

State of Kansas

Kansas Board of Regents

Notice of Hearing on Proposed Amendment and Adoption of Administrative Regulations

The Kansas Board of Regents will conduct a public hearing to consider amendments of K.A.R. 88-28-1, 88-28-2, 88-28-3, 88-28-4, and 88-28-8 and proposed new regulations K.A.R. 88-28-9 and 88-28-10. The hearing will be held at 10:00 a.m. on December 27, 2022, in the Kansas Board of Regents Board Room, 1000 SW Jackson St., Suite 520, Topeka, KS 66612.

This 60-day notice of the public hearing shall constitute a public comment period for receiving written public comments on the proposed amendments and new regulations. All interested parties may submit comments prior to the hearing to Renee Burlingham at the Kansas Board of Regents' above address, at (785) 430-4239 or via email to rburlingham@ksbor.org. All interested parties will be given a reasonable opportunity to present their views orally on the proposed regulations during the hearing. To provide all parties with an opportunity to present their views, it may be necessary to request 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 to participate in the hearing should be made at least five working days in advance of the hearing by contacting Renee Burlingham through the contact information listed above. Individuals with hearing and/or speech disabilities may contact the Kansas Relay Center at 800-766-3777 for communication accommodations.

Copies of the proposed regulations and the economic impact statement may be found at <http://www.kansasregents.org/about/rules-regulations> or by contacting Renee Burlingham.

A summary of the proposed regulations and the economic impact statement of the regulations follows:

The 2021 Legislature amended K.S.A. 74-32, 163 et esq. and these amendments took effect on July 1, 2021. In addition to aligning the regulations with the updated statute, the overall purpose for the regulation amendments and new regulations is to increase consumer protection and institutional accountability while eliminating some outdated requirements. The proposed amendments provide clarification and update minimum requirements, including the following:

- clarify the official termination date used for refund calculations, allowing institutions to consider the week during which the student last attended to be an entire week of attendance completed;
- add to catalog requirements, most notably requiring the institution's attendance policy and grievance policy with Board contact information;
- modify the advertising requirements to allow institutions that quote salaries of program graduates to use more readily available sources such as a governmental agency or nationally recognized source;
- change the minimum financial requirements that institutions must meet to maintain a certificate of approval from the Board. Based on recommendations from a certified public accountant, the proposed modifications will require an institution to demonstrate a profit earned and either a current liquidity ratio of at least 1 or a positive net worth in order to obtain a certificate of approval without conditions related to financial monitoring; and

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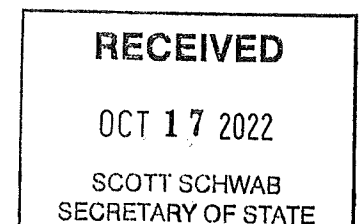
- expand procedures for institutions that are closing to require specific documentation and transfer of records.

Additionally, the agency is proposing changes to remove some reporting requirements to reduce the burden on regulated institutions, including the following:

- reduce the requirements related to the annual fire inspection. Many cities do not conduct annual inspections, making it difficult for institutions to provide an annual report to the Board as required under the current regulation. To reduce the reporting burden, the proposed amendments require institutions to receive inspections as required by the local fire department, state fire marshal, and other public health and safety organizations. The proposed amendments will require these reports to be made available to the Board upon request;
- remove restrictions related to student loans that the institution receives on behalf of the student from private lenders; and
- modify the requirements related to the institution's library to no longer require that the institution employ a professional librarian or include an annual budget line item for library maintenance and improvement.

The proposed amendments also create new regulations to establish requirements related to the required documentation for provisional certificates of approval for institutions in the process of obtaining accreditation and changes of ownership.

There is no anticipated economic impact expected to be incurred or passed along to regulated institutions as a result of enacting the proposed amendments. The proposed amendments are intended to update and clarify the regulatory language. The specific regulation regarding fees charged to regulated institutions is not impacted by the proposed amendments.



**88-28-1. Definitions.** Each of the following terms, wherever used in this article of the board's regulations, shall have the meaning specified in this regulation:

(a) "Academic year" means instruction consisting of at least 24 semester credit hours over a period of two semesters or the equivalent.

(b) "Associate's degree" means a postsecondary degree consisting of at least 60 semester credit hours or the equivalent of college-level coursework. This term shall include the following types of associate's degree:

(1) "Associate in applied science degree" means a technical-oriented or occupational-oriented associate's degree that meets the following conditions:

(A) Is granted to each student who successfully completes a program that emphasizes preparation in the applied arts and sciences for careers, typically at the technical or occupational level; and

(B) requires at least 15 semester credit hours in general education and at least 30 semester credit hours or the equivalent in the technical content area.

