V. 26, p. 1865, 1866
110-17-1 through 110-17-4	New	V. 26, p. 1866, 1867
110-18-1 through 110-18-4	New	V. 26, p. 1867, 1868

AGENCY 111: KANSAS LOTTERY

A complete index listing all regulations filed by the Kansas Lottery from 1988 through 2000 can be found in the Vol. 19, No. 52, December 28, 2000 Kansas Register. A list of regulations filed by the Kansas Lottery from 2001 through 2003 can be found in the Vol. 22, No. 52, December 25, 2003 Kansas Register. A list of regulations filed by the Kansas Lottery from 2004 through 2005 can be found in the Vol. 24, No. 52, December 29, 2005 Kansas Register. A list of regulations filed by the Kansas Lottery from 2006 through 2007 can be found in the Vol. 26, No. 52, December 27, 2007 Kansas Register.

AGENCY 112: RACING AND GAMING COMMISSION

Reg. No.	Action	Register
112-4-9a	Amended	V. 27, p. 19
112-4-14a	Amended	V. 27, p. 19
112-5-1	Amended	V. 27, p. 19
112-6-1	Amended	V. 27, p. 20
112-7-6	Amended	V. 27, p. 20
112-7-8	Amended	V. 27, p. 21
112-7-15a	Amended	V. 27, p. 21
112-7-16	Amended	V. 27, p. 22
112-7-18a	Amended	V. 27, p. 22
112-7-20	Amended	V. 27, p. 23
112-8-9	Amended	V. 27, p. 23
112-10-12	Amended	V. 27, p. 23
112-10-32	Amended	V. 27, p. 23
112-11-10	Amended	V. 27, p. 24
112-11-20	Amended	V. 27, p. 24
112-18-1	Amended	V. 27, p. 26

AGENCY 115: DEPARTMENT OF WILDLIFE AND PARKS

Reg. No.	Action	Register
115-2-1	Amended	V. 26, p. 1722
115-2-3a	Amended	V. 26, p. 1723
115-4-4	Amended	V. 26, p. 410
115-4-4a	Amended	V. 26, p. 411
115-4-6	Amended	V. 27, p. 109
115-4-6a	Revoked	V. 27, p. 112
115-4-13	Amended	V. 26, p. 1111
115-4-14	Revoked	V. 27, p. 112
115-7-1	Amended	V. 26, p. 1725
115-7-8	Amended	V. 26, p. 1726
115-7-9	New	V. 26, p. 1727
115-8-7	Amended	V. 26, p. 1364
115-8-13	Amended	V. 27, p. 112
115-9-9	Amended	V. 26, p. 641
115-18-10	Amended	V. 26, p. 1727

115-18-12	Amended	V. 26, p. 1728
115-18-20	Amended	V. 26, p. 1728
115-30-1	Amended	V. 26, p. 1364
115-30-5	Amended	V. 26, p. 1365
115-30-7	Amended	V. 26, p. 1365
115-30-8	Amended	V. 26, p. 1365
115-30-10	Amended	V. 26, p. 1366
115-30-12	New	V. 26, p. 1366

AGENCY 117: REAL ESTATE APPRAISAL BOARD

Reg. No.	Action	Register
117-1-1	Amended	V. 26, p. 1259
117-2-1	Amended	V. 26, p. 1259
117-2-2	Amended	V. 26, p. 1260
117-2-2a	Amended	V. 27, p. 16
117-2-3	Amended	V. 26, p. 1261
117-2-4	Amended	V. 26, p. 1261

117-3-1	Amended	V. 26, p. 1262
117-3-2	Amended	V. 26, p. 1265
117-3-2a	Amended	V. 27, p. 17
117-3-4	Amended	V. 26, p. 1264
117-4-1	Amended	V. 26, p. 1264
117-4-2	Amended	V. 26, p. 1265
117-4-2a	Amended	V. 27, p. 17
117-4-3	Amended	V. 26, p. 1266
117-4-4	Amended	V. 26, p. 1266
117-5-2a	Amended	V. 27, p. 18
117-6-1	Amended	V. 26, p. 1266
117-6-2	Amended	V. 26, p. 1267
117-7-1	Amended	V. 27, p. 18
117-8-1	Amended	V. 27, p. 19

AGENCY 118: STATE HISTORICAL SOCIETY

Reg. No.	Action	Register
118-4-4	Amended	V. 26, p. 46

AGENCY 121: DEPARTMENT OF CREDIT UNIONS

Reg. No.	Action	Register
121-2-1	Amended	V. 26, p. 1908
121-3-1	Amended	V. 26, p. 1908
121-5-4	New	V. 26, p. 1909
121-9-1	New	V. 26, p. 1910

AGENCY 128: DEPARTMENT OF COMMERCE—KANSAS ATHLETIC COMMISSION

Reg. No.	Action	Register
128-1-1	New (T)	V. 27, p. 106
128-2-12	New (T)	V. 27, p. 107

AGENCY 129: KANSAS HEALTH POLICY AUTHORITY

Reg. No.	Action	Register
129-5-1	Amended	V. 26, p. 1579
129-5-65	New	V. 26, p. 1091

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