

**TUESDAY, AUGUST 9, 2016**  
**MEETING AGENDA**

Landon State Office Bld.  
900 SW Jackson St.  
Board Room, Ste 102  
Topeka, KS 66612

AI—Action Item  
DI—Discussion Item

RI—Receive Item, for possible action  
at a future date  
IO—Information Only

- |                   |      |  |                 |
|-------------------|------|--|-----------------|
| <b>10:00 a.m.</b> |      | 1. Call to Order   |                 |
|                   |      | 2. Roll Call   |                 |
|                   |      | 3. Mission Statement, Moment of Silence and Pledge of Allegiance                                 |                 |
|                   | (AI) | 4. Approval of Agenda  |                 |
|                   | (AI) | 5. Approval of July Minutes  | <b>page 5</b>   |
| <b>10:05 a.m.</b> | (IO) | 6. Commissioner’s Report   | <b>page 23</b>  |
| <b>10:30 a.m.</b> | (IO) | 7. Citizens’ Open Forum  | <b>page 25</b>  |
| <b>11:00 a.m.</b> | (IO) | 8. Report from Education Fellows on summer trainings to school districts                         | <b>p27</b>      |
| <b>11:30 a.m.</b> |      | Break  |                 |
| <b>11:35 a.m.</b> | (AI) | 9. Act on Innovative District application from USD 484 Fredonia                                  | <b>page 29</b>  |
| <b>11:50 a.m.</b> | (RI) | 10. Receive amendments to Emergency Safety Intervention (ESI) regulations to comply with new law | <b>page 41</b>  |
| <b>12:05 p.m.</b> |      | Lunch  |                 |
| <b>1:30 p.m.</b>  | (AI) | 11. Act on recommendations of the Blue Ribbon Task Force on teacher vacancies and supply         | <b>page 57</b>  |
| <b>2:30 p.m.</b>  | (IO) | 12. Update on Math and English Language Arts standards and review of adoption process            | <b>page 91</b>  |
| <b>3:00 p.m.</b>  | (AI) | 13. Act on recommendations of the Professional Practices Commission                              | <b>p 109</b>    |
| <b>3:15 p.m.</b>  |      | Break  |                 |
| <b>3:25 p.m.</b>  | (RI) | 14. Receive History/Government/Social Studies assessment performance levels and cut scores       | <b>page 259</b> |

- 3:45 p.m.
- (AI) 15. Act on NASBE membership dues for 2017 page 261
- 3:50 p.m.
- (AI) 16. Act to appoint delegate to the NASBE Annual Conference page 263
- 3:55 p.m.
- 17. Consent Agenda
- Routine Items**
- (RI) a. Receive monthly personnel report page 265
- (RI) b. Receive 4th quarter written reports from Kansas State School for the Blind and Kansas State School for the Deaf page 267
- (AI) c. Act on Resolution to adopt Multi-Hazard Mitigation Plan for Kansas State School for the Blind and Kansas State School for the Deaf page 293
- (AI) d. Act on recommendations for Visiting Scholar licenses page 297
- (AI) e. Act to approve local in-service education plans page 299
- (AI) f. Act on Education Flexibility Partnership (Ed Flex) Carryover Waiver p301
- (AI) g. Act on request from USD 284, Chase County, to hold a bond election 303
- (AI) h. Act on recommendation for funding Migrant Family Literacy Grant p305
- (AI) i. Act on recommendations for funding McKinney-Vento Homeless Grants page 307
- (AI) j. Authorize contracts for out-of-state tuition for students attending KSSB and KSSD for the 2016-17 school year page 309
- 4:05 p.m.
- (IO) 18. Board Reports & Requests for Future Agenda Items page 313
- 4:50 p.m.
- (AI) 19. Act on Board Member Travel page 315

5:05 p.m.

**ADJOURN**

August 10

**Wednesday, August 10 — Work Session on Vision Outcome:  
Kindergarten Readiness**

9 a.m. to Noon

Kansas State High School Activities Association Bldg

601 SW Commerce Place, Topeka

**Next Meeting: September 20 and 21, 2016 in Topeka**



# KANSAS STATE BOARD OF EDUCATION

## VISION

Kansas leads the world in the success of each student.

## MISSION

To prepare Kansas students for lifelong success through rigorous, quality academic instruction, career training and character development according to each student's gifts and talents.

## MOTTO

Kansans CAN.

## SUCCESSFUL KANSAS HIGH SCHOOL GRADUATE

A successful Kansas high school graduate has the

- Academic preparation,
- Cognitive preparation,
- Technical skills,
- Employability skills and
- Civic engagement

to be successful in postsecondary education, in the attainment of an industry recognized certification or in the workforce, without the need for remediation.

## OUTCOMES FOR MEASURING PROGRESS

- Kindergarten readiness
- Individual Plan of Study focused on career interest
- High school graduation rates
- Postsecondary completion/attendance
- Social/emotional growth measured locally





## KANSAS STATE BOARD OF EDUCATION

### Meeting Minutes July 12, 2016

#### CALL TO ORDER

Chairman Jim McNiece called the monthly meeting of the State Board of Education to order at 10 a.m. Tuesday, July 12, 2016, in the Board Room at the Landon State Office Building, 900 SW Jackson St., Topeka, Kansas. Mr. McNiece welcomed those in attendance, including participants in the Professional Educational Leadership Academy.

7/12/2016  
A.M. Session  
(00:00:08)

#### ROLL CALL

All members were present:

|                       |               |
|-----------------------|---------------|
| John Bacon            | Jim McNiece   |
| Kathy Busch           | Jim Porter    |
| Carolyn Wims-Campbell | Steve Roberts |
| Sally Cauble          | Janet Waugh   |
| Deena Horst           | Ken Willard   |

#### STATE BOARD MISSION STATEMENT, MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

Chairman McNiece read both the Board's Mission Statement and *Kansans CAN* Vision Statement. He then asked for a moment of silence after which the Pledge of Allegiance was recited.

#### APPROVAL OF AGENDA

Mrs. Horst moved to approve the July 12 agenda as presented. Mrs. Busch seconded. Motion carried 9-1 with Mr. Roberts in opposition.

**MOTION**  
(00:01:44)

#### APPROVAL OF THE JUNE MEETING MINUTES

Mrs. Waugh moved to approve the minutes of the June Board meeting. Ms. Wims-Campbell seconded. Motion carried 10-0.

**MOTION**  
(00:02:37)

#### COMMISSIONER'S REPORT

As the *Kansans CAN* vision nears its one-year mark, Commissioner Randy Watson re-emphasized creating a cohesive message about balancing the academic and non-academic needs of students. He reported on a third-party review of the Kansas State Department of Education to evaluate its current capacity to meet the delivery challenges and achieve the goals of leading the world in the success of each student. He invited representatives from the Council of Chief State School Officers (CCSSO) and Education Delivery Institute (EDI) to conduct the review. The team interviewed staff and key stakeholders during a series of focus groups last month. Four key areas of work were identified centering on plan development, organizational structure, communication and organizational effectiveness. Dr. Watson outlined some of the review team's recommendations preparing for the second year of vision work, focus on the outcomes and tightening the relationship between KSDE and the State Board.

(00:03:17)

#### CITIZENS' OPEN FORUM

Chairman McNiece declared the Citizens' Forum open at 10:32 a.m. There were no speakers for public comment. The forum was closed at 10:33 a.m.

(00:30:51)

#### UPDATE ON TRANSITION TO EVERY STUDENT SUCCEEDS ACT

The Every Student Succeeds Act (ESSA) arose out of the reauthorization of the federal Elementary and Secondary Education Act. ESSA replaced No Child Left Behind. Several changes will occur under the new act, and the transition is ongoing. Full implementation is scheduled for 2017-18 which aligns with

(00:32:18)

Year Zero of the new Kansas accreditation model. Deputy Commissioner Brad Neuenswander presented information on ESSA's proposed rulemaking, the deadlines to submit state plans and the advisory council's work on different components of ESSA. The next council meeting is July 26 in Wichita to continue work on the Kansas plan. Mr. Neuenswander answered questions about Annual Measures of Student Success (AMOSS) and the monitoring of student growth over time.

**BREAK**

Board members took a break until 11:20 a.m.

**RECEIVE BLUE RIBBON TASK FORCE REPORT AND RECOMMENDATIONS ON TEACHER VACANCIES AND SUPPLY**

(01:07:07)

Commissioner Watson this spring assembled a Blue Ribbon Task Force to study teacher vacancies and supply in Kansas. The task force was comprised of 28 education professionals representing various stakeholders, including higher education and public schools. They met four times. Dr. Ken Weaver, Dean of The Teachers College at Emporia State University, and Rudy Perez, Principal at Norton Community High School, co-chaired the task force. They presented the group's findings on trends and patterns to the State Board. The report included information on unfilled vacancies, educators leaving the teaching profession, those moving to other school districts, number of teacher education majors vs completers, and retention. Comparison data was shown according to regions of the state. As part of the report, recommendations were provided and divided into the categories of immediate, intermediate and long-term implementation. Board members discussed the task force's findings and the national concern for educator shortages, asked for additional research comparing Kansas' data to that of other states including salaries, and offered suggestions for follow-up. The Board is expected to act upon the recommendations at the August meeting.

**LUNCH**

Chairman McNiece recessed for lunch at 12:32 p.m. The afternoon session resumed at 1:30 p.m.

**RECEIVE RECOMMENDATION FOR APPROVAL OF INNOVATIVE DISTRICT APPLICANT**

**P.M. SESSION**  
(00:00:30)

The Coalition of Innovative Districts Act, created by the legislature in 2013, allows a percentage of the state's school districts to opt out of most state laws, rules and regulations in order to improve student achievement. USD 484 Fredonia has applied for Innovative District status. Coalition chair Bill Mullins, Superintendent of USD 364 Marysville, noted that applications are now being accepted throughout the year, rather than just during one month. Brian Smith, Superintendent of USD 484 Fredonia, reviewed the reasons his district seeks to join the six other districts in the Coalition. He and two USD 484 staff members explained the goals within their application and then answered questions. The Coalition unanimously approved the request so now the State Board has 90 days to either grant or deny the granting of authority to operate as an Innovative District.

**ACTION ON RECOMMENDATIONS OF THE PROFESSIONAL PRACTICES COMMISSION**

**MOTION**  
(00:38:16)

The Professional Practices Commission was represented by Chair Linda Sieck, who brought forth four cases that have been before the PPC. She answered questions about the hearing proceedings. Ms. Wims-Campbell suggested more details be included in the PPC report. Mrs. Cauble moved to adopt the findings of the Professional Practices Commission and its recommendations that Lucas Catloth and Brett Gehrler receive no formal discipline as a result of their conduct and Todd Clark's and Tahra Arnold's applications for licensure be approved. Mrs. Busch seconded. Motion carried 9-1 with Mr. Willard in opposition.

**MOTION**  
(00:47:38)

Ms. Sieck presented a second set of cases from hearings on June 1. Mr. Porter moved to adopt the findings and recommendations of the PPC and revoke the licenses of Matthew DeMoss and Katie Rufener, and suspend the license of Christian McKim until June 30, 2017. Mrs. Busch seconded. Motion carried 10-0.

**INFORMATION ON SUMMER FOOD SERVICE PROGRAMS**

KSDE’s division of Child Nutrition and Wellness oversees summer food service programs in Kansas, which are federally funded and serve low-income areas. CNW Assistant Director Kelly Chanay provided information about the meal service sites, sponsoring organizations such as school districts or churches, and other community partners. Many of the programs also include a learning component with mealtime. Kathy Koehn, nutrition and wellness coordinator with USD 257 Iola, was present to talk about the summer food programs operated in this district. One project was to convert a former school bus into a mobile diner and reading vehicle. She described several other activities used to bring summer meals to children in their community.

(00:49:24)

Board members took a break at 2:42 p.m.

**BREAK**

**LEGISLATIVE MATTERS : ACTION ON FY 2018 AND FY 2019 BUDGET OPTIONS**

Deputy Commissioner Dale Dennis distributed a summary of enrolled bills passed into law during the 2016 Legislative session and referenced changes to the rules for working after retirement. He also described the steps that a newly formed review committee will take to consider school districts’ Extraordinary Need State Aid applications, which are to be submitted by July 15. Hearings on those applications will take place Aug. 2 and 3. A special Board meeting will be conducted via conference call at 2 p.m. Aug. 4 to take action on the applications.

(01:12:14)

Mr. Dennis led the Board through the annual practice of making education funding recommendations as required by statute. He provided a history of educational funding, category amounts based on law, and options to consider for the next two-year budget (Fiscal Year 2018 and Fiscal Year 2019). Mr. Dennis answered questions throughout the process.

The following discussions and/or actions occurred:

- Mrs. Busch moved to set Base State Aid Per Pupil at \$4,650 for FY 2018 with a \$500 increase to \$5,150 in FY 2019. Mrs. Waugh seconded. Motion carried 7-3 with Mr. Roberts, Mr. Bacon and Mr. Willard in opposition. (Note: A subsequent vote on special education funding would change the BSAPP recommendation to \$4,604 FY18 and \$5,090 FY19)
- Mrs. Busch moved to fund Special Education at 85 percent of excess cost, but subtract the amount from the BSAPP amount originally approved. Mrs. Horst seconded. Motion carried 6-4 with Mr. Roberts, Mr. Bacon, Mr. Willard and Mrs. Cauble in opposition.
- Mrs. Horst moved to fully implement all-day kindergarten all at once for an additional cost of \$90 million to be subtracted from the base. Mrs. Busch suggested amending the motion to implement all-day kindergarten over a two-year period with the additional cost subtracted from the base. Mrs. Horst accepted the amendment. Mrs. Busch seconded. Motion failed 2-8 with Mr. Roberts, Mr. Porter, Mrs. Waugh, Ms. Wims-Campbell, Mr. McNiece, Mrs. Cauble, Mr. Bacon and Mr. Willard in opposition. Mrs. Waugh moved to fund implementation of all-day kindergarten over a five-year period. Discussion continued and Mrs. Waugh withdrew the motion.
- Ms. Wims-Campbell moved to increase Parents as Teachers funding by 1,000 children for an additional cost of \$460,000 and requested that Children’s Initiative Funds be utilized, not federal funds. Mr. Porter seconded. Motion carried 8-2 with Mr. Bacon and Mr. Willard in opposition.
- Ms. Wims-Campbell moved to fund 100 percent of the law for the Teacher Mentor Program for an additional cost of \$3 million. Mr. Porter seconded. Motion carried 7-3 with Mr. Roberts, Mr. Bacon and Mr. Willard in opposition.
- Ms. Wims-Campbell moved to fund Professional Development at 25 percent of the law. Mrs. Cauble seconded. Motion failed to receive the necessary six votes for passage with a vote of 5-5. Mr. Roberts, Mr. Bacon, Mr. Willard, Mr. McNiece and Mrs. Horst were in opposition. Mrs. Waugh then moved to fund Professional Development at 50 percent of the law. Mr. Porter seconded. Motion carried 6-4 with Mr. Roberts, Mr. Bacon, Mr. Willard and Mrs. Horst in opposition.

**SERIES OF MOTIONS**  
(01:44:32)

- Mrs. Waugh moved to fund \$35,000 each for Agriculture in the Classroom, Communities in Schools and Kansas Association of Conservation and Environmental Education. Mr. Bacon seconded. Motion carried 10-0.
- Mr. McNiece moved to fund the law for National Board Certification for an additional cost of \$47,500. Ms. Wims-Campbell seconded. Motion carried 8-2 with Mr. Roberts and Mr. Bacon in opposition.
- Mrs. Waugh moved to fund the Pre-K Pilot program at the 2009-10 level for an additional cost of \$900,000 and request that Children's Initiative Funds be utilized. Mr. Roberts seconded. Motion carried 8-2 with Mr. Bacon and Mr. Willard in opposition.
- Mr. Willard moved to fund technical education transportation at original level for an additional cost of \$800,000. Motion carried 9-1 with Mr. Bacon in opposition.
- Board members agreed to recommend that the state fund the law for Supplemental General State Aid (local option budget) and fund the law for Capital Outlay State Aid, but no formal vote was taken. There was no change in amounts for all-day kindergarten, transportation, school lunch and discretionary grants.