(2) "Associate in arts degree" means an associate's degree that meets the following conditions:

(A) Is granted to each student who successfully completes a program that emphasizes the liberal arts; and

(B) requires at least 30 semester credit hours or the equivalent in general education, including English, mathematics, humanities, communications, physical sciences, and social and behavioral sciences, or any combination of these subjects.

(3) "Associate in general studies degree" means an associate's degree that meets the following conditions:

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(A) Is granted to each student who successfully completes a program that emphasizes a broad range of knowledge; and

(B) requires at least 24 semester credit hours or the equivalent in general education.

(4) "Associate in science degree" means an associate's degree that meets the following conditions:

(A) Is granted to each student who successfully completes a program that emphasizes either mathematics or the biological or physical sciences, or both; and

(B) requires at least 30 semester credit hours or the equivalent in general education.

(c) "Bachelor's degree" and "baccalaureate" mean a degree that meets the following conditions:

(1) Requires the equivalent of at least four academic years of college-level coursework in the liberal arts, sciences, or professional fields meeting the following conditions:

(A) Requires at least 120 semester credit hours or the equivalent;

(B) includes at least 45 semester credit hours or the equivalent in upper-division courses; and

(C) requires at least 60 semester credit hours or the equivalent from institutions that confer a majority of degrees at or above the baccalaureate level; and

(2) requires a distinct specialization, which is known as a "major," that requires either of the following:

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(A) At least one academic year, or the equivalent in part-time study, of work in the major subject and at least one academic year, or the equivalent in part-time study, in related subjects; or

(B) at least two academic years, or the equivalent in part-time study, in closely related subjects within a liberal arts interdisciplinary program.

(d) "Catalog" means a document delivered in print or on-line containing the elements specified in K.A.R. 88-28-2.

(e) "Closure of an institution" and "closure" mean the practice of no longer allowing students access to the institution to receive instruction. Closure of an institution occurs on the calendar day immediately following the last day on which students are allowed access to the institution to receive instruction.

(f) "Degree program" means a course of study that meets the following conditions:

- (1) Leads to an associate's degree, a bachelor's degree, a master's degree, an intermediate (specialist) degree, a first professional degree, or a doctor's degree; and
- (2) consists of at least 30 semester credit hours or the equivalent of coursework in a designated academic discipline area.

(g) "Doctor's degree" means a degree that may include study for a closely related master's degree and that meets the following conditions:

- (1) Is granted to each student who successfully completes an intensive, scholarly program requiring the equivalent of at least three academic years beyond the bachelor's degree;

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(2) requires a demonstration of mastery of a significant body of knowledge through successful completion of either of the following:

(A) A comprehensive examination; or

(B) a professional examination, the successful completion of which may be required in order to be admitted to professional practice in Kansas; and

(3) requires evidence, in the form of a doctoral dissertation, of competence in independent basic or applied research that involves the highest levels of knowledge and expertise.

(h) "Enrollment documents" means written documentation provided by an institution to a student in which the institution agrees to provide instruction to the student for a fee. The enrollment documents shall meet the requirements of K.A.R. 88-28-7.

(i) "Enrollment period" means the period of time specified in enrollment documents during which instruction, including any examinations given, is to be provided to a student.

(j) "Entering an institution" means commencing class attendance by a student at an on-site institution or first submitting a lesson by a student for evaluation in a distance education program.

(k) "First professional degree" means a degree that meets the following conditions:

(1) Is granted to each student who successfully completes study beyond the fulfillment of undergraduate requirements, as approved by the state board;

(2) requires the equivalent of at least five academic years of study, including work towards a bachelor's degree; and

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(3) includes a specialization in a professional field.

(l) "Honorary degree" means a special degree awarded as an honor that is bestowed upon a person without completion of the usual requirements.

(m) "Intermediate (specialist) degree" means a degree, including an educational specialist degree, granted to each student who successfully completes a program requiring the equivalent of at least one academic year beyond the master's degree in a professional field.

(n) "Master's degree" means a degree that meets the following conditions:

(1) Is granted to each student who successfully completes a program in the liberal arts and sciences or in a professional field beyond a bachelor's degree;

(2) requires the equivalent of at least one academic year in a curriculum specializing in a single discipline or single occupational or professional area; and

(3) culminates in a demonstration of mastery, which may include one or more of the following:

(A) A research thesis;

(B) a work of art; or

(C) the solution of an applied professional problem.

(o) "Program" means either of the following:

(1) A course or series of courses leading to a certificate, diploma, or degree; or

(2) training that prepares a person for a field of endeavor in a business, trade, technical, or industrial occupation.

(p) "Review course" means an educational offering designed to review previous knowledge gained from a completed educational program.