### CONSENT AGENDA

**MOTION**  
(03:21:03)

Mrs. Horst moved to approve the Consent Agenda as presented. Ms. Wims-Campbell seconded. Motion carried 9-1 with Mr. Roberts in opposition. In the Consent Agenda, the Board:

- received the monthly Personnel Report for June.
- confirmed the unclassified special projects personnel appointment of Ashley Christiansen as Senior Administrative Assistant on the Teacher Licensure and Accreditation team effective July 3, 2016, at an annual salary of \$28,308.80.
- approved local in-service education plans for USD 209 Moscow Public Schools and USD 211 Norton Community Schools.
- approved granting the renewal of Visiting Scholar licenses to Joseph Williams and USD 481 Rural Vista for music education; plus the following instructors with USD 229 Blue Valley Center for Advanced Professional Studies (CAPS) program — Janet Graham for global business courses; Robin Bacon for Foundations of Medicine courses; and Marjorie Holloway for Foundations of Medicine II. These licenses are valid for the 2016-17 school year.
- accepted recommendations of the Licensure Review Committee as follows: *Approved Cases* — 3071 Garrett Griffin (PreK-12 high incidence special education), 3075 Melissa Thorsell, 3082 Karen Francis (K-6 elementary education), 3086 Bevin Noack, 3090 Jace' Karmon Thomas, 3095 Michael Padow, 3096 Kari Taylor, 3099 Derick Reid, 3100 Clorie Broadbent. *Denied Cases* — 3071 Garrett Griffin (middle level 5-8 English language arts).
- accepted recommendations of the Evaluation Review Committee for continuing accreditation of McPherson College and Southwestern College, both through Dec. 31, 2022.
- accepted the following recommendations of the Evaluation Review Committee for program approval: **Associated Colleges of Central Kansas** — High Incidence Special Education (A, K-6, 6-12, PreK-12) Master's new program through Dec. 31, 2018; **Baker University** — Business (I, 6-12), Elementary (I, K-6), Health (I, PreK-12), History, Government and Social Studies (I, 6-12), Mathematics (I, 5-8), Mathematics (I, 6-12), Music (I, PreK-12), Instrumental Music (I, PreK-12), Vocal Music (I, PreK-12), Physical Education (I, PreK-12), Restricted (I, 5-8, 6-12, PreK-12) all continuing programs through Dec. 31, 2023; **Fort Hays State University** — Art (I, PreK-12), Business (I, 6-12), Early Childhood Unified (I, B-Gr3), Earth and Space Science (I, 6-12), Journalism (I, 6-12), Mathematics (I, 6-12), Music (I, PreK-12), Instrumental Music (I, PreK-12), Vocal Music (I, PreK-12) English for Speakers of Other Languages (A, PreK-12), Building Leadership (A, PreK-12), District Leadership (A, PreK-12), Reading Specialist (A, PreK-12), Restricted (I, 5-8, 6-12, PreK-12) all



continuing programs through Dec. 31, 2024, and Mathematics (I, 5-8) dormant program; **Friends University** — High Incidence Special Education (A, PreK-12) new program through Dec. 31, 2018, and Art (I, PreK-12), Mathematics (I, 6-12), Physical Education (I, PreK-12), Speech/Theatre (I, PreK-12) all continuing programs through Dec. 31, 2023; **Ottawa University** — Restricted (I, 5-8, 6-12, PreK-12) new program through Dec. 31, 2018; **Wichita State University** — Physics (I, 6-12), Speech/Theatre (I, PreK-12), English for Speakers of Other Languages (A, PreK-12) all continuing programs through Dec. 31, 2024.

- awarded supplemental funding in the amount of \$2,534 for Rosedale Development Association as a subgrantee of the 2016-17 Kansas AmeriCorps program for a total award of \$63,380.
- authorized USD 230, Spring Hill, Johnson County, to hold an election on the question of issuing bonds in excess of the district’s general bond debt limitation.
- authorized USD 230, Spring Hill, Johnson County, to receive capital improvement (bond and interest) state aid as authorized by law.
- approved School Improvement Grant continuation awards, 1003(g), for FY 2016 as follows: USD 500 Kansas City Kansas, Douglass Elementary \$760,000; USD 500 New Stanley Elementary \$760,000; USD 501 Topeka, Quincy Elementary \$1,094,290; USD 501 Ross Elementary \$1,324,274; USD 501, Scott Elementary \$1,411,286; USD 501, Shaner Elementary \$1,440,295.
- defined Extraordinary Enrollment Growth under KSA 72-6441 (ancillary facilities) as a three-year average of at least six percent increase in enrollment, or an increase of 1,500 or more students over the past three years, or an increase of 750 or more students over three of the last six years if the new facilities being constructed are not replacement.

*authorized the Commissioner of Education to negotiate and*

- continue a contract with North Central Kansas Technical College to provide services to manage, implement and lead the Microsoft Imagine Academy program for secondary schools in Kansas in an amount not to exceed \$32,000 for 2016-17.

Board members took a 10-minute break at 5:05 p.m. Mrs. Busch left the meeting.

**BREAK**

**REPORT ON NASBE MIDWEST REGIONAL CONFERENCE**

Board members Jim McNiece, Carolyn Wims-Campbell and Deena Horst represented Kansas as they joined members of other state boards of education for a regional meeting June 24 and 25 at Little Rock Central High School in Little Rock, Arkansas. They each reported on highlights of the event, sponsored by the National Association of State Boards of Education (NASBE). Topics included implementation of ESSA, student-focused education and networking with other regional State Boards members.

(03:23:28)

**BOARD REPORTS AND REQUESTS FOR FUTURE AGENDA ITEMS**

Communications — Mrs. Cauble said the committee plans to contact the state’s colleges of education and offer for Board members to visit teacher preparation classes as in the past. Letters would be sent this fall. She asked for names of those available to speak to the college classes. Mrs. Cauble suggested that the Blue Ribbon Task Force present its report on teacher vacancies and supply to the House and Senate Education committees.

**COMMITTEE REPORTS**  
(03:41:03)

Policy Committee — Mrs. Waugh asked for input on whether Board members wanted to continue tracking travel expenses by categories following the year-long trial period. It was decided to return to the standard method of separating Board meetings and other activities, but not assigned or legislative.

Student Voice — Mr. McNiece announced that questions were provided to KSHSAA for its Student Council Workshop in July. However, the itinerary was already full and it wouldn't work for Board members to be on the agenda. The student responses will be shared with the Board at a later time.

**ATTORNEY'S  
REPORT**

Board Attorney Mark Ferguson referenced his monthly summary and offered to answer questions.

**INDIVIDUAL  
MEMBER  
REPORTS  
(03:50:02)**

During individual Board member reports, Mrs. Horst and Mr. Willard attended the NASBE nomination committee meeting in Washington D.C. Mrs. Horst also was at the Coalition of Innovative School Districts meeting. Mr. Porter reported on the NASBE conference call for members of the Government Affairs Committee and expressed interest of the Professional Standards Board he serves on to help with teacher vacancy issues and solutions. Mrs. Waugh attended an open house for the new Lansing superintendent and a ceremony marking the 150th year of the Kansas State School for the Blind. Ms. Wims-Campbell participated in her last KSHSAA meetings as a State Board representative on the Board of Directors and Executive Board. Mrs. Cauble reported on the Education Commission of the States National Forum and visits by the Commissioner in her district.

In his Chairman's Report, Mr. McNiece noted that the Commissioner's annual evaluation would take place in October to comply with Board policy and the state's performance review schedule. He reminded members of the next day's work session.

**Requests for Future Agenda Items:**

Mr. Roberts asked for discussion about labeling children by race. Mrs. Waugh requested a presentation from the Kansas Association of Conservation and Environmental Education organization.

**BOARD MEMBER TRAVEL**

Additions to the travel requests were: Mr. McNiece July 26 ESEA Advisory Council meeting and July 27 Summer Leadership Conference in Wichita. Mrs. Cauble moved to approve the travel requests and additions. Mrs. Horst seconded. Motion carried 9-0 with Mrs. Busch absent.

**MOTION  
(04:03:49)**

**ADJOURNMENT**

Chairman McNiece adjourned the meeting at 5:57 p.m. The next regular State Board meeting will be Aug. 9 and 10 in Topeka.

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Jim McNiece, Chairman

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Peggy Hill, Secretary

**WORK SESSION ON ACCREDITATION — WEDNESDAY, JULY 13, 2016**

The Kansas State Board of Education convened at 9 a.m. on Wednesday, July 13, 2016, in Room 509 of the Landon State Office Building, 900 SW Jackson, Topeka. Board members in attendance were: Chairman McNiece, Vice Chair Wims-Campbell, Mr. Bacon, Mrs. Cauble, Mrs. Horst, Mr. Porter, Mr. Roberts, Mrs. Waugh and Mr. Willard. Member Kathy Busch was absent.

Commissioner Randy Watson began the session by sharing information from Georgetown University about employment growth and recovery. He pointed out the percentage of jobs requiring only a high school education that were lost during the recession and not recovered. He also discussed the vision goal of leading the world in high school graduation rates and what it would take to reach that target.

Several KSDE staff members addressed topics related to the session's theme and vision outcome — high school graduation rates and postsecondary attendance/completion. Jessica Noble explained how graduation rates are determined and tracked, as well as the difference between non-graduates and dropouts. Scott Smith and Jay Scott led discussions about the changing job market, when K-12 might hand over the tracking of high school graduates who attend college or trade schools, markers for postsecondary attainment and data collection. At the conclusion of the work session, Mr. Roberts presented three draft policy proposals he created for not labeling children in school by race or ethnicity.

Information technology staff assisted Board members in the transition to KSDE email accounts for education-related correspondence.



## KANSAS STATE BOARD OF EDUCATION

### Meeting Minutes June 14, 2016

#### CALL TO ORDER

Chairman Jim McNiece called the monthly meeting of the State Board of Education to order at 10 a.m. Tuesday, June 14, 2016, in the Board Room at the Landon State Office Building, 900 SW Jackson St., Topeka, Kansas. He welcomed those in attendance, including teachers from Geary County who are enrolled in the Professional Educational Leadership Academy.

**6/14/2016**  
**A.M. Session**  
(00:00:13)

#### ROLL CALL

All members were present:

|                       |               |
|-----------------------|---------------|
| John Bacon            | Jim McNiece   |
| Kathy Busch           | Jim Porter    |
| Carolyn Wims-Campbell | Steve Roberts |
| Sally Cauble          | Janet Waugh   |
| Deena Horst           | Ken Willard   |

#### STATE BOARD MISSION STATEMENT, MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE

Chairman McNiece read both the Board's Mission Statement and *Kansans CAN* Vision Statement. He then asked for a moment of silence after which the Pledge of Allegiance was recited.

#### APPROVAL OF AGENDA

Mrs. Busch moved to approve the agenda. Mrs. Horst seconded. Motion carried 9-0-1 with Mr. Roberts abstaining.

**MOTION**  
(00:03:11)

#### APPROVAL OF THE MAY MEETING MINUTES

Ms. Wims-Campbell moved to approve the minutes of the May Board meeting. Mr. Porter seconded. Motion carried 10-0.

**MOTION**  
(00:03:48)

#### COMMISSIONER'S REPORT

In his monthly report to the Board, Dr. Randy Watson commented that the first sessions led by the Kansas Education Fellows have taken place and are being well received. Through this pilot program, teams of Kansas educators are working with administrators and teachers on the implementation and measurement of the *Kansans CAN* vision and outcomes. The small group trainings, which are free to school districts, will continue through the summer months. Dr. Watson also shared highlights from attending the grand opening of the Lowell Milken Center for Unsung Heroes in Fort Scott. The permanent exhibition hall and interpretive museum includes research projects from Kansas students.

(00:04:10)

#### ACTION ON RECOMMENDATIONS OF THE PROFESSIONAL PRACTICES COMMISSION

Assistant General Counsel Kelli Broers presented the recommendations for three licensure cases that were brought before the Professional Practices Commission (PPC). Mrs. Waugh asked for an explanation of public censure. Board members inquired how school districts would be informed of the public censure. Mrs. Waugh then moved to adopt the findings of the PPC and its recommendations for the public censure of Brandon Parker and Jamie Carlisle and its recommendation for the denial of Michael Borgan's application and the revocation of licenses or endorsements he holds. Mrs. Busch seconded. Motion carried 10-0.

**MOTION**  
(00:25:24)

**CITIZENS' OPEN FORUM**

(00:33:36) Chairman McNiece declared the Citizens' Forum open at 10:33 a.m. There was one speaker: Dr. Peg McCarthy, USD 501 Topeka, Board of Education — support of federal directive on transgender students. Chairman McNiece declared the Citizens' Forum closed at 10:38 a.m.

**BREAK** Board members took a 10-minute break at 10:40 a.m.

**DISCUSSION AND ACTION ON RECOMMENDATIONS FROM COALITION OF INNOVATIVE SCHOOL DISTRICTS FOR ISSUING 2016-17 SPECIALIZED CERTIFICATES**

(00:40:46) USD 364 Marysville Superintendent Bill Mullins prefaced the Coalition's recommendations for issuing Specialized Certificates by reiterating districts' struggles to fill certain vacancies and noting the Coalition's support for an extensive application/training process. USD 500 Kansas City Kansas Superintendent Dr. Cynthia Lane described the teaching vacancies in her district and the qualifications of those who applied for Specialized Certificates to fill middle school and high school openings. Shelly Beech, USD 500 Human Resources Director, outlined the multi-step vetting process and training schedule. Applicants may also choose to participate in USD 500's Teaching Fellows program with Pittsburg State University, which provides an alternative licensure opportunity to transition into teaching. Board members inquired about content areas applicants would teach, background checks, classroom management training and opportunities to become licensed.

USD 500 is one of six districts designated as an Innovative School District through the Coalition of Innovative Districts Act. In July 2015, the State Board of Education approved the Coalition's application and process to hire non-licensed professional employees or licensed professional employees in areas outside of their area of licensure. Following approval by the Coalition and local school board, the applications were now presented to the State Board. Mr. Porter suggested taking action at this meeting since time is a factor in filling vacancies this summer. Mr. McNiece reminded members that only KCK is presenting applications for approval at this time. Mr. Porter moved to suspend Board practice for the purpose of a vote this month to approve the Coalition's recommendations for issuing 15 Specialized Certificates to teach in USD 500 Kansas City Kansas for 2016-17. Mrs. Waugh seconded. Motion carried 9-1 with Mr. Roberts in opposition.

**MOTION**  
(01:31:06)

**ACTION ON CIVIC ADVOCACY NETWORK PILOT PROGRAM FOR CIVIC ENGAGEMENT**

Dr. Scott Smith reviewed the intent of the Civic Advocacy Network which is to promote civic engagement in schools. An award would be established to recognize elementary, middle and high schools that meet qualifying criteria. The first awards would be given in September 2018. The rubric and award system would be evaluated after the first year. Mrs. Horst moved to authorize the Civic Engagement Initiative Committee to pilot and implement for the 2017-18 school year the creation of the Civic Advocacy Network, a program to promote civic engagement and award buildings that intentionally create civic engagement learning opportunities for their students. Ms. Wims-Campbell seconded. Motion carried 10-0.

**MOTION**  
(01:39:34)

**LUNCH** At 11:50 a.m., Chairman McNiece recessed the meeting for lunch until 1:30 p.m.

**KANSANS CAN UPDATE: IMPACTING POSTSECONDARY COMPLETION/ATTENDANCE THROUGH COLLABORATION**

**P.M. SESSION**  
(00:00:13) Dr. Blake Flanders, Kansas Board of Regents President and CEO, reported on KBOR's *Foresight 2020* strategic plan for higher education and compared it to the K-12 *Kansans CAN* vision. He emphasized increasing educational attainment at the postsecondary level. He also described efforts to aid the transition between high school and college, such as dual enrollment and a joint program between KSDE and KBOR to assist high school seniors with the transition to college algebra. Dr. Flanders commended work around Individual Plans of Study. He then answered questions.

**ACTION ON KANSAS EDUCATION SYSTEMS ACCREDITATION MODEL**

One of the State Board of Education’s primary responsibilities is to accredit K-12 schools. The Kansas Education Systems Accreditation (KESA) model was designed to replace Quality Performance Accreditation (QPA) which has been in use since 1992. Deputy Commissioner Brad Neuenswander reviewed major differences between the two models. KESA is a systems approach, rather than one focused on individual buildings, and will occur on a five-year cycle. Mr. Neuenswander said that action on the framework would be the first phase, followed by implementation of the transition plan, including regulation changes, and finalizing the process for determining accreditation status. Mr. Porter moved to approve Kansas Education Systems Accreditation as the new model for K-12 accreditation in Kansas, with 2016-17 as the zero year and 2017-18 as the first year of implementation. Mrs. Cauble seconded. Discussion followed to address individual building accountability, flexibility, rigor, administrator turn-over, the school improvement process, choice of “Rs” in the rubric and compliance. Commissioner Watson indicated his approval of the new model, stating that it must be a fluid process. Motion carried 8-2 with Mr. Bacon and Mr. Roberts in opposition.

(00:28:47)

**MOTION**  
(00:48:37)

Board members took a break until 3:15 p.m.

**BREAK**

**DISCUSSION ON GUIDANCE ISSUED BY U.S. DEPARTMENT OF EDUCATION AND DEPARTMENT OF JUSTICE**

Last month, the U.S. Department of Education and Department of Justice issued guidance to state and local education agencies about the enforcement of Title IX of the Educational Amendments of 1972. Title IX is the federal law which prohibits sex discrimination in all education programs and activities. KSDE General Counsel Scott Gordon discussed Office of Civil Rights regulations, noting that the language hasn’t changed in the statutes. He also explained the steps in enforcement of Title IX and reported on litigation challenging the federal government’s ability to change definitions (i.e. sexual identity vs. gender identity). Mr. Gordon provided research on the number of complaints OCR has received related to Title IX. In 2015, one complaint was filed in Kansas alleging violation of Title IX. He also shared information from policies of other educational agencies.