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(q) “Teach-out agreement” means a written agreement between institutions that provides for the equitable treatment of students and a reasonable opportunity for students to complete their program of study if an institution, or an institutional location that provides 100 percent of at least one program offered, ceases to operate or plans to cease operations before all enrolled students have completed their program of study.

(r) “Upper-division course” means any course with content and teaching appropriate for students in their third and fourth academic years or for other students with an adequate background in the subject. (Authorized by and implementing K.S.A. 2016 2021 Supp. 74-32,165; effective Oct. 20, 2006; amended March 18, 2011; amended May 26, 2017; amended P-\_\_\_\_\_.)

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**88-28-2. Minimum requirements.** (a) ~~Except as provided in subsection (e), in order~~ To qualify for a certificate of approval, each applicant institution shall ~~be required~~ to meet the criteria requirements listed in K.S.A. 74-32,169, and amendments thereto. An owner of each applicant institution or the owner's designee shall submit evidence that the institution meets the following minimum requirements:

(1) The physical space shall meet the following requirements:

(A) Be free from hazards and be properly maintained;

(B) provide learning environments appropriate for each curriculum in size, seating, lighting, equipment, and resources;

(C) be either owned by the institution or accessed through a long-term lease or other means of access that indicates institutional stability; and

(D) if the physical space includes student housing owned, maintained, or approved by the institution, meet all local standards for public health and safety.

(2) The owner or the owner's designee has received all required inspections and written reports from the local fire department, state fire marshal, and other agencies responsible for ensuring public health and safety and has completed any required improvements. The written reports for the current year and the previous year, which shall be maintained on-site, with one copy sent to the state board annually and provided to the state board upon request.

(3) The administrative personnel of the institution shall meet the following requirements:

(A) Be adequate in number to support the programs offered; and

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(B) be adequately prepared for operating an institution through training, experience, credentialing, or any combination of these.

(4) The executive and academic leadership of the institution shall have qualifications that reasonably ensure that the purpose and policies of the institution are effectively maintained. The administrative responsibilities and concomitant authority of the executive and academic leadership shall be clearly specified in the institution's files.

(5) All academic, enrollment, and financial records of the students shall be securely maintained and protected from theft, fire, and other possible loss. ~~These records~~ Student transcripts shall be kept in an accessible format for 50 years from each student's last date of attendance.

(6) ~~All records describing the personnel related to and the development of the following operations shall be maintained for at least three years:~~

- ~~(A) The administration;~~
- ~~(B) the curricula;~~
- ~~(C) student guidance;~~
- ~~(D) instructional supplies and equipment;~~
- ~~(E) the library;~~
- ~~(F) the institution's physical plant;~~
- ~~(G) the staff; and~~
- ~~(H) student activities.~~

(7) The owner of the institution or the owner's designee shall submit to the state board the most recent financial statements for the institution operating in Kansas and for

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any parent or holding companies related to that institution. The financial statements provided to the state board shall demonstrate a profit earned before depreciation, amortization, and taxes and meet at least one of the following requirements for the most recent fiscal or calendar year ~~or for the two most recent fiscal or calendar years combined:~~

(A) Demonstrate a minimum ratio of current assets to current liabilities of at least 1:1. This asset ratio shall be calculated by adding the cash and cash equivalents to the current accounts receivable and dividing the sum by the total current liabilities; Extraordinary items, prior period adjustments, changes in accounting principles, questionable accounting treatments, unsecured or uncollateralized related-party receivables, intangible assets, and restricted assets shall be excluded; or

(B) exhibit a positive net worth in which the total assets exceed the total liabilities. Net worth shall be calculated by subtracting total liabilities from total assets. Extraordinary items, prior period adjustments, changes in accounting principles, questionable accounting treatments, unsecured or uncollateralized related-party receivables, intangible assets, and restricted assets shall be excluded; ~~or.~~

~~(C) demonstrate a profit earned.~~

~~(8) If the institution receives any loans on behalf of a student from a private lender, the institution shall meet all of the following provisions and requirements:~~

~~(A) The loan funds may be applied to tuition, fees, or living expenses, or any combination, for a student.~~

~~(B) The institution shall not accept all loan funds up front. The funds received shall arrive in multiple disbursements, with the first arriving after the first day of classes~~

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and the second arriving at least halfway through the enrollment period. The disbursements shall be at least 90 days apart.

~~(C) All refunds shall be made to the bank rather than to the borrower.~~

~~(D) Upon receipt of loan funds for items to be provided by the institution to the student, the institution shall provide these items to the student, with the exception of test vouchers.~~

~~(E) The institution shall not receive any loan funds for a student before the student first attends any course or accepts any on-line materials.~~

~~(F) If providing a test voucher for a student, the institution shall not receive any loan funds for the test voucher more than 30 days before the student is scheduled to take the test.~~

~~(9) (7) Each institution shall have a tuition refund policy and a student enrollment cancellation policy, called the "refund policy" in these this article of the state board's regulations, that meets the following requirements:~~

~~(A) Is published in the institution's catalog;~~

~~(B) complies with K.S.A. 74-32,169 and amendments thereto;~~

~~(C) establishes that each student will be reimbursed for any items for which the student was charged but did not receive, including textbooks and software;~~

~~(D) has no more stringent requirements than the following:~~

~~(i) All advance monies, other than an initial, nonrefundable registration fee, paid by the student before attending class shall be refunded if the student requests a refund, in writing, within three days after signing an enrollment agreement and making an initial payment;~~

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(ii) for institutions collecting a nonrefundable initial application or registration fee, the student shall be required to sign a written statement acknowledging that the initial application or registration fee is nonrefundable. This statement may be a part of the enrollment documents, as described in K.A.R. 88-28-7;

(iii) each student who has completed 25 percent or less of a course and withdraws shall be eligible for a pro rata refund. The completion percentage shall be based on the total number of calendar days in the course and the total number of calendar days completed. In determining the official termination date and percentage of each course completed, the institution may consider the week during which the student last attended to be an entire week of attendance completed. After a student has attended at least more than 25 percent of the course, tuition and fees shall not be refundable;

(iv) all monies due to a student shall be refunded within 60 days from the last day of attendance or within 60 days from the receipt of payment if the date of receipt of payment is after the student's last date of attendance; and

(v) for institutions with programs consisting of fewer than 100 clock-hours, refunds may be calculated on an hourly, pro rata basis.

~~(10)~~(8) All correspondence from the institution regarding the enrollment cancellation of a student, and any refund owed to the student, shall reference the refund policy of the institution.

~~(11)~~(9) The required catalog of the institution's operation and services published electronically or in print, or both, shall include the following items:

- (A) A table of contents;
- (B) a date of publication;

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(C) a list of any approvals, including contact information for the state board, and accreditations, including contact information, affiliations, and memberships that the institution has obtained;

(D) any requirements that students must meet to be admitted;

(E) an academic calendar or a reference to a published calendar used by the institution;

(F) the name and nature of each occupation for which training is given;

(G) the curricula offered, including the number of clock-hours or credit hours for each course in each curriculum;

(H) a description of the physical space and the educational equipment available;

(I) the tuition and fees charged;

(J) a description of the system used to measure student progress;

(K) the graduation requirements or completion requirements, or both;

(L) the institutional mission;

(M) identification of the owner of the institution;

(N) a list of the instructors teaching in Kansas, including their degrees held and the institutions from which their degrees were received;

(O) the institutional rules;

(P) the institution's policies for tuition refund and student enrollment cancellation, as described in paragraph ~~(a)(9)~~ (a)(7);

(Q) the extent to which career services are available; and

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(R) the institution's policies for ~~transfers~~ the transfer of clock-hours or credit hours and for advanced-standing examinations for students transferring to the institution or transferring to a different institution;

(S) an attendance policy; and

(T) a grievance policy and complaint procedures, including contact information for the state board, as required by K.S.A. 74-32,169 and amendments thereto.

~~(12)~~(10) The enrollment documents shall meet the requirements of K.A.R. 88-28-7.

~~(13)~~(11) All advertising and promotional materials shall meet the following requirements:

(A) Include the correct name of the institution that is approved by the state board;

(B) be truthful and not misleading by actual statement or omission;

(C) not be located in the employment or "help wanted" classified ads;

(D) not quote salaries for an occupation in the institution's advertising or promotional literature without including either the documented median starting wage of a majority of the institution's graduates who graduated within the most recent calendar year or a citation to a governmental agency or nationally recognized source of the quoted salaries;

(E) make no offers of institutional scholarships or partial institutional scholarships, unless the scholarships are bona fide reductions in tuition and are issued under specific, published criteria;

(F) use the word "accredited" only if the accrediting agency is one recognized by the United States department of education;

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(G) not make any overt or implied claim of guaranteed employment during training or upon completion of training, in any manner; and

(H) not use letters of endorsement, recommendation, or commendation in the institution's advertising and promotional materials, unless the letters meet the following requirements:

(i) The institution received the prior, written consent of the authors;

(ii) the institution did not provide remuneration in any manner for the endorsements; and

(iii) the institution keeps all letters of endorsement, recommendation, or commendation on file, subject to inspection, for at least three years after the last use of the contents in advertising or promotional materials.