(01:33:45)

Mr. Roberts moved to respectfully appreciate the directive, but that we will continue to do what we’ve done for years in handling transgender issues locally and to draft a letter stating such. The motion did not receive a second.

**MOTION**  
(02:16:22)

Mr. McNiece read the following statement and moved, with a second by Ms. Wims-Campbell, that the Kansas State Board of Education adopt the statement as its formal position regarding the Title IX federal guidance:

**MOTION**  
(02:21:58)

The Kansas State Board of Education believes that every child has the right to a high quality education delivered within a safe, inclusive and supportive school system.

In Kansas, like many other states, our schools have been addressing transgender student needs with sensitivity and success for many years. Just as every child is unique, so too is every school community. With that understanding, we are firm in our belief that decisions about the care, safety and well-being of all students are best made by the local school district based on the needs and desires of the students, parents and communities they serve.

The recent directive from the civil rights offices of the United States Department of Education and the U.S. Department of Justice regarding the treatment of transgender students removes the local control needed to effectively address this sensitive issue. We must continue to provide our schools the flexibility needed to work with their students, families and communities to effectively address the needs of the students they serve.

**AMENDMENT  
TO MOTION**  
(02:26:14)

Mrs. Busch asked for a concluding sentence to the motion. Mrs. Horst suggested amending the motion to clarify that the guidance was outlined in the “Dear Colleague” letter issued by the civil rights offices of the U.S. Department of Education and the U.S. Department of Justice on May 13, 2016. Mr. Roberts seconded. Mr. McNiece and Ms. Wims-Campbell agreed to the amended motion. There was more discussion about the professionalism local districts have already shown on sensitive issues, legislative involvement, students’ individuality and federal overreach. Motion carried 10-0.

**BREAK**

Board members took a 10-minute break at 4:25 p.m.

(02:47:38)

**LEGISLATIVE MATTERS**

Deputy Commissioner Dale Dennis provided Board members with the latest list of superintendent changes for 2016-17 as well as the candidate list for this fall’s elections. He reviewed two plans being considered for equalizing school finance. The legislature has scheduled a special session for June 23 to address school funding. Board members discussed the school funding situation and the legislature’s deadline to act before July 1. Mrs. Cauble suggested creating a statement from the Board. Discussion followed about the pros and cons of such action. Mr. Dennis then provided background for Board members to consider when they address budget recommendations for Fiscal Years 2018 and 2019 at their next meeting. The current block grant, which froze budgets for two years, expires June 30, 2017.

**MOTION**  
(03:54:10)

**ACTION ON CONSENT AGENDA ITEMS**

Mrs. Cauble moved to approve the Consent Agenda. Mr. Porter seconded. Motion carried 10-0. In the Consent Agenda, the Board:

- received the monthly Personnel Report for May.
- confirmed the unclassified special projects personnel appointments of Dane Shobe as Senior Administrative Assistant on the Early Childhood, Special Education and Title Services team, effective June 6, 2016 at an annual salary of \$28,308.80; Patti Stirrett as Public Service Administrator on the Fiscal Services and Operations team, effective June 5, 2016, at an annual salary of \$36,171.20; and the following Education Program Consultants on the Career, Standards and Assessment Services team, all effective July 5, 2016 at the annual individual salary of \$56,118.40: Sarah Schafer, Lizette Burks and Natalie Clark.
- approved granting Visiting Scholar licenses valid for the 2016-17 school year to William Allen Skeens (renewal) and USD 229 Blue Valley for law instruction, and to Mark Kessler and USD 512 Shawnee Mission for instruction in the law enforcement pathway.
- approved maintaining the current educator licensure fees for 2016-17, effective July 1, 2016.
- issued Calendar Year 2016 licenses to two commercial driver training schools — Go Driving School Manhattan in Manhattan and Premier Driving School, LLC, in Newton.
- approved the Kansas Volunteer Commission’s recommendations for 2016-17 Kansas AmeriCorps grantees as follows: Ashby House \$68,644; Boys and Girls Club of Lawrence \$343,250; Harvesters Community Food Network \$96,101; Kansas City Kansas Public School District \$157,067; Kansas Department of Wildlife and Parks \$436,865; Rosedale Development Association \$60,846; United Way of Douglas County \$255,170; Youth Volunteer Corps (YMCA of Greater Kansas City) \$68,650. Total funding: \$1,486,593.
- approved State Pre-Kindergarten Program applications for 2016-17. The grantees and number of slots requested are as follows: USD 101 Erie, 12; USD 102 Cimarron-Ensign, 25; USD 107 Rock Hills, 16; USD 110 Thunder Ridge, 5; USD 111 Doniphan West, 12; USD 112 Central Plains, 35; USD 113 Prairie Hills, 23; USD 114 Riverside, 18; USD 115 Nemaha Central, 18; USD 200 Greeley County Schools, 8; USD 202 Turner-Kansas City, 163; USD 203 Piper, 8; USD 204 Bonner



Springs/Edwardsville, 50; USD 206 Remington, 17; USD 209 Moscow Public Schools, 10; USD 210 Hugoton Elementary School, 60; USD 212 Northern Valley, 5; USD 214 Ulysses, 62; USD 215 Lakin Grade School, 13; USD 216 Deerfield, 18; USD 218 Elkhart Public Schools, 20; USD 220 Ashland-Englewood, 10; USD 225 Fowler, 8; USD 224 Clifton-Clyde, 5; USD 226 Meade Schools, 12; USD 230 Spring Hill School District, 16; USD 231 Gardner-Edgerton, 18; USD 232 De Soto, 24; USD 233 Olathe District Schools, 60; USD 234 Fort Scott, 36; USD 235 Uniontown, 14; USD 240 Twin Valley, 24; USD 244 Burlington, 13; USD 246 Northeast, 12; USD 247 Cherokee, 12; USD 248 Girard, 14; USD 249 Frontenac, 14; USD 250 Pittsburg, 40; USD 252 South Lyon County, 19; USD 253 Emporia, 140; USD 254 Barber County North, 10; USD 255 South Barber, 6; USD 256 Marmaton Valley, 15; USD 257 Iola, 28; USD 258 Humboldt, 12; USD 259 Wichita Public Schools, 1912; USD 260 Derby, 50; USD 261 Haysville, 150; USD 262 Valley Center, 36; USD 263 Mulvane, 30; USD 264 Clearwater, 6; USD 265 Goddard Public Schools, 60; USD 266 Maize, 36; USD 268 Cheney, 20; USD 269 Palco Elementary, 5; USD 271 Stockton, 8; USD 272 Waconda, 20; USD 273 Beloit Public Schools, 28; USD 282 West Elk, 12; USD 283 Elk Valley, 10; USD 286 Chautauqua County Community, 12; USD 288 Central Heights Public School, 10; USD 290 Ottawa School District, 36; USD 291 Grinnell, 3; USD 293 Quinter Public Schools, 6; USD 298 Lincoln, 13; USD 299 Sylvan, 7; USD 305 Salina School District, 60; USD 308 Hutchinson Public Schools, 56; USD 309 Nickerson-South Hutchinson, 16; USD 312 Haven Public Schools, 9; USD 313 Buhler USD 313, 60; USD 316 Golden Plains, 6; USD 321 Kaw Valley, 24; USD 326 Logan, 6; USD 333 Concordia, 30; USD 338 Valley Falls, 12; USD 339 Jefferson County North, 10; USD 341 Oskaloosa, 30; USD 342 McLouth, 24; USD 343 Perry-Lecompton Schools, 13; USD 344 Pleasanton, 20; USD 345 Seaman, 40; USD 346 Jayhawk, 20; USD 347 Kinsley-Offerle, 15; USD 348 Baldwin City, 50; USD 351 Macksville, 12; USD 353 Wellington, 14; USD 357 Belle Plaine, 30; USD 358 Oxford, 5; USD 359 Argonia Public Schools, 4; USD 360 Caldwell Public School, 8; USD 361 Anthony-Harper, 52; USD 363 Holcomb Schools, 24; USD 364 Marysville, 25; USD 366 Woodson Schools, 17; USD 367 Osawatomie, 24; USD 369 Burrton Schools, 12; USD 371 Montezuma Schools, 18; USD 372 Silver Lake, 16; USD 373 Newton Public Schools, 56; USD 374 Sublette, 22; USD 376 Sterling, 12; USD 377 Atchison County Community, 18; USD 380 Vermillion, 18; USD 382 Pratt, 20; USD 383 Manhattan-Ogden, 108; USD 384 Blue Valley-Randolph Schools, 20; USD 385 Andover, 45; USD 386 Madison-Virgil, 8; USD 387 Altoona-Midway, 12; USD 389 Eureka, 30; USD 390 Hamilton, 6; USD 394 Rose Hill, 24; USD 396 Douglass, 10; USD 398 Peabody-Burns, 15; USD 399 Paradise, 12; USD 400 Smoky Valley, 24; USD 401 Chase-Raymond Schools, 8; USD 402 Augusta, 30; USD 404 Riverton, 14; USD 405 Lyons Park Elementary, 38; USD 409 Atchison Public Schools, 40; USD 410 Hillsboro, 10; USD 413 Chanute, 34; USD 417 Morris County, 15; USD 418 McPherson, 34; USD 419 Canton-Galva, 10; USD 423 Moundridge, 10; USD 428 Great Bend, 30; USD 431 Hoisington, 40; USD 434 Santa Fe Trail, 24; USD 436 Caney Valley, 30; USD 437 Auburn-Washburn, 60; USD 440 Halstead/Bentley, 20; USD 443 Dodge City Public School/Bright Beginnings Early Childhood Center, 149; USD 444 Little River, 10; USD 445 Coffeyville, 56; USD 446 Independence, 28; USD 447 Cherryvale, 24; USD 448 Inman, 18; USD 452 Stanton County, 30; USD 453 Leavenworth, 144; USD 454 Burlingame, 12; USD 457 Garden City Public School, 204; USD 459 Bucklin, 12; USD 461 Neodesha, 16; USD 463 Udall, 4; USD 465 Winfield, 30; USD 466 Scott County Schools, 30; USD 467 Wichita County Schools - Leoti, 30; USD 470 Arkansas City Schools, 115; USD 475 Geary County Schools, 48; USD 476 Copeland Schools, 12; USD 477 Ingalls, 13; USD 479 Crest, 10; USD 480 Liberal Public Schools, 170; USD 481 Rural Vista, 12; USD 482 Dighton, 10; USD 483 Kismet-Plains, 40; USD 484 Fredonia, 20; USD 487 Herington, 13; USD 489 Hays, 40; USD 490 El Dorado Public Schools, 30; USD 493 Columbus, 30; USD 494 Syracuse Elementary, 20; USD 495 Ft. Larned, 30; USD 497 Lawrence Public School, 84; USD 498 Valley Heights, 7; USD 499 Galena, 26; USD 500 Kansas City Public Schools, 570; USD 501 Topeka Public Schools, 200; USD 502 Lewis, 10; USD 503 Parsons, 24; USD 504 Oswego, 12; USD 505 Chetopa-St. Paul, 12; USD 506 Labette County, 24; USD 507 Santana, 20; USD 508 Baxter Springs, 30; USD 509 South Haven, 6; USD 512 Shawnee Mission, 120.

- approved funding of the Kansas Preschool Program grants for FY 2017 in an amount not to exceed \$4,799,812.
- approved the continued and expansion funding for the FY 2017 Parents as Teachers grants in an amount not to exceed \$7,237,635. The recipients and award amounts are as follows: USD 204 Bonner Springs \$10,336; USD 210 Hugoton \$26,251; USD 214 Ulysses \$25,301; USD 227 Jetmore \$17,700; USD 229 Blue Valley \$415,108; USD 231 Gardner/Edgerton \$85,000; USD 232 DeSoto \$113,846; USD 233 Olathe (Kansas City Area Consortium) \$1,058,961; USD 239 North Ottawa \$25,252; USD 240 Twin Valley \$23,898; USD 259 Wichita \$175,000; USD 260 Derby \$128,270; USD 261 Haysville \$127,000; USD 263 Mulvane \$6,893; USD 265 Goddard \$65,716; USD 266 Maize \$119,068; USD 273 Beloit Consortium \$100,541; USD 305 Salina \$79,283; USD 306 South-east of Saline \$36,667; USD 308 Hutchinson Public Schools \$139,437; USD 320 Wamego \$26,635; USD 321 Kaw Valley Schools \$26,557; USD 323 Rock Creek \$35,318; USD 333 Learning Cooperative of North Central Kansas \$49,923; USD 337 Royal Valley \$38,000; USD 348 Baldwin City \$84,483; USD 349 Stafford/St. John \$17,971; USD 359 Argonia Consortium \$64,615; USD 368 Paola Consortium \$152,115; USD 373 Harvey County Parent Education Consortium \$60,120; USD 379 Clay Center \$60,271; USD 380 Vermillion \$24,238; USD 382 Pratt Consortium \$19,380; USD 383 Manhattan/Ogden \$200,000; USD 394 Rose Hill \$33,563; USD 405 Lyons Special Services Co-operative \$58,000; USD 410 Marion County Parents As Teachers \$78,554; USD 428 Great Bend Consortium \$27,496; USD 435 Abilene \$67,564; USD 437 Auburn-Washburn/Shawnee Heights \$98,592; USD 443 Dodge City \$39,705; USD 445 Coffeyville \$90,185; USD 457 Garden City \$205,689; USD 458 Basehor-Linwood \$40,596; USD 465 Winfield \$64,788; USD 469 Lansing \$37,853; USD 473 Chapman \$28,155; USD 475 Geary County \$133,620; USD 479 Crest \$16,969; USD 482 Dighton \$20,000; USD 487 Herington Consortium \$46,686; USD 489 Hays \$79,597; USD 495 Fort Larned \$24,047; USD 497 Lawrence \$141,538; USD 498 Valley Heights/Marysville \$63,000; USD 501 Topeka \$498,946; USD 506 Labette County \$19,352; USD 512 Shawnee Mission \$367,936; DO 602 Northwest Kansas Education Service Center \$30,984; DO 608 Keystone Learning Services/Northeast Kansas Education Service Center \$392,000; DO 609 Southeast Kansas Education Service Center \$501,569; DO 629 Smoky Hill Education Service Center \$23,077; and IL 636 North Central Kansas Special Education Cooperative \$53,112.
- accepted the \$15,000 Kindergarten Readiness grant for the Children’s Initiative and Trust Fund and approved the payment of an amount not to exceed \$15,000 to Southwest Plains Regional Service Center for implementation of the Kindergarten Readiness Pilot for Fall 2016.
- approved recommendations for funding Migrant Family Literacy Grants for 2016-17 as follows: USD 214 Ulysses \$50,000; USD 215 Lakin \$70,136; USD 216 Deerfield \$72,000; USD 218 Elkhart \$36,338; USD 457 Garden City \$80,000; USD 500 Kansas City \$70,000; Johnson County Community College \$130,000. Total funding: \$508,474.
- approved recommendations for continuation funding of the Kansas After School Enhancement Grants for the 2016-17 school year as follows: USD 204 Bonner Springs \$13,324, USD 310 Fairfield \$10,134, USD 373 Newton \$12,211, USD 383 Manhattan-Ogden \$13,210, USD 445 Coffeyville \$17,211, USD 446 Independence \$10,615, USD 498 Valley Heights \$17,211, USD 500 Kansas City \$17,211, Boys and Girls Club of Hutchinson \$17,211, Boys and Girls Club of Manhattan \$13,085, Cherry Street Youth Center (Chanute) \$16,712, Extension Education Foundation \$12,154, Wichita YMCA \$17,211. Total funding: \$187,500.
- approved recommendations for continuation funding of the Kansas Middle School After School Advancement Grants for the 2016-17 school year as follows: USD 491 Eudora \$21,801, USD 497 Lawrence \$21,800, USD 500 Kansas City \$21,800, Boys and Girls Club of Hutchison \$18,371, Boys and Girls Club of Manhattan \$19,427, Boys and Girls Club of Topeka \$21,801. Total funding: \$125,000.

*authorized the Commissioner of Education to negotiate and*

- enter into a contract with the University of Kansas to work with KSDE to administer the 2017 Youth Risk Behavior Survey in selected Kansas high schools with the contract amount not to exceed \$70,000 for the period through May 31, 2017;
- enter into a contract with Fort Hays State University to provide state advisor services for Kansas DECA in an amount not to exceed \$20,000;
- initiate contract bid process for providing state advisor services for Kansas Business Professionals of America in an amount not to exceed \$15,000;
- initiate contract bid process for providing state advisor services for Kansas Future Business Leaders of America in an amount not to exceed \$50,000.

At 5:45 p.m., Chairman McNiece recessed the meeting until 9 a.m. on Wednesday, June 15.