~~(14)~~(12) Each curriculum shall meet the following requirements:

(A) Be directly related to the institution's published mission;

(B) evidence a well-organized sequence of appropriate subjects leading to occupational or professional competence;

(C) reasonably and adequately ensure achievement of the stated objectives for which the curriculum is offered;

(D) if the curriculum prepares students for licensure, be consistent with the educational requirements for licensure; and

(E) if courses are delivered by distance education, meet the same standards as those for courses conducted on-site.

~~(15)~~(13) The published policies for measuring student progress shall be followed.

~~(16)~~(14) All instructional materials shall meet the following requirements:

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(A) Reflect current occupational knowledge and practice applicable to the field of study and meet national standards if the standards exist;

(B) be sufficiently comprehensive to meet the learning objectives stated in the institution's published catalog;

(C) include suitable teaching devices and supplemental instructional aids appropriate to the subject matter; and

(D) be applicable to the curricula and the students.

~~(17)~~(15) All instructional equipment shall meet the following requirements:

(A) Be current and maintained in good repair; and

(B) be used by students according to written policies for safe usage.

~~(18)~~(16) Each faculty member shall be qualified to teach in the field or fields to which the member is assigned. Faculty responsibilities may be defined in terms of the number of hours taught, course development and research required, level of instruction, and administrative, committee, and counseling assignments.

~~(19)~~(17) Each faculty member's minimum academic credential shall be at least one degree-level above the degree being taught, unless other credentials are typically used in lieu of the academic degree in a particular field of study. In those cases, qualifications may be measured by technical certifications, relevant professional experience, professional certifications, creative activity, training, or licensure, or any combination of these. The institution shall provide documentation that all faculty appointments meet these standards.

~~(20)~~(18) The instructors in all programs shall maintain continuous professional experience through one or more of the following activities:

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~~(A) Maintain membership in and participate in educational, business, technical, or professional organizations;~~

~~(B) continue their education in their professional fields; or~~

~~(C) have concurrent, related work experience.~~

~~(21)~~(19) In-service training that is consistent with the institution's mission shall be provided for the improvement of both the instructors and the curricula.

~~(22)~~(20) All students shall be given the appropriate educational credentials upon completion of the program that indicate satisfactory completion.

~~(23)~~(21) Each certificate, diploma, or degree shall include the following information, at a minimum:

- (A) The name of the graduate;
- (B) the name of the program completed;
- (C) the name of the institution issuing the credential; and
- (D) the date on which the graduate completed the program.

(b) In addition to meeting the requirements of subsection (a), an owner of the applicant institution for which degree-granting authority is sought, or the owner's designee, shall also submit evidence that the institution meets the following minimum requirements:

(1) Each degree program for which degree-granting authority is sought shall meet the criteria specified in the definition of that degree in K.A.R. 88-28-1.

(2) The library holdings maintained in a physical library or on-line, or in a combination of a physical library and on-line, shall be appropriate to each degree awarded. All of the following requirements shall be met:

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~~(A) A professionally trained librarian shall maintain the holdings.~~

~~(B) An annual budget shall be established to maintain and improve the holdings, including the appropriate classification and inventory of the holdings.~~

~~(C) Physical holdings, on-line holdings, or a combination of these holdings shall be made available at times when students are not in class, including weekend and evening hours.~~

~~(D) The library holdings shall be up to date and shall include full-text titles appropriate to the degrees offered.~~

~~(E) The faculty shall be given an opportunity to participate in the acquisition of library holdings, whether physical or on-line.~~

~~(F) If the institution uses interlibrary agreements, the agreements shall be well documented, and access to other libraries' collections shall be practical for students.~~

(3) Each institution's governing structure shall clearly delineate the responsibility for all legal aspects of operations, the formulation of policy, the selection of the chief executive officer, and the method of succession. If the institution is governed by a board or group of officers, the following aspects of the board or group shall be clearly defined:

- (A) The membership;
- (B) the manner of appointment;
- (C) the terms of office; and
- (D) all matters related to the duties, responsibilities, and procedures of that body.
- (4) The financial statements for the institution shall be audited by a CPA.
- (5) The institution shall be accredited by or making progress toward successful attainment of accreditation by a recognized accrediting organization.

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(c) If an institution has accreditation issued by a ~~regional or national~~ an accrediting agency recognized by the United States department of education, that accreditation may be accepted by the state board as presumptive evidence that the institution meets the minimum requirements specified in this regulation. However, each degree program for which degree-granting authority is sought shall meet the criteria specified in the definition of that degree in K.A.R. 88-28-1. Accreditation shall not be accepted by the state board as presumptive evidence of compliance with minimum financial requirements. (Authorized by K.S.A ~~2016~~ 2021 Supp. 74-32,165; implementing K.S.A. ~~2016~~ 2021 Supp. 74-32,165, 74-32,168, and 74-32,169; effective Oct. 20, 2006; amended May 26, 2017; amended P-\_\_\_\_\_.)