**RECESS**

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Jim McNiece, Chairman

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Peggy Hill, Secretary

## KANSAS STATE BOARD OF EDUCATION

### Meeting Minutes June 15, 2016

#### CALL TO ORDER

Chairman Jim McNiece called the Wednesday, June 15, 2016 meeting of the State Board of Education to order at 9 a.m. in the Board Room at the Landon State Office Building, 900 SW Jackson St., Topeka, Kansas.

6/15/2016  
A.M. Session  
(00:00:07)

#### ROLL CALL

The following Board members were present:

|                       |             |               |
|-----------------------|-------------|---------------|
| Kathy Busch           | Deena Horst | Steve Roberts |
| Carolyn Wims-Campbell | Jim McNiece | Janet Waugh   |
| Sally Cauble          | Jim Porter  | Ken Willard   |

Board member John Bacon was absent.

#### UPDATE ON KANSAS STATE ASSESSMENTS

Dr. Scott Smith reported on recent discussions to balance the state assessment system in light of the Board's vision, feedback from the field, ESSA and the new accreditation model. The purpose is to reclaim the instructional value of assessments. Changes being considered for spring 2016-17 are to reduce the end-of-year summative assessments, move certain components to optional interim assessments, and utilize formative tools. One goal is to provide quicker feedback. Board members asked several questions related to flexibility and reducing the amount of time spent on assessments.

(00:00:45)

#### ACTION ON NEW APPOINTMENT TO THE PROFESSIONAL STANDARDS BOARD

Mr. Porter moved to appoint Lisa Lower to her first three-year term on the Professional Standards Board effective from July 1, 2016 through June 30, 2019. Ms. Lower would fill a vacancy representing a special education classroom teacher. She is an instructor for USD 244 Burlington. Mrs. Horst seconded. Motion carried 9-0 with Mr. Bacon absent.

**MOTION**  
(00:38:16)

#### ACTION ON NEW APPOINTMENTS TO THE PROFESSIONAL PRACTICES COMMISSION

Ms. Wims-Campbell moved to appoint Vici Jennings to the Professional Practices Commission representing middle level principals. Ms. Jennings is from USD 320 Wamego. Mrs. Horst seconded. Motion carried 9-0.

**MOTIONS**  
(00:41:23)

Mrs. Cauble moved to appoint Sylvia Ramirez to the PPC representing middle level teachers. Ms. Ramirez is from USD 457 Garden City. Mrs. Busch seconded. Motion carried 9-0.

(00:42:29)

Mrs. Waugh moved to appoint Maret Schrader to the PPC representing secondary teachers. Ms. Schrader is from USD 345 Seaman. Ms. Wims-Campbell seconded. Motion carried 9-0.

(00:42:57)

All three new PPC appointments will serve terms from July 1, 2016 through June 30, 2019.

#### ACTION ON APPOINTMENTS TO THE SPECIAL EDUCATION ADVISORY COUNCIL

Mrs. Horst moved to reappoint Dr. Judy Martin, Dr. Robb Scott and Sarah Schaffer; and to appoint Dr. Maureen Huppe, Doug Anderson and Mike Martin, to the Special Education Advisory Council with their terms effective July 1, 2016 through June 30, 2019; as well as appoint Jason Hooper to complete a vacated term serving July 1, 2016 through June 30, 2017. Mr. Roberts seconded. Motion carried 9-0.

**MOTION**  
(00:44:51)

**ACTION ON NEGOTIATED AGREEMENT WITH KANSAS STATE SCHOOL FOR THE DEAF NEA**

Board Attorney Mark Ferguson presented the negotiated Professional Agreement between the Kansas State School for the Deaf NEA and the Kansas State Board of Education. He reported that the document reflects amendments on pay scale and schedule to match the USD 233 Olathe contract. Mrs. Cauble moved to adopt the Professional Agreement between the Kansas State School for the Deaf NEA and the Kansas State Board of Education for the term Aug. 1, 2016 to July 31, 2017. Mrs. Horst seconded. Motion carried 9-0.

**MOTION**  
(00:47:24)

**BREAK**

The Board took a five-minute break at 9:50 a.m.

**COMMITTEE REPORTS, BOARD REPORTS & FUTURE AGENDA ITEMS**

**COMMITTEE REPORTS**  
(00:48:42)

Student Voice — Mrs. Busch described models the committee on student voice explored for acquiring input from Kansas students. Of the possible options, the committee recommends connecting with existing student groups such as KSHSAA's Student Advisory Council and the Career and Technical Student Organization's officers. She provided draft questions that could be asked. Board members offered suggestions. Once students' comments are gathered, the information will be shared with the full Board.

**ATTORNEY'S REPORT**

Board Attorney Mark Ferguson offered to answer questions about his monthly summary and reported on continuing activity in the *Petrella* lawsuit.

**INDIVIDUAL MEMBER REPORTS**  
(01:10:04)

**During individual Board member reports,** Mrs. Horst attended one of the Education Fellows summer trainings, reported that there is a new applicant for the Coalition of Innovative School Districts and introduced visitors from USD 475's leadership academy; Mrs. Waugh attended graduation at Kansas State School for the Deaf; Ms. Wims-Campbell reported on the Kansas Volunteer Commission meeting; Mrs. Cauble shared information from the Interstate Migrant Education Council meeting in Nebraska; Mrs. Busch met with the Kansas Learning Forward Alliance; Mr. Roberts demonstrated the website [www.thatquiz.org](http://www.thatquiz.org) for helping practice math skills.

**CHAIRMAN'S REPORT**

In his Chairman's Report, Mr. McNiece asked which Board members would like to have a KSDE email address set up for state business. He mentioned next week's NASBE Midwest Regional Conference in Little Rock, Arkansas, and the schedule for upcoming Board retreats. Other announcements included preparations for the annual evaluation of the Commissioner.

**Requests for Future Agenda Items:** Mr. Roberts requested a presentation on innovation in mathematics and how to fix math in Kansas; Mrs. Busch asked for a report on Istation and the Kansas Reading for Success program; Ms. Wims-Campbell asked for a report on gifted services.

**BOARD MEMBER TRAVEL**

Adjustments to the travel requests were: Mr. Porter did not attend the June 13 superintendents' forum, Mrs. Horst June 27 Education Fellows training in Atchison and postponement of June 23 KASB summer advocacy meeting. Mrs. Cauble moved to approve the travel list and changes. Mrs. Busch seconded. Motion carried 9-0.

**MOTION**  
(01:39:28)

**EXECUTIVE SESSION**

**MOTION**  
(01:39:47)

Ms. Wims-Campbell moved to enter into Executive Session for 10 minutes for the purpose of consultation with an attorney which would be deemed privileged in the Attorney-Client relationship, in order to protect the privilege and the Board's communications with its attorney on legal matters. The session would begin at 10:55 a.m. Randy Watson, Mark Ferguson, Marty Snyder and Dennis Depew were invited to join the session. Mr. Porter seconded. Motion carried 9-0.

At 11:05 a.m., Ms. Wims-Campbell moved to extend the same executive session for the purpose of consultation with an attorney for 10 minutes . Mrs. Busch seconded. Motion carried 9-0.

**ADJOURNMENT**

The Board returned to open session at 11:15 a.m. at which time Chairman McNiece adjourned the meeting. The next meeting will be July 12 and 13 in Topeka.

\_\_\_\_\_  
Jim McNiece, Chairman

\_\_\_\_\_  
Peggy Hill, Secretary

**MOTION**



## Kansas State Department of Education

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Landon State Office Building  
900 SW Jackson Street, Suite 307  
Topeka, Kansas 66612-1212

(785) 296-3201  
(785) 296-6659 - fax

[www.ksde.org](http://www.ksde.org)

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**To:** Kansas State Board of Education  
**From:** Commissioner Randy Watson  
**Subject:** Commissioner's Report  
**Date:** 7/25/2016

In his monthly report to the Board, Commissioner Watson will describe ongoing work with other agencies as it relates to achieving the *Kansans CAN* vision. This will include efforts to increase internships and job shadowing opportunities, as well as simplifying the transfer of school records for students in foster care.







Great students. Great teachers. Great leaders. Great citizens.

Janet Waugh  
*District 1*

Steve Roberts  
*District 2*

John W. Bacon  
*District 3*

Carolyn L. Wims-Campbell  
*District 4*

Sally Cauble  
*District 5*

Deena Horst  
*District 6*

Kenneth Willard  
*District 7*

Kathy Busch  
*District 8*

Jim Porter  
*District 9*

Jim McNiece  
*District 10*

**Agenda Number: 7**  
**Meeting Date: 8/9/2016**

**To:** Kansas State Board of Education  
**From:** Peggy Hill  
**Subject:** Citizens' Open Forum  
**Board Goals:** Develop active communication and partnerships with families, communities, business stakeholders, constituents and policy partners

During the Citizens' Open Forum, the State Board of Education provides an opportunity for citizens to share views about topics of interest or issues currently being considered by the State Board.

Each speaker shall be allowed to speak for three minutes. Any person wishing to speak shall complete a presenter's card, giving his or her name and address, and the name of any group he or she is representing. (Ref. Board Policy 1012)

If written material is submitted, 13 copies should be provided.





## Kansas State Department of Education

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Landon State Office Building  
900 SW Jackson Street, Suite 307  
Topeka, Kansas 66612-1212

(785) 296-3201  
(785) 296-6659 - fax

[www.ksde.org](http://www.ksde.org)

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**To:** Kansas State Board of Education  
**From:** Commissioner Randy Watson  
**Subject:** Report from Education Fellows on summer trainings to school districts  
**Date:** 7/25/2016  
**Board Goals:** Ensure effective, visionary leaders in every school

The Education Fellows program was created this spring as one way to use distinguished Kansas educators to help their peers better understand the outcomes associated with the *Kansans CAN* vision of leading the world in the success of each student. School districts were able to select from available dates and receive the training at no charge. Three teams of teachers, many representing the Kansas Teacher of the Year program, conducted the one-day workshops. Education Fellow participants will be present to provide the State Board with an overview of their summer work and answer questions.

## Kansas Education Fellows Summer 2016

| <b>Team</b> | <b>Name</b>                         | <b>District</b> |
|-------------|-------------------------------------|-----------------|
| <b>#1</b>   | Brandi Leggett (2014 Regional KTOY) | Shawnee Mission |
|             | Jeri Powers (2008 KTOY)             | De Soto         |
|             | Laura Gilchrist                     | Turner          |
| <b>#2</b>   | Chelli Cranmer                      | Andover         |
|             | Jeff Baxter (2014 KTOY)             | Blue Valley     |
|             | Sue Rippe (2000 KTOY)               | Olathe          |
|             | Tiffany Richard (2012 KTOY)         | Olathe          |
| <b>#3</b>   | Brandi McWilliams (KTOY Nominee)    | McPherson       |
|             | Carmen Zeisler                      | McPherson       |
|             | Dyane Smokorowski (2013 KTOY)       | Andover         |

## REQUEST AND RECOMMENDATION FOR BOARD ACTION

Agenda Number: 9

**Coalition Chair:**

Bill Mullins

**Commissioner:**

Randy Watson

**Meeting Date:** 8/9/2016

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### **Item Title:**

Act on Innovative District Application from USD 484 Fredonia

### **Board Goals:**

Governmental Responsibility

### **Recommended Motion:**

It is moved that the Kansas State Board of Education approve the application of USD 484 Fredonia and grant authority for the district to operate as an Innovative District working within the Bylaws of the Coalition of Innovative Districts Board.

### **Explanation of Situation Requiring Action:**

The Coalition of Innovative Districts Board recommends that the Kansas State Board of Education approve the application of USD 484 Fredonia to operate as an Innovative District. The Coalition Board has determined that this application meets the technical merits and other criteria as required by the Innovative Districts Act.

The USD 484 application was presented at the July State Board of Education meeting. Superintendent Brian Smith explained the goals of his district and answered questions.

The Kansas State Board of Education, per K.S.A. 2013 Supp. 72-1921 through 72-1930, and amendments thereto, must review approved applications and within 90 days after receipt of the application(s) either grant or deny the granting of authority to operate as an Innovative District.



Innovative District Summary

District Name/USD #: Fredonia - USD #484

District Superintendent: Brian Smith

Local School Board President: Feyn Baker

Date Approved by Local Board: May 26, 2016

District Address: 300 N. 6th Street  
Fredonia, KS 66736  
City Zip

Contact Name: Brian Smith

Title: Superintendent

Email: bsmith@fredoniaks.com Phone: 620-378-4177

District Classification:  Urban  Suburban  Rural

KSHSAA Rating: 3A

Number of Schools in District: 1 Elementary 1 Middle/Junior 1 High  
Other (please specify)

Current District Enrollment: 660

Percent of students who qualify for free or reduced lunch: 56.3 % e

*B. Smith*  
Signature of Superintendent

*Feyn Baker*  
Signature of School Board President

Date: 5/26/16

Date: 5-26-16

## **DESCRIPTION OF EDUCATIONAL PROGRAMS:**

USD 484 Fredonia is dedicated to preparing students for life after public education, striving to create a rigorous experience with an emphasis on relevancy that prepares our students for the twenty-first century global marketplace. At the high school level, students can enroll in classes through agreements with Independence and Allen County Community Colleges. For students who will be the first in their family to attend college, the Upward Bound program is available via Independence Community College. This program allows students to become involved in college activities and spend time on campus during the summer while participating in a month-long program that provides both educational courses and social activities. Ultimately, these students are working toward the first two years of their college education being paid in its entirety.

Students are able to take a number of classes that are classified as Career and Technical Education oriented. As a part of these pathways, students have the opportunity to earn their ASE mechanics certification. Additionally, we have programs in family and consumer sciences, culinary arts, agriculture and business. Starting in the fall of 2016 we will be offering Microsoft certification and an industrial arts program.

Students are celebrated for their work at graduation, signifying levels of preparation for life beyond USD 484 Fredonia with the donning of "honor cords," braids of cloth in various colors symbolizing the numerous accomplishments of the students. Students graduating in the spring of 2016 wore cords which represented service organizations, being a Regents Scholar, completion of 12 to 23 college hours, completion of 24 or more college hours, for being a member of National Honor Society and more.

As we move forward we will creatively integrate relevancy and career interests at the earliest levels of education within the district, fostering a love for and understanding of why education is of critical importance, guided using feedback we gather from current students, graduates and stakeholders.

## **DESCRIPTION OF PARENTAL AND COMMUNITY SUPPORT:**

Parents of students enrolled in USD 484 Fredonia, and the community at large, are heavily involved and invested in the school system. Stakeholders are engaged by the district's use of mass communication tools, including the local newspaper, parent-to-teacher emails, the use of Powerschool which allows parents to monitor progression of student learning in real time, the use of the learning management system, Canvas, which allows parents to assume the role of an observer within a class so that they can virtually sit in on their child's education at any time, and School Reach, a school to parent messaging system. Site Council continues to play a role in our district, with meetings occurring quarterly.

In order to expand our system of communications, we completed professional development focused on staff learning about and engaging stakeholders through the



use of social media, adopting the mantra that "if somebody is going to tell our story, why not let it be us." To this end we spent two days in the summer of 2015 with Kevin Case, an expert on the Twitter platform. As a result of this, the district has developed specific channels for dispersing information to and engaging with the community. Teachers have also created Twitter accounts and are encouraged to share the happenings from their classroom, engaging the community, students and parents.

We have found that using the Twitter social media platform has allowed us to generate an atmosphere where a two sided conversation is possible, rather than the one way methods of the past.

In addition to Twitter, the district has also created a Facebook page for the purpose of sharing information about the schools' activities. Both Facebook and Twitter offer patrons additional links to Livestreaming. The use of LiveStreaming allows our district to showcase events occurring at the school for anyone that wants to be involved but cannot be physically present at events.

While Twitter and Facebook allow us to get immediate feedback from stakeholders in a way that email, web postings, School Reach and newspaper articles could never offer, we also allow for parents, teachers within the district, and students to share perceptions of the school via surveys and become involved within the school through our local Parent Teacher Organization.

During the process of preparing the application to become an innovative school district, several meetings were held with staff and Board of Education members, parent groups and the community at large.

These include:

- April 2016: Meeting with staff members
- 2015 - 2016: Meeting with Board of Education members
- April 11, 2016: Meeting with community members
- May 17, 2016: Meeting with community members

#### **SPECIFIC GOALS AND MEASURABLE PUPIL OUTCOMES TO BE OBTAINED:**

***GOAL ONE: It is the goal of USD 484 Fredonia to have a continuing relationship with AdvancED, using their system accreditation model to ensure continuous improvement, rather than transitioning to the still in development state model.***

USD 484 Fredonia has been a member of the AdvancED system of school improvement and accreditation for many years, first participating in building level model. For the five year cycle ending in 2014, the district successfully transitioned to the systems accreditation model, which provides a trusted, proven framework for examining the school, focusing on five specific standards. These standards are:

- **Standard One: Purpose and Direction** -The school maintains and communicates a purpose and direction that commit to high expectations for learning as well as shared values and beliefs about teaching and learning.
- **Standard Two: Governance and Leadership** - The school operates under governance and leadership that promote and support student performance and school effectiveness.
- **Standard Three: Teaching and Assessing for Learning** - The school's curriculum, instructional design and assessment practices guide and ensure teacher effectiveness and student learning.
- **Standard Four: Resources and Support Systems** - The school has resources and provides services that support its purpose and direction to ensure success for all students.
- **Standard Five: Using Results for Continuous Improvement** - The school implements a comprehensive assessment system that generates a range of data about student learning and school effectiveness and uses the results to guide continuous improvement.

Due to the extensive process of analysis, reflection and external validation, AdvancED's system of accreditation has positioned them as the global leader in accrediting public and private schools around the world. USD 484 Fredonia is proud to be involved with this organization and believe it is important to continue with this process of continuous school improvement rather than wait for the state's accreditation system to be implemented and reach maturity.

***GOAL TWO: It is the goal of USD 484 Fredonia to develop a system of assessments with a minimal imprint that challenges and accurately reflects student learning at every level, while providing data that is used to guide teaching and learning.***

During the 2014-2015 school year we focused on exploring options for assessments and developing a student growth model using data from our STAR Enterprise math, reading and ELA assessments. During the process of developing a growth model we studied student growth percentile (SGP), implemented growth targets and formulated a plan of intervention using student data to target student learning that ensured that growth in learning had occurred.

The process of exploration of varied assessments revealed some concerns about the use of STAR Enterprise and the data we received from it, which led us to explore the assessment suite offered by ACT.

During April and May of 2016 the summative portion of the ACT Aspire was administered to students in grades three through 10. The data yielded will serve as a baseline for the future and provide us with initial feedback on student learning and teaching.

In addition to the spring summative assessments, next school year we will use interim

and classroom assessments from the ACT Aspire suite to gather information about student learning, measure progress, and evaluate curriculum rigor, relevancy, and implementation.

Initial steps in signing up to administer the regular ACT assessment to juniors and seniors have begun. With this program starting in the 2016-2017 school year, we recently received confirmation that our application to administer the assessment was approved. We have worked with our Board of Education to set the goal of 75 percent of students taking assessments from the ACT suite by the end of their senior year. Taking either the ACT, ACT Engage and Work Keys assessment, we will work to have five percent more students taking one of the assessments each year until 90 percent participation is achieved and maintained, with target goals of a score of 21 or silver key.

In the fall of 2015 we, along with the rest of the state, received student performance results from the Center for Education Testing Excellence (CETE) for the first time in a couple of years. Prior to actually receiving the results, we devoted time to learning about the new manner in which student performance would be reported and how we could use that information to evaluate and enhance student learning and teaching.

Our system of assessments has grown considerably in regard to using state assessment data to guide student learning. During the fall we spent considerable amounts of time during professional learning communities educating staff about the new assessments and how to use the data effectively. As staff comfort levels and competencies using the data increased, we began the process of using the data to guide teaching. Each teacher analyzed data for the grade level of students they work with and regularly developed targeted activities that allowed increased rigor of student learning and cross curricular connections. Teachers document these activities using Google Forms embedded into a Canvas course. Periodic analysis of this data ensures fidelity to the process and that a wide range of targets are addressed.

***GOAL THREE: It is the goal of USD 484 Fredonia to develop a top of the class STEAM academy that enriches the education of both stakeholders and students, while rigorously preparing them for the community and post-secondary education.***

USD 484 Fredonia will develop a STEAM lab that focuses on Science, Technology, Engineering, the Arts and Mathematics in the unused building that used to be home to grades six, seven and eight. Right away, our STEAM lab will differ from many traditional STEM labs, which focus solely on Science, Technology, Engineering and Mathematics due to the integration of the Arts, which will allow us to place an emphasis on the humanity of dealing with the formalities of the other disciplines.

STEAM classes currently in development include graphic design, programming and game design and project based science, with teachers throughout the district modifying curriculum to incorporate the hands-on, innovative activities typically associated with STEAM. As we grow our academy, we will continue to expand our

programming and game design curriculum, using tools such as Dot Dash and Scratch to introduce basic programming concepts to students starting in Kindergarten. Students will then be able to transition into a program of study in web-based programming languages including but not limited to HTML, Javascript, Python and Ajax. As students progress through middle and high school they will be able to join Fredonia's established, published game design team where an emphasis on cross curricular design, development and marketing of games for the iOS operating system occurs.

Starting with Kindergarten, students will develop a system of agriculture, gardening and ecology that involves community members. It will integrate multiple aspects of curriculum that mature into a self-sustaining, self-supporting greenhouse and hydroponics system involving students grades seven through twelve. Developing systems to harness sustainable energy sources will be explored as will weather systems.

We will also develop an engineering program that introduces students to concepts at a young age, building competencies in robotics, electronics, and more. Expanding cross curricular and community support as the program matures, students will eventually branch into certification for Apple repairs, building and programming robots from scratch and hosting science camps and math fairs for students of all ages.

Since we have a large number of graduates of USD 484 leading careers in the areas of physical and life science, chemistry, medicine and earth and space sciences, we will have discussions with them, capitalizing on what we learn from them about why our framework for science has been so successful over the years while also addressing opportunities for improvement.

**GOAL FOUR: *It is the goal of USD 484 Fredonia to build a system of relevancy in education that marries student learning with real world contextual situation.***

Fredonia is a relatively small, rural town with access to a respectable number of small businesses spanning a number of different career paths. Due to this, we have a tremendous opportunity to develop a relationship with them that will allow our students to connect the dots of relevancy, creating a deep understanding of the reason education is so important. Opportunities include businesses and industries dealing with construction, fabrication, engineering, chemistry, electrical, plumbing, maintenance and more.

As we aggressively pursue a relevant education for each student, those in their last two years within the system will be able to pursue job shadowing and on-the-job training with many of these employers for credit towards their high school diploma.

Assisting students in realizing an education that is relevant to their chosen career path, from seventh grade on students will complete a digital Individual Plan of Study. Students will keep track of courses taken, record assessment scores and monitor their

grades. They will plan for their future through reflection and aligning courses to areas of interest and feedback obtained from the Kansas Career Pipeline. Starting in the 2016 - 2017 school year these students will also have access to a pair of coaches that guide them through this process.

In an effort to provide as many opportunities as possible for our students, we want to explore the possibility of eliminating a speech requirement for students who are presenters during a national event. One such event is FCCLA's STAR Events held annually during the summer months. For students who participate in two or more sports, we would like to waive the physical education requirement. Since physical education is no longer specifically required at the 9th grade level, students would have the opportunity to waive the course through participation in the sports. The stipulation for the waiver would be if they had not successfully participated in two sports by the end of their sophomore year, a full year of physical education would be a requirement.

**GOAL FIVE: *It is the goal of USD 484 Fredonia to develop a program of literacy that ensures every student's success in reading, communication skills and digital fluency.***

Being able to read with a high level of comprehension is crucial to success in every aspect of life. As we move forward, we are developing a program that ensures a broader definition of literacy. Students will be successful in every aspect of communication: fluent in reading, writing, oral communications and digital fluency.

**EXPLANATION OF HOW PUPIL PERFORMANCE IN ACHIEVING THE SPECIFIED OUTCOMES WILL BE:**

Goal One - AdvancED Accreditation

- Measured: USD 484 will maintain current accreditation system with AdvancED.
- Evaluated: USD 484 will maintain current system of self assessment and external validation with AdvancED.
- Reported: USD 484 will make readily available all documentation, reports and review documents for proof of compliance.

Goal Two - System of Assessments with Reduced Footprint

- Measured: USD 484 will maintain a system of assessments that identifies and explains all aspects of the testing program.
- Evaluated: USD 484 will maintain current system of self assessment and external validation with AdvancED relative to student learning data and use of data to drive continuous improvement.
- Reported: USD 484 will make readily available all documentation prepared for self assessment and accreditation purposes to illustrate student learning, student growth and program growth.

### Goal Three - STEAM Academy

- Measured: USD 484 will measure progress using a checklist of identified time sensitive outcomes.
- Evaluated: USD 484 will develop a rubric to evaluate level of success.
- Reported: USD 484 will make readily available all documentation relating to enrollment, participation, curriculum and evaluations.

### Goal Four - Relevancy Framework

- Measured: USD 484 will measure progress using a checklist of identified time sensitive outcomes.
- Evaluated: USD 484 will evaluate relevancy framework using rubrics and stakeholder surveys.
- Reported: USD 484 will make readily available all documentation relating to measurement and evaluation of relevancy framework.

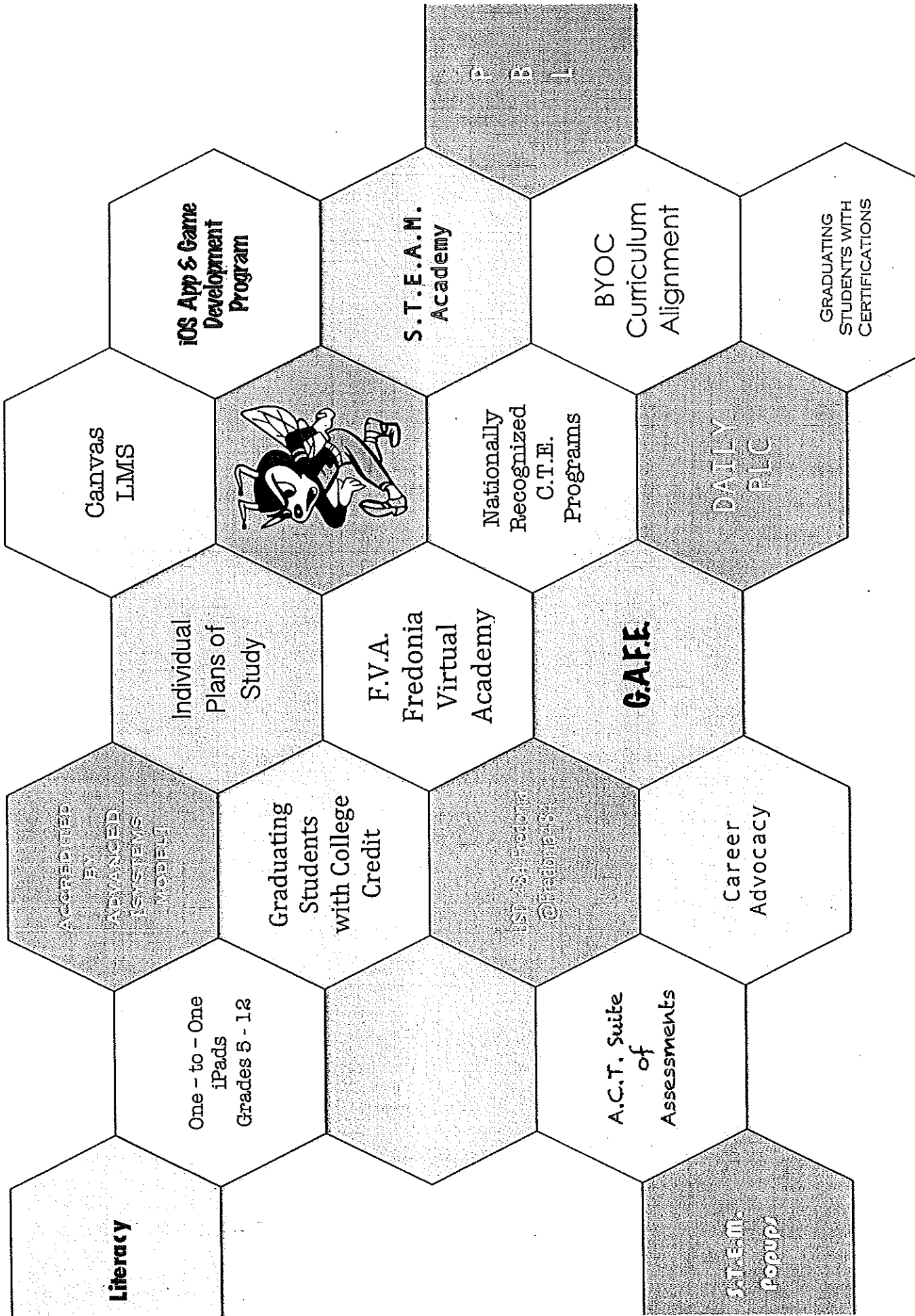
### Goal Five - Literacy Framework

- Measured: USD 484 will measure progress using a checklist of identified time sensitive outcomes.
- Evaluated: USD 484 will evaluate literacy framework using stakeholder survey, observation, formal evaluation and linkage to assessment results.
- Reported: USD 484 will make readily available all documentation relating to measurement and evaluation of literacy framework.

### **DESCRIPTION OF STATE LAWS, RULES AND REGULATIONS FROM WHICH DISTRICT IS REQUESTING TO BE EXEMPT:**

USD 484 Fredonia requests exemption from the following state laws:

- Any requirements to use the state accreditation model developed by KSDE, using AdvancED's systems accreditation model instead.
- The ability to use trained, certified personnel to teach Career and Technical Education courses.
- The ability to develop pathways other than those approved by KSDE.
- The ability to use apprenticeships and mentoring programs with leaders of industry to count towards high school credit.
- Any possible exemptions from using Kansas Assessments, instead using ACT Aspire and ACT system of assessments.









## Kansas State Department of Education

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**To:** Commissioner Randy Watson  
**From:** Colleen Riley  
**Subject:** Receive amendments to Emergency Safety Intervention (ESI) regulations  
**Date:** 7/20/2016  
**Board Goals:** Provide a flexible and efficient delivery system to meet our students' varied and changing needs

Early Childhood, Special Education, and Title Services staff will review House Substitute for Senate Bill 193, amendments to the emergency safety intervention statutes, which became law on July 1, 2016. These statutory changes will require changes to the Kansas State Board of Education's emergency safety intervention regulations, K.A.R. 91-42-1 to -7. Staff will present the necessary changes to these regulations for review.



**91-42-1. Definitions.** As used in this article, each of the following terms shall have the meaning specified in this regulation: (a) “Administrative review” means review by the state board upon request of a parent.

(b) “Chemical restraint” means the use of medication to control a student’s violent physical behavior or restrict a student’s freedom of movement.

(c) “Commissioner” means commissioner of education.

(d) “Complaint” means a written document that a parent files with a local board as provided for in this article.

(e) “Department” means the state department of education.

(f) “District” means a school district organized under the laws of this state that is maintaining a public school for a school term pursuant to K.S.A. 72-1106, and amendments thereto. This term shall include the governing body of any accredited nonpublic school.

(g) “Emergency safety intervention” means the use of seclusion or physical restraint.

(h) “Hearing officer” means the state board’s designee to conduct an administrative review as specified in K.A.R. 91-42-5. The hearing officer shall be an officer or employee of the department.

(i) “Incident” means each occurrence of the use of an emergency safety intervention.

(j) “Local board” means the board of education of a district or the governing body of any accredited nonpublic school.

~~(j)~~(k) “Mechanical restraint” means any device or object used to limit a student’s movement.

~~(k)~~(l) “Parent” means any of the following:

- (1) A natural parent;
- (2) an adoptive parent;

- (3) a person acting as a parent, as defined in K.S.A. 72-1046 and amendments thereto;
- (4) a legal guardian;
- (5) an education advocate for a student with an exceptionality;
- (6) a foster parent, unless the foster parent's child is a student with an exceptionality; or
- (7) a student who has reached the age of majority or is an emancipated minor.

~~(h)~~(m) "Physical escort" means the temporary touching or holding the hand, wrist, arm, shoulder, or back of a student who is acting out for the purpose of inducing the student to walk to a safe location.

~~(m)~~(n) "Physical restraint" means bodily force used to substantially limit a student's movement, except that consensual, solicited, or unintentional contact and contact to provide comfort, assistance or instruction shall not be deemed to be physical restraint.

~~(n)~~(o) "School" means any learning environment, including any nonprofit institutional day or residential school or accredited nonpublic school, that receives public funding or which is subject to the regulatory authority of the state board.

~~(o)~~(p) "Seclusion" means placement of a student in a location where all the following conditions are met:

- (1) The student is placed in an enclosed area by school personnel.
- (2) The student is purposefully isolated from adults and peers.
- (3) The student is prevented from leaving, or the student reasonably believes that the student will be prevented from leaving, the enclosed area.

~~(p)~~(q) "State board" means Kansas state board of education.

~~(q)~~(r) "Time-out" means a behavioral intervention in which a student is temporarily removed from a learning activity without being secluded. (Authorized by and implementing Article 6,

Section 2(a) of the Kansas Constitution; effective April 19, 2013; amended, T-91-2-17-16, Feb. 17, 2016; amended, June 10, 2016; amended P-\_\_\_\_\_.)

**91-42-2. Standards for the use of emergency safety interventions.** (a) An emergency safety intervention shall be used only when a student presents a reasonable and immediate danger of physical harm to the student or others with the present ability to effect such physical harm. Less restrictive alternatives to emergency safety interventions, including positive behavior interventions support, shall be deemed inappropriate or ineffective under the circumstances by the school employee witnessing the student's behavior before the use of any emergency safety interventions. The use of an emergency safety interventions shall cease as soon as the immediate danger of physical harm ceases to exist. Violent action that is destructive of property may necessitate the use of an emergency safety intervention.