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**88-28-3. Certificates of approval.** (a) A certificate of approval may be issued with degree-granting authority or without degree-granting authority.

(b) An owner of each institution for which a certificate of approval to operate in Kansas is sought, or the owner's designee, shall submit an application on a form provided by the state board. An owner of each institution for which degree-granting authority is sought, or the owner's designee, shall indicate on the application that degree-granting authority is requested and shall specify the degree programs proposed to be offered by the institution.

(c) An owner of each institution or the owner's designee shall submit the following information with the application:

(1) An outline or syllabus of each course offered in Kansas;

(2) a description of the institution's facilities, equipment, and instructional materials;

(3) a certification by an owner of the applicant institution or the owner's designee that the building that is to house the institution meets the requirements of all local, state, and federal regulations;

(4) a resume of each administrator and instructor that includes the individual's education, previous work experience, professional activities, and, if applicable, licensure;

(5) evidence of the institution's professional development and in-service activities;

(6) a copy of the proposed catalog or, if existing, a copy of each of the institution's most recent catalogs, bulletins, and brochures, with any supplements, or functional equivalents;

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(7) a copy of the enrollment documents, or functional equivalent;

(8) a copy of the credential to be given to each student upon completion of a program;

(9) a description of how the student and administrative records are maintained as required by K.A.R. 88-28-2;

(10) a copy of any advertising used;

(11) a financial statement showing income and expenditures for the most recent, complete fiscal year. These documents shall include either a balance sheet and an income statement or a statement of financial position and a statement of activities. These documents shall be audited by a certified public accountant if the institution is requesting degree-granting authority or the institution participates in title IV student financial aid programs under the higher education act of 1965, as amended ~~be prepared and acknowledged by a certified public accountant and, in the case of an institution requesting degree-granting authority, shall be audited by a certified public accountant;~~

(12) for an institution in its first calendar year of operation, a business plan with the initial application, which shall include the following:

(A) An income statement or statement of activities that provides projected revenue and expenses for the first year of operation; and

(B) written documentation evidencing the amounts and sources of capital currently available to the institution for payment of start-up costs and any potential losses; and

(13) a copy of any certificate of accreditation issued to the institution by a ~~regional or national~~ an accrediting agency recognized by the United States department of

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education and a copy of a report of any adverse actions during the last three academic years.

(d) If an institution is found to be eligible for a certificate of approval, an owner of the applicant institution or the owner's designee shall be notified of the pending conditional approval of the institution. Following notification, an owner of the applicant institution or the owner's designee shall furnish a surety bond ~~or other equivalent security acceptable to the state board~~ in the amount of \$20,000, as required by K.S.A. 74-32,175 and amendments thereto. A certificate of approval shall not be issued until the surety bond ~~or other security~~ is filed with and accepted by the state board.

(e) On the state board's own motion or upon a written complaint filed by any person doing business with the institution, an investigation of the institution may be conducted by the state board. Based upon the results of the investigation, the institution may be ordered by the state board to take corrective action, or proceedings may be initiated by the state board to revoke or condition the institution's certificate of approval. The approval to grant degrees may be revoked in whole or for specific degree programs if an institution is not in compliance with the minimum standards requirements specified in K.S.A. 74-32,169, and amendments thereto, and K.A.R. 88-28-2.

(f) If an institution or an owner of the institution is named in any criminal action or civil action alleging dishonesty, fraud, or a consumer protection violation after the institution has obtained a certificate of approval, the owner or owner's designee shall immediately notify the state board of the criminal or civil action.

(g) If there are any changes or adverse actions taken by the United States department of education or the institution's accreditor, the owner or the owner's designee

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shall notify the state board within a week of receipt of notice of the changes or adverse actions taken.

(h) An owner or the owner's designee of each institution with degree-granting authority that seeks to begin a new degree program shall file for an amendment to its certificate of approval on a form provided by the state board. Each new degree program shall meet the criteria specified in the definition of that degree in K.A.R. 88-28-1. The owner of the institution or the owner's designee shall submit the following items with the application to amend its certificate of approval:

- (1) An outline of the curriculum to be offered for the new degree;
- (2) the qualifications of the faculty to be involved in the program of study;
- (3) the relationship of the new degree program to the mission of the institution;

and

(4) any other information requested by the board. (Authorized by K.S.A. 2016 2021 Supp. 74-32,165; implementing K.S.A. 2016 2021 Supp. 74-32,167, 74-32,168, 74-32,172, and 74-32,175 and 74-32,177; effective Oct. 20, 2006; amended May 26, 2017; amended P-\_\_\_\_\_.)