(b) Use of an emergency safety intervention for purposes of discipline or punishment or for the convenience of a school employee shall not meet the standard of immediate danger of physical harm.

(c)(1) A student shall not be subjected to ~~seclusion~~ an emergency safety intervention if the student is known to have a medical condition that could put the student in mental or physical danger as a result of ~~seclusion~~ the emergency safety intervention.

(2) The existence of the medical condition must be indicated in a written statement from the student's licensed health care provider, a copy of which shall be provided to the school and placed in the student's file. The written statement shall include an explanation of the student's diagnosis, a list of any reasons why an emergency safety intervention would put the student in mental or physical danger and any suggested alternatives to the use of emergency safety interventions.

(3) Notwithstanding the provisions of this subsection, a student may be subjected to an emergency safety intervention, if not subjecting the student to an emergency safety intervention would result in significant physical harm to the student or others.

(d) When a student is placed in seclusion, a school employee shall be able to see and hear the student at all times.

(e) Each seclusion room equipped with a locking door shall be designed to ensure that the lock automatically disengages when the school employee viewing the student walks away from the seclusion room, or in cases of emergency, including fire or severe weather.

(f) Each seclusion room shall be a safe place with proportional and similar characteristics as other rooms where students frequent. Each room shall be free of any condition that could be a danger to the student and shall be well-ventilated and sufficiently lighted.

(g) The following types of restraint shall be prohibited:

(1) Prone, or face-down, physical restraint;

(2) supine, or face-up, physical restraint;

(3) any restraint that obstructs the airway of a student;

(4) any restraint that impacts a student's primary mode of communication;

(5) chemical restraint, except as prescribed treatments for a student's medical or psychiatric condition by a person appropriately licensed to issue these treatments; and

(6) the use of mechanical restraint, except those protective or stabilizing devices either ordered by a person appropriately licensed to issue the order for the device or required by law, any device used by a law enforcement officer in carrying out law enforcement duties, and seatbelts and any other safety equipment when used to secure students during transportation.

(h) The following shall not be deemed an emergency safety intervention, if its use does not otherwise meet the definition of an emergency safety intervention:

(1) Physical escort; and

(2) time-out. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective April 19, 2013; amended, T-91-2-17-16, Feb. 17, 2016; amended, June 10, 2016; amended P-\_\_\_\_\_.)



**91-42-4. Parent notification; required meeting; filing a complaint.** (a) When an emergency safety intervention is used with a student, the school shall notify the parent the same day the emergency safety intervention was used. ~~If the parent cannot be notified, the school shall notify the emergency contact person for the student.~~ If the school is unable to contact the parent, the school shall attempt to contact the parent using at least two methods of contact. The same-day notification requirement of this subsection shall be deemed satisfied if the school attempts at least two methods of contact. A parent may designate a preferred method of contact to receive the same-day notification required by this subsection. A parent may agree, in writing, to receive only one same-day notification from the school for multiple incidents occurring on the same day.

(b) The school shall provide written documentation of the emergency safety intervention used to the parent no later than the school day following the day on which the emergency safety intervention was used. This documentation shall include:

- (1) the date and time of the intervention;
- (2) the type of intervention;
- (3) the length of time the intervention was used, ~~and~~;
- (4) the school personnel who participated in or supervised the intervention;
- (5) the events leading up to the incident;
- (6) the student behaviors that necessitated the emergency safety intervention;
- (7) the steps taken to transition the student back into the educational setting;
- (8) space or an additional form for parents to provide feedback or comments to the school regarding the incident;

(9) a statement that invites and strongly encourages parents to schedule a meeting to discuss the incident and how to prevent future use of emergency safety interventions; and

(10) email and phone information for the parent to contact the school to schedule the emergency safety intervention meeting.

Schools may group incidents together when documenting the items in paragraphs (b)(5) through (7) if the triggering issue necessitating the emergency safety interventions is the same.

(c) In addition to the documentation required by subsection (b), the school shall provide the parent additional information.

(1) After the first incident in which an emergency safety intervention is used with a student during the school year, the school shall provide the following information in printed to the parent form or, upon the parent's written request, by email:

(A) A copy of the standards of when emergency safety interventions can be used;

(B) a flyer on the parent's rights;

(C) information on the parent's right to file a complaint through the local dispute resolution process and the complaint process of the state board of education; and

(D) information that will assist the parent in navigating the complaint process, including contact information for the parent training and information center and protection and advocacy system.

(2) After subsequent incidents in which an emergency safety intervention is used with a student during the school year, the school shall provide a full and direct web site address containing the information in paragraph ~~(b)~~(c)(1).

(d) After each incident, a parent may request a meeting with the school to discuss and debrief the incident. A parent may request such meeting verbally, in writing or by electronic means. A school shall hold a meeting requested under this subsection within 10 school days of the parent's

request. The focus of any meeting convened under this subsection shall be to discuss proactive ways to prevent the need for emergency safety interventions and to reduce incidents in the future.

~~(1) If there is a third incident involving the use of emergency safety interventions within a school year on~~ For a student who has an individualized education program or a section 504 plan, then the student's individualized education program team or section 504 plan team shall ~~meet within 10 days after the third incident to~~ discuss the incident and consider the need to conduct a functional behavioral analysis, develop a behavior intervention plan, or amend either if already in existence, ~~unless the individualized education program team or the section 504 plan team has agreed on a different process.~~

(2) For a student with a section 504 plan, such student's section 504 plan team shall discuss and consider the need for an evaluation under the special education for exceptional children act, K.S.A. 72-961 et seq., and amendments thereto.

(3) For a student who has an individualized education program and are placed in a private school by a parent, a meeting called under this subsection shall include the parent and the private school, who shall consider whether the parent should request an individualized education program team meeting. If the parent requests an individualized education program team meeting, the private school shall help facilitate such meeting.

~~(2)(4) If there is a third incident involving the use of emergency safety interventions within a school year on a student who is not described in paragraph (d)(1), then a meeting between the student's parent and school employees shall be conducted within 10 days after the third incident~~ to For a student who does not have an individualized education program or section 504 plan, the parent and school shall discuss the incident and consider the appropriateness of a referral for an evaluation under the special education for exceptional children act, K.S.A. 72-961 et seq. and

amendments thereto, the need for a functional behavioral analysis, or the need for a behavior intervention plan. Each meeting called pursuant to this subsection shall include the student's parent, a school administrator for the school where the student attends, one of the student's teachers, a school employee involved in the incident, and any other school employees designated by the school administrator as appropriate for the meeting.

(3) The parent shall determine whether the student shall be invited to any meeting called pursuant to this subsection.

(4) The time for calling a meeting pursuant to this subsection shall be extended beyond the 10-school-day limit if the parent of the student is unable to attend within that time period.

(5) Nothing in this subsection shall be construed to prohibit the development and implementation of a functional behavioral analysis or a behavior intervention plan for any student if the student could benefit from such measures ~~but has had fewer than three incidents involving emergency safety interventions within a school year.~~

(e) If a school is aware that a law enforcement officer or school resource officer has used seclusion, physical restraint or mechanical restraint on a student, the school shall notify the parent the same day using the parent's preferred method of contact. A school shall not be required to provide written documentation to a parent, as set forth in subsection (b) regarding law enforcement use of an emergency safety intervention, or report to the department law enforcement use of an emergency safety intervention. For purposes of this subsection, mechanical restraint includes, but is not limited to, the use of handcuffs.

~~(e)~~(f) If a parent believes that emergency safety interventions have been used in violation of this article or policies of the school district, then within 30 days from being informed of the use of emergency safety intervention, the parent may file a complaint through the local dispute

resolution process. Any parent may request an administrative review by the state board within 30 days from the date the final decision was issued pursuant to the local dispute resolution process. (Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective, T-91-2-17-16, Feb. 17, 2016; effective, June 10, 2016; amended P-\_\_\_\_\_.)

**91-42-7. Reporting.** (a) Each district shall report information from all incidents of emergency safety interventions that the department deems necessary to the department by the date and in the form specified by the department.

(b) The department shall compile reports from schools on the use of emergency safety interventions and provide the results based on aggregate data on the department web site and to the state board, the governor and the committees on education in the senate and the house of representatives by January 20, 2016, and annually thereafter. The department's reported results shall include but shall not be limited to the following information:

- (1) The number of incidents in which emergency safety interventions were used on students who have an individualized education program;
- (2) the number of incidents in which emergency safety interventions were used on students who have a section 504 plan;
- (3) the number of incidents in which emergency safety interventions were used on students who do not have an individualized education program or a section 504 plan;
- (4) the total number of incidents in which emergency safety interventions were used on students;
- (5) the total number of students with behavior intervention plans subjected to an emergency safety intervention;
- (6) the number of students physically restrained;
- (7) the number of students placed in seclusion;
- (8) the maximum and median number of minutes a student was placed in seclusion;
- (9) the maximum number of incidents in which emergency safety interventions were used on a student;

(10) the information reported under paragraphs (c)(1) through (c)(3) reported by school to the extent possible;

(11) the information reported under paragraphs (c)(1) through (c)(9) aggregated by age ~~and~~, ethnicity, gender and eligibility for free and reduced lunch of the students on a statewide basis; and

(12) any other information that the department deems necessary to report.

(c) Actual data values shall be used when providing statewide aggregate data for such reports.

(Authorized by and implementing Article 6, Section 2(a) of the Kansas Constitution; effective, T-91-2-17-16, Feb. 17, 2016; effective, June 10, 2016; amended P-\_\_\_\_\_.)





## REQUEST AND RECOMMENDATION FOR BOARD ACTION

Agenda Number: 11

**Staff Initiating:**

Susan Helbert

**Director:**

Scott Myers

**Commissioner:**

Randy Watson

**Meeting Date: 8/9/2016**

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**Item Title:**

Act on recommendations of the Blue Ribbon Task Force on teacher vacancies and supply

**Board Goals:**

Provide an effective educator in every classroom

**Recommended Motion:**

It is moved that the Kansas State Board of Education accept the recommendations of the Blue Ribbon Task Force on teacher vacancies and supply.

**Explanation of Situation Requiring Action:**

The Commissioner's Blue Ribbon Task Force was assembled this spring to evaluate the challenges of filling teacher vacancies in Kansas. The group was comprised of representatives from higher education (including private colleges and Regents universities), educational service centers, KNEA, Kansas Association of School Boards, United School Administrators of Kansas, and public schools. Task Force Co-Chairs were Ken Weaver, Dean of Education at Emporia State University, and Rudy Perez, High School Principal at Norton.

Following a series of four meetings, the Task Force provided recommendations for short, medium and long-term goals to address teacher vacancies and supply. Task Force Co-Chairs Ken Weaver and Rudy Perez presented the Task Force report and recommendations during the July board meeting. This month, KSDE staff will present a response to each of the recommendations, along with an estimated timeline and details of steps involved in implementing the recommended action. The Board will then act on the Task Force recommendations.





Kansas Commissioner of Education's  
Blue Ribbon Task Force on Teacher Vacancies and Supply

# FINAL REPORT

July 12, 2016





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# Introduction

In March 2016, Dr. Randy Watson, Kansas Commissioner of Education, invited representatives from each of the stakeholder groups who prepare teachers for employment and who hire and support teachers to join a Blue Ribbon Task Force charged with studying teacher vacancies and supply. The task force would make three categories of recommendations to the Kansas State Board of Education to ensure there is a reduction of teaching vacancies in Kansas:

- Immediate implementation in year 1
- Intermediate implementation in years 2 and 3
- Long-term implementation in years 4 and beyond.

The assessment for the effectiveness of these recommendations is the number of unfilled teacher vacancies by the spring of the school year.

The task force was comprised of 28 education professionals from different regions of the state, different levels of education, different size of districts and from both rural and urban areas across Kansas (see Appendix A).

Task force members included

- 4 – Superintendents
- 5 – Principals
- 5 – Teachers
- 3 – Human Resources Directors
- 4 – Higher Education faculty and deans
- 4 – School Board Members
- 3 – Service Center Personnel

The task force was co-chaired by Ken Weaver, dean of the Teachers College at Emporia State University, and Rudy Perez, principal at Norton Community High School.

Four three-hour meetings took place in Topeka. The first meeting was from 9 a.m. to noon Thursday, April 7, at the Kansas State High School Activities Association. The three remaining meetings on Tuesday, May 10; Thursday, June 2; and Thursday, June 23, occurred at the Kansas Association of School Boards from 1 p.m. to 4 p.m.

The first meeting, on April 7, consisted of introductions, directives for the Task Force and a review of the Teacher Vacancy Report provided by Scott Myers, Zachary Conrad and Lori Adams from the Kansas State Department of Education. The report detailed the unfilled positions by school district/region and endorsement areas. The data presentation informed the number of teachers who left their positions and/or the career. Participants offered their insights regarding the data presentations, the quality of the data, and their own perceptions of teacher vacancies and supply. School district personnel reported having fewer qualified candidates apply for open positions than in prior years. Groups shared the challenges of finding, recruiting and retaining teachers. The KSDE team fielded additional questions regarding additional information they would provide at the next meeting.

During the May 10 meeting, KSDE staff provided additional data and analyses regarding teacher vacancies and supply and migration patterns as teachers left one type of school and region and moved to another school type or region. KSDE added data to document that the distribution of teachers by years of

experience revealed that most teachers eligible to retire had retired and almost a quarter of Kansas teachers had less than five years of experience, a “greening” rather than a “greying” effect. For the last half of the meeting, the task force broke into teams composed of a teacher, school board member, school administrator, district administrator, service center staff member and higher education faculty member. The co-chairs directed the teams to discuss the data presented and generate ideas regarding immediate, intermediate and long-term strategies to address teacher supply and then report back to the entire task force. Team suggestions were recorded for the next meeting.

On June 2, the Task Force began the process of understanding, arranging, and reporting team ideas into a meaningful report. The co-chairs split the task force into different cross-representation teams that worked toward a deeper understanding of the issues presented and categorized their recommendations into short-term, intermediate and long-term strategies in order to put together a final draft copy for the July State Board of Education presentation. A draft final report was presented to the Task Force in the week that preceded the final meeting.

The fourth meeting occurred June 23. After an introductory overview of the final report from the co-chairs, members self-selected either the Understanding Teacher Vacancies and Supply section or Recommendations section of the final report to review, vet and edit. At the end of the meeting, the groups presented their edits and comments for the final report. The task force looked at state data disaggregated by the following six regions: Northwest, North Central, Northeast, Southwest, South Central and Southeast. The Kansas City metro area is included in the Northeast region, and the Wichita metro area is included in the South Central region. The map of Kansas showing the regions is in Appendix B.

The task force’s focus was on teacher vacancies and supply. Ancillary to this focus is the future supply of special educators, school counselors, library media specialists, principals, superintendents and reading specialists, who start their careers as teachers. A strong supply of teachers ensures a strong supply of these advanced personnel.

The task force gratefully acknowledges the contributions of Scott Myers, Susan Helbert, Catherine Chmidling, Zachary Conrad and Lori Adams. Catherine’s review of the research literature (see Appendix C) provided several studies with results that provided guidance to the task force on developing recommendations. Zachary’s data gathering, analyses, figures and tables were essential to the task force’s understanding and subsequent preparation of this report.

The final report contains four sections: Introduction, Understanding the Complexities of Teacher Vacancies and Supply in Kansas, Recommendations and Appendices. The task force’s deliberations were consistently conducted to attain the following goals:

- Fulfilling the Commissioner’s charge by presenting a variety of recommendations to reduce teacher vacancies and increase teacher supply.
- Ensuring that the report’s recommendations preserve the effectiveness of teaching and learning for Kansas children that Kansans expect of their schools.
- Writing a final report that definitively establishes the baseline for understanding teacher vacancies and supply in Kansas.
- Continuing the study of teacher vacancies and supply.

# Understanding the Complexity of Teacher Vacancies and Supply in Kansas

## Data Quality

The task force reviewed numerous quantitative analyses to understand teacher vacancies and supply. From this review two conclusions emerged. First, there are currently only three sources of data on which to base this report's recommendations:

- 2015-2016 Teacher Vacancy Survey completed by school districts\*.
- Title II data of program completers and teacher education candidates annually reported by the teacher preparation programs.
- District-entered data into the Educator Data Collection System (EDCS) during the annual Licensed Personnel Report (LPR) submission.

\*Teacher Vacancy Survey data prior to 2015-2016 are incomplete because the data was submitted in an unreliable manner and not all school districts participated. In 2015-2016, all school districts were required to participate and did so.