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**88-28-4. On-site Site or virtual visits.** Each applicant institution shall submit to ~~on-site~~ site or virtual visits to the institution by state board designees and shall cooperate with these designees by providing immediate access to records and premises, as requested. (Authorized by K.S.A. ~~2016~~ 2021 Supp. 74-32,165; implementing K.S.A. ~~2016-2021~~ Supp. 74-32,165, 74-32,169; effective Oct. 20, 2006; amended May 26, 2017; amended P-\_\_\_\_\_.)

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88-28-8. ~~Student records upon~~ Closure of an institution. (a) If an institution is closing, either voluntarily or involuntarily, the owner shall cease all recruitment efforts, school marketing, advertising, solicitation, and enrollment of new students. The owner or owner's designee shall submit relevant documentation to the board, immediately upon request, including the following:

- (1) A written statement from the owner or the owner's designee detailing the intent and timeline to close the institution;
- (2) a copy of the closure notice provided to students;
- (3) a list of current students, including contact information, the program in which each student is enrolled, expected graduation date, and any potential refund due to each student;
- (4) a teach-out agreement or transfer plan for current students;
- (5) a list identifying the location of all student records, including student transcripts; and
- (6) an active mailing address and telephone number where the institution owner can be reached after the institution closes.

(b) Upon closure of an institution, an owner of the institution or the owner's designee shall deliver to the state board or make available to the state board through an approved third party all records transcripts of the students who are or have been in attendance at the institution, unless, for institutions providing Kansas residents with distance education only, the state board determines that receipt of all transcripts of students who are or have been in attendance at the institution while a Kansas resident are sufficient to protect the state's students' interests. Records for any student with a hold

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on that student's record shall be included. These records shall be delivered or made available no more than 15 calendar days following the closure.

(b)(c) If the student records are not delivered or made available to the state board as required by subsection (a)(b), any action deemed necessary may be commenced by the state board to obtain possession of the records. (Authorized by K.S.A. ~~2016-2021~~ Supp. 74-32,165; implementing K.S.A. ~~2016-2021~~ Supp. ~~74-32,175~~ 74-32,170; effective Oct. 20, 2006; amended May 26, 2017; amended P-\_\_\_\_\_.)

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**88-28-9. Ownership changes.** (a) Within the time frame required by K.S.A. 2021 Supp. 74-32,170a(a) and amendments thereto, the new owner shall submit a change of ownership application and the associated documents, including the following:

- (1) Documentation of the sale or transfer of ownership;
- (2) a report of assets and liabilities that were transferred;
- (3) an updated surety bond as required by K.A.R. 88-28-3, with the new owner named as the principal;
- (4) the new owner's most recent financial statements;
- (5) a description of any changes to the institution's mission as a result of the ownership change;
- (6) a description of any changes to programs resulting from the ownership change; and
- (7) a description of any changes to administrative, executive, or academic personnel and an updated list of instructors, including their degrees held and the institutions from which their degrees were received.

(b) The new owner shall certify in writing that the new owner will perform the following:

- (1) Maintain and service all student records that were the responsibility of the prior owner;
- (2) resolve all student complaints that were the responsibility of the prior owner and filed with the state board before final approval of the change of ownership; and

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(3) honor the terms of the student enrollment documents, institutional scholarships, and grants for all students enrolled and taking classes at the time of the change of ownership. (Authorized by and implementing K.S.A. 2021 Supp. 74-32,170a; effective P-\_\_\_\_\_.)

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**88-28-10. Provisional certificate of approval.** In addition to meeting the requirements in K.A.R. 88-28-2 and 88-28-3, the owner of a degree-granting institution seeking a provisional certificate of approval pursuant to K.S.A. 74-32,168 and amendments thereto shall provide additional documentation as required by the state board, including documentation of adequate operating reserves sufficient to support operations including expenses related to accreditation, staffing, development of curriculum, equipment, and building construction. (Authorized by K.S.A. 2021 Supp. 74-32,165; implementing K.S.A. 2021 Supp. 74-32,168 and 74-32,169; effective P-\_\_\_\_\_.)

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# Kansas Administrative Regulations Economic Impact Statement For the Kansas Division of the Budget

Kansas Board of Regents  
Agency

Crystal Puderbaugh  
Agency Contact

785-430-4287  
Contact Phone Number

88-28-1, 88-28-2, 88-28-3, 88-28-4, 88-28-8, 88-28-9, and 88-28-10  
K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to:

Division of the Budget  
900 SW Jackson, Room 504-N  
Topeka, KS 66612

## I. Brief description of the proposed rule(s) and regulation(s).

Under the Private and Out-of-State Postsecondary Educational Institution Act (Act), the Kansas Board of Regents (Board) regulates certain private and out-of-state educational institutions that operate in Kansas.