In several cases, data were reported to help illuminate teacher vacancies and supply that weren't collected for that purpose. For example, new teachers every year come from a variety of sources — graduates of teacher preparation programs, retired school personnel re-entering the teaching profession, teachers who left the profession and then returned, teachers who left Kansas to teach in another state and then returned and teachers who move to Kansas. These teachers are coded by the teaching fields that are part of their responsibility; a teacher who teaches secondary history and psychology counts as two. Thus it isn't possible at this time to know with accuracy the counts of new teachers from the different sources of teacher supply (see Appendix D). Another example can be seen in *Table 2 Reasons for Leaving the Kansas Teaching Profession*. Five hundred teachers didn't give a reason, limiting the usefulness of the data for understanding and planning.

Identifying the data that KSDE needs to collect annually about teacher vacancy and supply and doing so to ensure accuracy and reliability is an urgent priority. The next section of the report includes several recommendations to meet this priority.

Second, the data portray a complex picture of teacher vacancy and supply in Kansas. To the question "Is there a concern with teacher supply in Kansas?" the most accurate answer is "it depends."

A variety of factors contribute to the determination of teacher vacancies and supply including the number of teaching vacancies at the start of the school year, the number of teachers who resign their position to take a position elsewhere in Kansas (movers), the number of teachers who leave the teaching profession each year (leavers), the number of new teachers prepared annually by the 25 teacher preparation programs in Kansas, the number of teacher education candidates in the pipeline, and the retention of early career teachers. This section of the task force's report explores these complexities.

## Analysis of 2015-2016 Teacher Vacancy Data

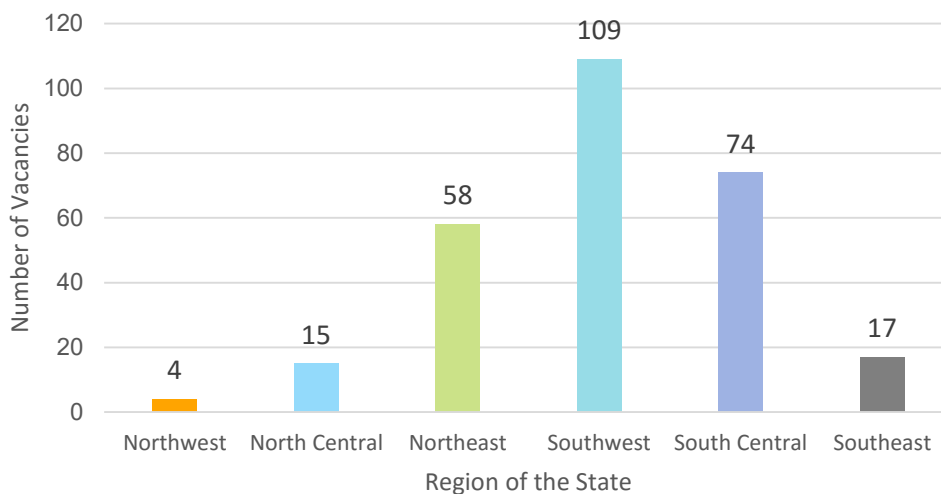
The 2015-2016 Teacher Vacancy Survey was conducted by KSDE. As of fall 2015, the KSDE required all districts to submit a Fall Vacancy report by Sept. 1 through the Educator Data Collection



System/Licensed Personnel Report. During the spring semester, districts then report the final vacancy count.

For the 2015-2016 school year, 38,126 teacher positions were filled, and 277 teacher positions were vacant .0072. The task force used only the 2015-2016 data because not all school districts participated in the Vacancy Survey in previous years. This prevents examining trends.

The vacancies are distributed by region as follows (see Appendix E for the distribution of vacancies by district and region):



**Figure 1. Number of Vacancies by Region 2015-2016**

Per Table 1, almost half of the districts in the Southwest reported at least one vacancy, and one-third of the North Central districts reported at least one vacancy.

| Region        | Total Number of Districts | Number of Districts Reporting Vacancies | Percent of Districts Reporting in a Region |
|---------------|---------------------------|---|--|
| Southwest     | 38                        | 18                                      | 47.40%                                     |
| North Central | 40                        | 13                                      | 32.50%                                     |
| Northeast     | 62                        | 12                                      | 19.40%                                     |
| South Central | 74                        | 12                                      | 16.20%                                     |
| Southeast     | 44                        | 7                                       | 15.90%                                     |
| Northwest     | 27                        | 4                                       | 14.80%                                     |

Table 1. Percent of Districts with Vacancies by Region for the 2015-2016 school year

## Movers and Leavers: Recruiting Teachers to Rural Communities is an Immediate Priority

In 2014-2015, there were 38,190 licensed teachers working in the schools across the state. Movers are teachers who changed teaching jobs by relocating to a different region of Kansas.

From the 2014-15 to 2015-2016 school years, about 4.6 percent of teachers, or around 1,750 teachers, moved to a different region of the state to take a teaching job.

The Northeast and the Northwest were the only two regions to gain movers. Teacher loss was greatest in the North Central and the Southwest regions. The task force used only the 2015-2016 data because not all school districts participated in the Vacancy Survey in previous years. This prevents examining trends.

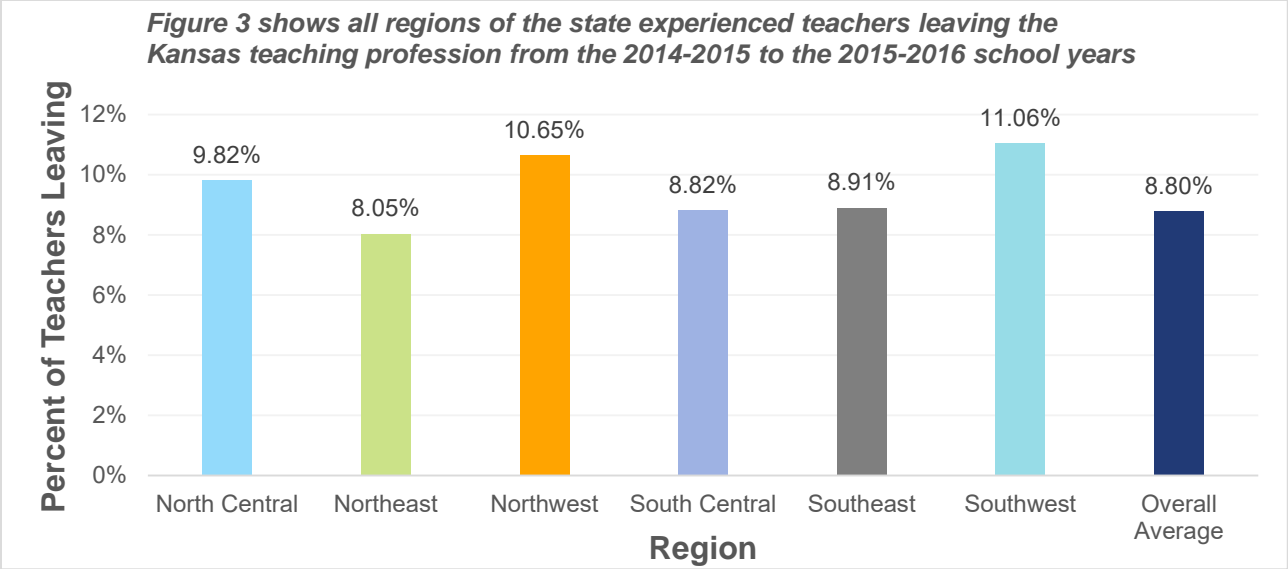
Leavers are teachers who leave the Kansas teaching profession altogether for a variety of reasons, which are presented in Table 2.

| <b>Reason</b>                      | <b>Number of Staff</b> |
|------------------------------------|------------------------|
| Academic Study                     | 26                     |
| Deceased                           | 29                     |
| Health                             | 28                     |
| Leave of Absence                   | 34                     |
| Left Profession                    | 332                    |
| Military                           | 2                      |
| Moved from Area Employment Unknown | 193                    |
| Out of State                       | 263                    |
| Reason Not Provided                | 500                    |
| Reduction in Force                 | 14                     |
| Retirement                         | 1,123                  |
| Termination                        | 245                    |
| <b>Grand Total</b>                 | <b>2,789</b>           |

**Table 2. Reasons for Leaving the Kansas Teaching Profession** (Note: The 2,789 contains duplicates; there are about 2,570 unique teachers)

Retirements by far are the primary reason for teachers leaving the profession. Other useful conclusions:

- 332 left the profession and 245 were terminated. Retention will be addressed later in this section and ensuring strong mentoring programs for both early career and experienced teachers is one of the recommendations.
- 10 percent of the leavers ( $n = 263$ ) moved out-of-state, but it is not known how many in this category left to teach out-of-state.
- 500 gave no reason. Requiring leavers to identify definitively their reason for leaving the Kansas teaching profession is essential to having a more accurate and complete picture of teacher vacancies and supply.



**Figure 3. Percentage of Teachers Leaving by Region**

## More Challenges for Recruiting Teachers to Rural Communities

The Southwest and the South Central regions of the state had the most unfilled vacancies. More teachers moved away from the North Central and Southwest regions than any other region. Another regional challenge is the attractiveness of working in rural areas to prospective teachers.

Table 3 presents the likelihood of one location filling a vacancy relative to the likelihood of another location filling a vacancy. For example, a district located in a large suburban location is significantly more likely to fill vacancies with fully qualified personnel.

Compared to districts in a large suburban location, fringe rural districts are 85.50 times more likely to maintain the vacancy. Remote rural districts are 50.14 times more likely than large suburban districts to maintain the vacancy. The statistical significance (the values with an asterisk) remains true for the remaining locations, indicating a strong preference of applicants selecting employment in large suburban locations

|                | City,<br>Large | Rural,<br>Distant | Rural,<br>Fringe | Rural,<br>Remote | Suburb,<br>Large | Town,<br>Distant | Town,<br>Fringe |
|----------------|----------------|-------------------|------------------|------------------|------------------|------------------|-----------------|
| City, Large    | -              |                   |                  |                  |                  |                  |                 |
| Rural, Distant | 0.87           | -                 |                  |                  |                  |                  |                 |
| Rural, Fringe  | 0.46           | 0.53              | -                |                  |                  |                  |                 |
| Rural, Remote  | 0.78           | 0.9               | 1.71             | -                |                  |                  |                 |
| Suburb, Large  | 39.21*         | 45*               | 85.5*            | 50.14*           | -                |                  |                 |
| Town, Distant  | 1.45           | 1.67              | 3.17             | 1.86             | 27*              | -                |                 |
| Town, Fringe   | 4.36           | 5                 | 9.52             | 5.57             | 9                | 3                | -               |
| Town, Remote   | 1.71           | 1.11              | 3.73             | 2.18             | 22.95*           | 1.18             | 0.39            |

Table 3. The Likelihood of Maintaining Vacancies by Location

Kansas has 286 school districts. The National Center for Education Statistics provides geographic codes to identify school district location. Figure 4 presents the distribution of school districts by geographic code. There are far more school districts in Kansas coded as rural than any other designation (Appendix F contains the glossary with definitions of these codes).

“Rural, Remote” and “Rural, Distant” coded districts combined constitute 181 of the 286 school districts.

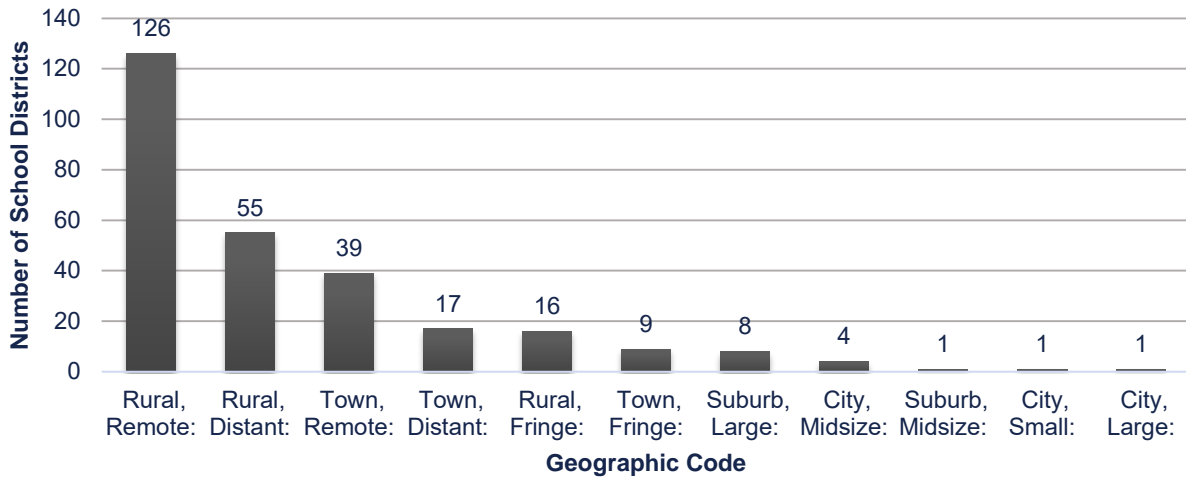


Figure 4. The Distribution of School Districts by Geographic Code (note that the sum of all counts is 277 as nine districts weren't coded by the National Center for Education Statistics)

Recruiting teachers to teach in rural communities is an immediate priority.

### The Kansas Teacher Pipeline: Making Teaching an Attractive Career is an Immediate Priority

Annual Title II reports are required by the federal Higher Education Act. Title II requires teacher preparation programs to submit annually the number of students enrolled in teacher preparation programs and the number of program completers (program completion is required before applying for licensure). The most recent report is for the 2013-2014 school year. Appendix G lists the institutions of higher education that offer teacher preparation programs. The data below combine students in traditional and alternative programs.

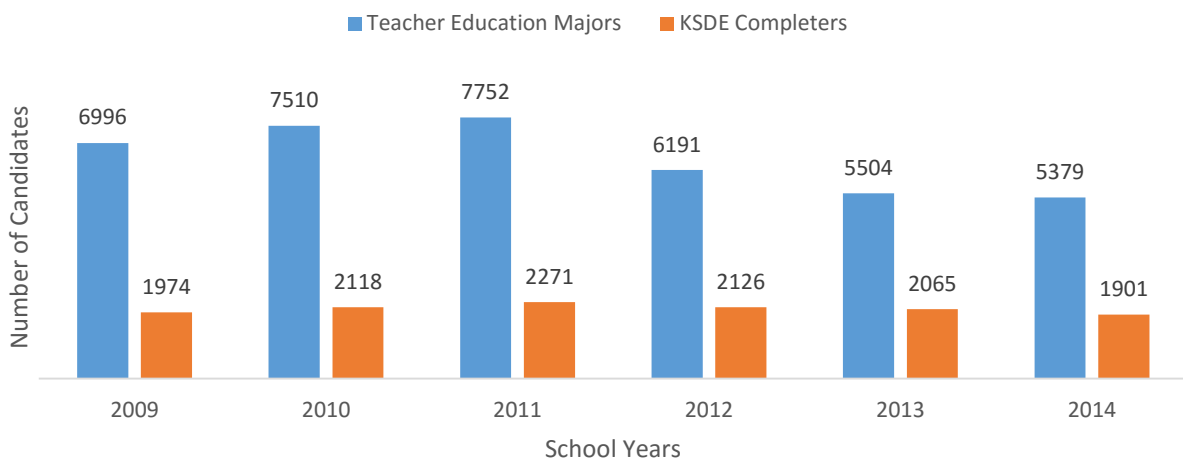


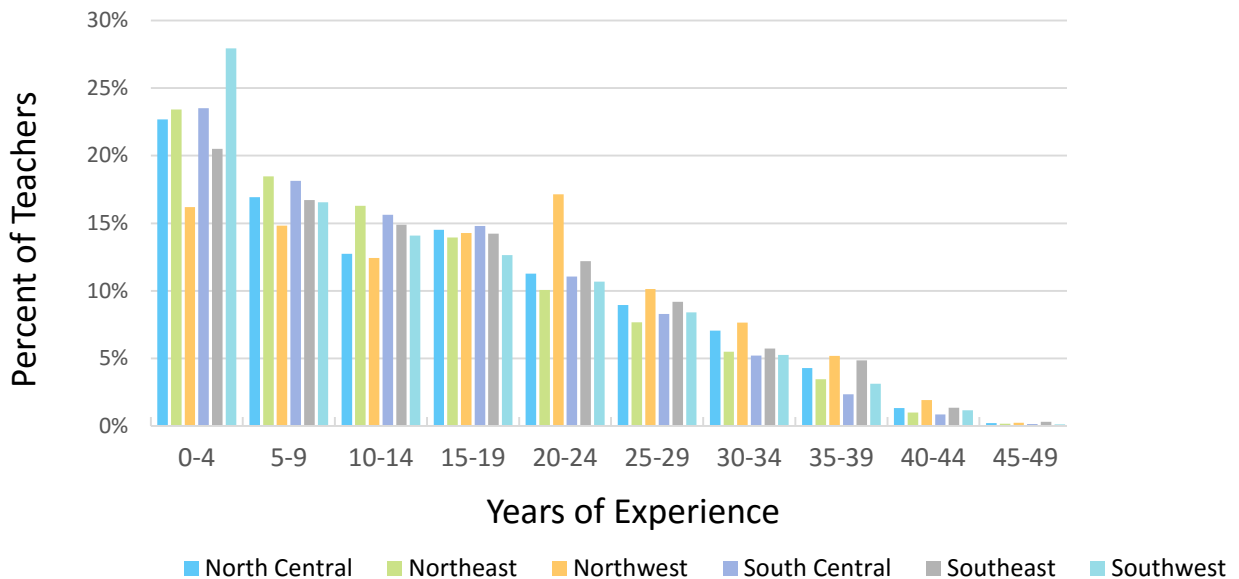
Figure 5. Teacher Education Candidate Supply Trends

Since 2011, the decrease in the number of program completers has paralleled the decrease in the number of candidates who declared education as their majors. The 2014-2015 state Title II report expected in October will indicate whether a decline of more than 2,300 majors in the past four years will dramatically impact the number of program completers.