The 2021 Legislature amended the Act and these amendments took effect on July 1, 2021. In addition to aligning the new statute with regulations, the proposed regulation amendments are intended to increase consumer protection and institutional accountability while eliminating some outdated requirements. The proposed amendments provide clarification and update minimum requirements, including the following:

- clarify the official termination date used for refund calculations, allowing institutions to consider the week during which the student last attended to be an entire week of attendance completed;
- add to catalog requirements, most notably requiring the institution's attendance policy and grievance policy with Board contact information;
- modify the advertising requirements to allow institutions that quote salaries of program graduates to use more readily available sources such as a governmental agency or nationally recognized source;
- change the minimum financial requirements that institutions must meet to maintain a certificate of approval from the Board. Based on recommendations from a certified public accountant, the proposed modifications will require an institution to demonstrate a profit earned and either a current liquidity ratio of at least 1 or a positive net worth in order to obtain a certificate of approval without conditions related to financial monitoring; and
- expand procedures for institutions that are closing to require specific documentation and transfer of records.

Additionally, the agency is proposing changes to remove some reporting requirements to reduce the burden on regulated institutions, including the following:

- Reduce the requirements related to the annual fire inspection. Many cities do not conduct annual inspections, making it difficult for institutions to provide an annual report to the Board as required under the current regulation. To reduce the reporting burden, the proposed amendments require institutions to receive inspections as required by the local fire department, state fire marshal, and

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other public health and safety organizations. The proposed amendments will require these reports to be made available to the Board upon request;

- Remove restrictions related to student loans that the institution receives on behalf of the student from private lenders; and
- Modify the requirements related to the institution’s library to no longer require that the institution employ a professional librarian or include an annual budget line item for library maintenance and improvement.

The newly amended statutes created a provisional certificate of approval for institutions in the process of obtaining accreditation. To implement the new law, a new regulation is proposed to establish requirements for provisional certificates of approval. These requirements include documentation of adequate funding to support operations during and beyond the accreditation process and a detailed plan for achieving accreditation.

The proposed amendments also create new regulations related to changes of ownership and the required documentation to be submitted to the Board.

**II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is different, then include a statement of why the Kansas rule and regulation proposed is different)**

These regulations and proposed amendments are not mandated by the federal government.

**III. Agency analysis specifically addressing following:**

**A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;**

Most of the proposed amendments are intended to update and clarify the regulatory language.

The proposed amendments modify the minimum financial requirements that institutions must meet to maintain a certificate of approval. Institutions with inadequate financial stability may not meet these minimum requirements to obtain a certificate of approval or may be issued a certificate of approval with conditions or monitoring.

Some of the proposed amendments remove certain reporting requirements which will reduce the burden on regulated institutions.

**B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;**

Regulated institutions may see reduced costs with the proposed modifications to the requirements related to the institution’s library. Institutions will no longer be required to employ a professional librarian or include an annual budget line item for library maintenance and improvement.

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The modification to require institutions to receive inspections as required by the local fire department, state fire marshal, and other public health and safety organizations, rather than annually may reduce costs to institutions in cities that charge for inspections.

The proposed regulation amendments modify the minimum financial requirements. Institutions that do not meet the minimum requirements may be placed on financial monitoring or conditions may be imposed such as additional bonding. The cost to the institution to obtain additional bonding will be dependent on the amount of the bond, the bond company selected by the institution, and the institution's credit history.

Institutions that are in the process of obtaining accreditation are provided provisional approval and must demonstrate the existence of reserve funds in an amount equal to the tuition multiplied by the number of students in the first class multiplied by the length of the program. The funds shall remain in escrow until the first cohort graduates. These funds shall provide financial support for the cost of a teach-out and indemnification of any students for losses suffered if the institution fails to achieve full accreditation.

**C. Businesses that would be directly affected by the proposed rule and regulation;**

Postsecondary educational institutions regulated under the Private and Out-of-State Postsecondary Educational Institution Act.

**D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;**

There are no direct costs associated with the proposed amendments. The benefits of the proposed regulation amendments are increased consumer protection for students attending regulated institutions.

**E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;**

The proposed amendments do not impact the specific regulation regarding fees charged to regulated institutions, therefore, there are no direct costs associated with the changes.

**F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.**

\$0 – No annual implementation or compliance costs are expected to be incurred or passed along to regulated institutions as a result of enacting the proposed amendments.

**Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?**

YES  NO

**Give a detailed statement of the data and methodology used in estimating the above cost estimate.**

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Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES  NO

G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

N/A

H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

Regulated institutions were notified of the proposed amendments via email and were provided the opportunity to submit questions and comments to Board staff. Comments received from regulated institutions supported the proposed amendments.

I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

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