Regardless, at a time when Kansas needs a robust pipeline of preservice teachers, the opposite appears to be the case. Recruiting Kansas elementary, middle, high school and community college students into teacher education while assuring their parents of the quality of a career as a Kansas teacher is an immediate priority.

## The Greening of the Kansas Teaching Profession: Retention is an Immediate Priority

Kansas isn't experiencing a greying of the profession but actually a greening. Figure 6 shows the percent of teachers by years of experience across the six regions of the state. With the exception of the Northwest, more teachers are in the zero to four years of experience for the other regions than in all subsequent categories. Similarly, more teachers are in the five to nine years of experience category than in all subsequent categories, and the pattern continues through the end of the distribution. Another immediate priority is providing incentives and mentoring for all teachers and especially early career teachers to ensure high retention and low termination.



**Figure 6. Percentage of Teachers by Years of Experience and Region**

# Conclusions

For **teacher vacancies**, the task force knows that

- 99.28 percent of all teacher positions were filled with qualified teachers in 2015-2016.
- 277 teacher vacancies occurred in 2015-2016.
- 109 of the 277 vacancies were in the Southwest region.
- 61 of the 87 vacancies in the South Central region were in Wichita.
- 28 of the 46 vacancies in the Northeast region were in Kansas City, Kan.
- Of 286 school districts, 220 reported no vacancies in 2015-16.

For **teacher recruitment**, the task force knows that

- The number of students graduating from the 25 teacher preparation programs in the state has been on a gradual four-year decline from 2,271 in 2011 to 1,901 in 2014.
- The number of students majoring in teacher education from the 25 teacher preparation programs in the state has decreased from 7,752 in 2011 to 5,379 in 2014.

For **teacher retention**, the task force knows that

- 22 percent of Kansas teachers have less than 5 years of experience.
- 40 percent of Kansas teachers have less than 10 years of experience.

The data illuminate **four immediate priorities** to decrease vacancies and increase teacher supply:

- Recruit teachers to rural communities and urban Kansas City, Kan., and Wichita.
- Make teaching as a career attractive to elementary, middle, and high school students and their parents.
- Retain early-career teachers.
- Change the Work After Retirement KPERs rules to allow retired teachers, principals and superintendents to teach full time without loss of benefits or salary.

The sources of teacher supply (see Appendix D) are new teachers, continuing teachers, former teachers returning to teaching, and “immigrants,” which refer to the teachers who have moved out of the Kansas teaching profession and then return. Initiatives to increase each of the four sources will ensure Kansas a solid supply of teachers. Data collection methods of the number of teachers supplied by each source will be refined to assist the KSBE and the KSDE in their ongoing efforts to monitor teacher vacancies and supply.

# Recommendations

This section of the report contains recommendations in three categories:

- 1) immediate recommendations for implementation this year;
- 2) intermediate recommendations for implementation in years 2 and 3;
- 3) long-term recommendations for implementation in year 4 and beyond.

For each recommendation, the task force has advised the board who the accountable party should be, recognizing that the state board may differ.

## Challenges to Teacher Supply

The task force sees four challenges to the teacher supply dilemma:

- Low salaries may deter students and others from entering the profession, especially in teaching fields (e.g., STEM) where other career options are better remunerated.
- Low esteem for the teaching profession deters students and others from entering the profession and retaining them if they do. Parental support for their children becoming teachers also can be low because of low esteem for the teaching profession.
- Current and ongoing instability of education-related funding and policies in the Legislature deter students and others from entering the profession. Parental support for their children becoming teachers also can be low because of low salaries.
- Recent changes to KPERS and an emphasis on defining “contribution” rather than “benefit” deter students, others, and current educators from entering or continuing in the profession.



# The Leadership of the Kansas State Board of Education

The task force regards the leadership of the Kansas State Board of Education essential to permanent change. The task force recommends the board makes increasing the recruitment and retention of teachers be priority No. 1. The Immediate Recommendations section contains several ideas that can be implemented immediately to support this priority.

*The task force recommends the board use this report to develop and implement a three-year plan starting July 1, 2017, identifying the stakeholders (e.g., Legislature, Kansas Board of Regents/Council of Education Deans, Kansas Association of Private Colleges for Teacher Education, community/regional governance, local businesses, school personnel [teachers, principals, superintendents, school board members] and state organizations) and for working collaboratively to clarify each stakeholder's role in implementing the plan.*

Increasing the supply of teachers and retaining early career teachers is an adaptive challenge for the entire state. The leadership of the state board is crucial to energizing others and intervening skillfully in pointing the way forward.

## Immediate Recommendations for 2016-2017

### Kansas State Board of Education

1. Convenes a group of community members, business leaders, representatives from state education organizations (see Appendix H for a complete list) and media professionals to create and implement a public relations campaign to tell Kansans the inspirational stories of Kansas teachers, the great things happening in the schools and the value and benefits of a career in teaching disseminated by social media, television, radio and print.

### Kansas State Department of Education

1. Expand the Restricted License to include elementary.
2. Communicate to superintendents and principals the routes to the classroom (see Appendix I) with special emphasis on the Restricted License and options for out-of-state licensed teachers.
3. Create a three- to five-year license for out-of-state licensed teachers who may need to complete additional requirements for an initial or professional Kansas licensure.
4. Complete an analysis of teacher salaries by years of experience and region.
5. Open up the database of licensed individuals to allow superintendents and principals to search for individuals in their geographic area who are not currently teaching.
6. Provide a list to all superintendents and key district personnel of individuals in their districts with early childhood licenses so the superintendents can contact them to teach kindergarten, freeing up elementary teachers to cover elementary vacancies.
7. Advertise at state's high schools, public and private teacher education providers, and on the KSDE and Board of Regents websites those programs available to Kansas students interested in teaching careers, including the Kansas tuition reimbursement programs and the federally funded TEACH grants. These programs target high need content and geographic locations and can serve as an impetus to bring new students into the teaching pipeline. Also advertise the scholarships available from each institution or provide a link to university's scholarship web pages for teacher preparation.
8. Provide support/information regarding programs for promoting teaching careers in the high school setting.

9. Create the Teacher Vacancy and Supply Committee as a standing committee of Teacher Licensure and Accreditation to monitor teacher vacancy and supply data and annually report on the status of recruitment and retention efforts across the state.
10. Explore student teachers serving as teacher of record in areas of low teacher supply with appropriate supervision and support.
11. Provide to school districts a list of future teacher academies, mentoring centers, and leadership institutes in the state.
12. Convene a task force to identify reasons that Kansas teachers leave the profession. Create and implement a teacher retention plan.
13. Add a question to the Vacancy Report specific to retirements to predict more accurately this source of teacher vacancies.

### **School Districts**

1. Review hiring packages to offer financial incentives including hiring bonuses, differential pay for teachers in high needs (e.g. urban and rural) and hard-to-fill teaching fields, housing options, and property tax relief.
2. Add more steps on the pay scale to incentivize teachers to continue teaching rather than retire.
3. Provide \$1,000/year stipends for teachers who earn the Teacher Leader endorsement and are working as teacher leaders in their districts.
4. Invite business, political, religious and other community leaders into local schools so they know what happens in classrooms across the state.
5. Start future teacher clubs through Educators Rising (<https://www.educatorsrising.org>) that recruit potential students to consider careers in teaching.
6. Use Individual Plans of Study to identify high school students with potential to become teachers and direct them to the school chapter of Educators Rising, the teaching training pathway, and Kansas Future Teacher Academy or other future teacher academies.
7. Work with local chambers of commerce to match community member mentors to high school students who express interest in teaching as a career.

### **Public and Private Teacher Preparation Providers**

1. Develop statewide agreements through the Kansas State Department of Education that counts completing the teaching/training pathway coursework and passing the pathway standardized exam for college/university coursework.
2. Present to middle, high school, and community college students and teacher education majors the information about Rural Opportunity Zones for Kansas income tax waivers and student loan repayments (<http://www.kansascommerce.com/index.aspx?nid=320>) and teacher loan forgiveness for federal students loans (<https://studentaid.ed.gov/sa/repay-loans/forgiveness-cancellation/teacher>). (Appendix J has the counties that qualify for both programs.)
3. Add to middle, high school, and community college student recruitment literature information about Rural Opportunity Zones for Kansas income tax waivers and student loan repayments. (<http://www.kansascommerce.com/index.aspx?nid=320>)
4. Bring to the attention of all teacher education majors the Kansas Teacher Service Scholarship.

5. Self-inventory institutional support for students preparing for Praxis tests both initially and after they do not pass. Forward these supports to the Association of Teacher Educators-Kansas for ATE-K to recommend guidance for institutions to improve support.
6. Advertise on all teacher preparation campuses those programs available to Kansas students interested in teaching careers, including the Kansas tuition reimbursement programs and the federally funded TEACH grants.
7. Offer the bachelor's special education degree.
8. Create 2+2 partnerships with community colleges to prepare more teachers.
9. Restructure the student teaching model so it takes into account differing experience levels and possible compensation/support for student teachers. Promote programs that reduce the need of districts to hire long-term subs with little to no experience in the teaching area.
10. Examine why the proportion of program completers to total number of candidates is increasing (see Figure 5) and why the number of candidates are declining.
11. Survey first-year teachers and their employers to assess preparedness for teaching.
12. Continue to explore strategies for enhancing the affordability of teacher preparation programs.

#### **State Legislature**

1. Increase funding for teacher salaries, additional pay scale steps, and teacher mentoring at the district level.
2. Create financial incentives like income tax relief to keep teachers in the field.
3. Eliminate the Working after Retirement rules and KPERS penalties.
4. Align the criteria for the Rural Opportunity Zone loan forgiveness program to parallel the criteria for the Kansas Teacher Service Scholarship.
5. Provide funding to prepare more teachers for designated high-need geographic areas and hard-to-fill teaching fields.

#### **Kansas Association of School Boards**

1. Create a statewide public awareness campaign highlighting the benefits of public education as a profession, showing the importance of how public schools support their communities.

#### **United School Administrators of Kansas (USA Kansas), Kansas Association of Elementary School Principals (KAESP), Kansas Association of Middle School Administrators (KAMSA), Kansas School Superintendents Association (KSSA), Kansas Learning First Alliance (KLFA)**

1. Identify the elements of a school environment that contribute to strong teacher retention.

#### **Members of Kansas Education Organizations (see Appendix H)**

1. Present to P-12 students, parents, and other community members in their respective communities the importance and value of becoming a Kansas teacher.

## **Intermediate Recommendations for 2017-2018 and 2018-2019**

### **Kansas State Board of Education**

1. Engage local leaders in rural communities to create regional consortia of communities to develop initiatives to incentivize teaching in their communities such as paying relocation expenses and subsidized housing. A regional consortium creates a brochure, website, Facebook page and other social media to present to prospective teachers and others the region's quality of life and the benefits of teaching and living in that part of the state. Enlist the aid of the local Chambers of Commerce, Main Street and other economic development agencies.

### **KSDE**

1. Communicate with all superintendents and principals the services offered by the Kansas Mentor and Induction Center and other mentoring providers.
2. Develop alternate career stages and paths for teachers to encourage retention.
3. Extend the one-year nonrenewable license to two years to allow more time for completion of requirements to acquire the initial license.
4. Explore the Comprehensive Science Endorsement.

### **KSBE and KBOR**

1. Meet annually to address and implement strategies collaboratively for increasing the numbers in the teacher pipeline.

### **School Districts**

1. Offer financial incentives to attract student teachers such as free housing and a stipend.
2. Work with their communities to improve teacher benefits, such as relocation expenses, housing subsidies, daycare, sabbaticals, tuition reimbursement for higher education, support for gaining National Board for Professional Teaching Standards certification, teacher exchange programs.
3. Encourage paraeducators and substitute teachers to pursue licensure and/or education degrees.
4. Offer professional development that provides teachers with useful resources, collaborative support, and motivation to excel, improving teacher retention, as well as student learning.
5. Create job sharing contracts so teachers can share positions with another working spouse or colleague.
6. Create alternative contracts so some teachers can work year-round.
7. Involve teachers in the development of recruitment and retention strategies.
8. Establish in their high schools the teaching/training pathway to provide course work that will prepare potential students for the admission requirements at the state's public and private institutions of higher education.
9. Advertise in the high school(s) those programs available to Kansas students interested in teaching careers, including the loan forgiveness and Kansas Teacher Service Scholarship programs and the federally funded TEACH grants.

### **School Districts and Public and Private Teacher Education Providers**

1. Work with the Kansas Educational Leadership Institute or other leadership programs to ensure that building and district leadership curricula are providing the school leaders of Kansas information and skills needed to create the school culture to retain outstanding teachers.

## **State Legislature**

1. Reinstate teacher due process.
2. Use salary data in states across the region to ensure a) middle, high school and community college students and their parents regard teaching as a good career path, b) Kansas teachers remain in Kansas, and c) Kansas' competitiveness to attract teachers from out of state increases.
3. Fund the teacher retention plan (see Immediate Recommendation No. 2), more K-12 professional development school partnerships with institutions of higher education, and more clinical faculty members (teachers-in-residence) from local school districts to expand the pool of faculty for training new teachers.
4. Create a Teacher Recruitment and Retention Center (e.g., South Carolina's Center for Educator Recruitment, Retention and Advancement <http://cerra.org/>, North Carolina Center for the Advancement of Teaching <http://www.nccat.org/>) to help devise programs and strategies to increase teachers in the state.
5. Fund incentives for encouraging teachers to teach high need content areas and/or teach in high need geographic areas.

## **Members of Kansas Education Organizations (see Appendix H)**

1. Continue to present to P-12 students, parents, and other community members in their respective communities the importance and value of becoming a Kansas teacher.

## **Long-Term Recommendations for 2019-2020 and Beyond**

### **School Districts**

1. Fully utilize, monitor and keep accurate the Kansas Education Employment Board so it accurately reflects the current state of teacher vacancies in the state.

### **Members of Kansas Education Organizations (see Appendix H)**

1. Continue to present to P-12 students, parents, and other community members in their respective communities the importance and value of becoming a Kansas teacher.

## Appendix A. Task Force Members

**Rudy Perez, co-chair**

Norton High School  
USD 211  
Principal

**Ken Weaver, co-chair**

Emporia State University  
Teacher Preparation

**Jody Marshall**

Gardner-Edgerton School  
District USD 231  
Human Resources

**Julie Menghini**

Manhattan-Ogden School  
District USD 250  
Human Resources

**Carla Nolan**

Topeka Public Schools  
USD 501  
Human Resources

**John Befort**

Washington Grade School  
USD 388  
Principal

**Aarion Gray**

Logan Elementary School  
USD 345  
Principal

**Amy Murphy**

Blue Valley Northwest High  
School USD 384  
Principal

**Shawn Roberts**

Scott City Elementary USD  
466  
Principal

**Betty Arnold**

Wichita Public Schools  
USD 259  
School Board Member

**Lori Blake**

Southeast of Saline School  
District USD 306  
School Board Member

**Margaret Nightengale**

Ulysses School District  
USD 214  
School Board Member

**Pam Robinson**

Blue Valley School District  
USD384  
School Board Member

**Mike Cook**

ESSDACK  
Service Center

**Kathy Kersenbrock-  
Ostmeyer**

Northwest Kansas  
Educational Services  
Center  
Service Center

**Michael Koonce**

Greenbush Southeast  
Kansas Education Service  
Center  
Service Center

**Tim Hallacy**

Silver Lake School District  
USD372  
Superintendent

**Darin Headrick**

Kiowa County School  
District USD 422  
Superintendent

**Steve Karlin**

Garden City Public Schools  
USD 457  
Superintendent

**Mischel Miller**

Vermillion School District  
USD 380  
Superintendent

**Julie Doyen**

Bergman Elementary  
School USD 383  
Teacher

**Erica Huggard**

Emporia High School USD  
253  
Teacher

**Misty McCurdy**

Reno Valley Middle School  
USD 309  
Teacher

**Sherri Schwantz**

Lansing USD 469  
Teacher

**Jamie Slupianek**

Marysville Elementary  
School USD 364  
Teacher

**Cameron Carlson**

Southwestern College  
Teacher Preparation

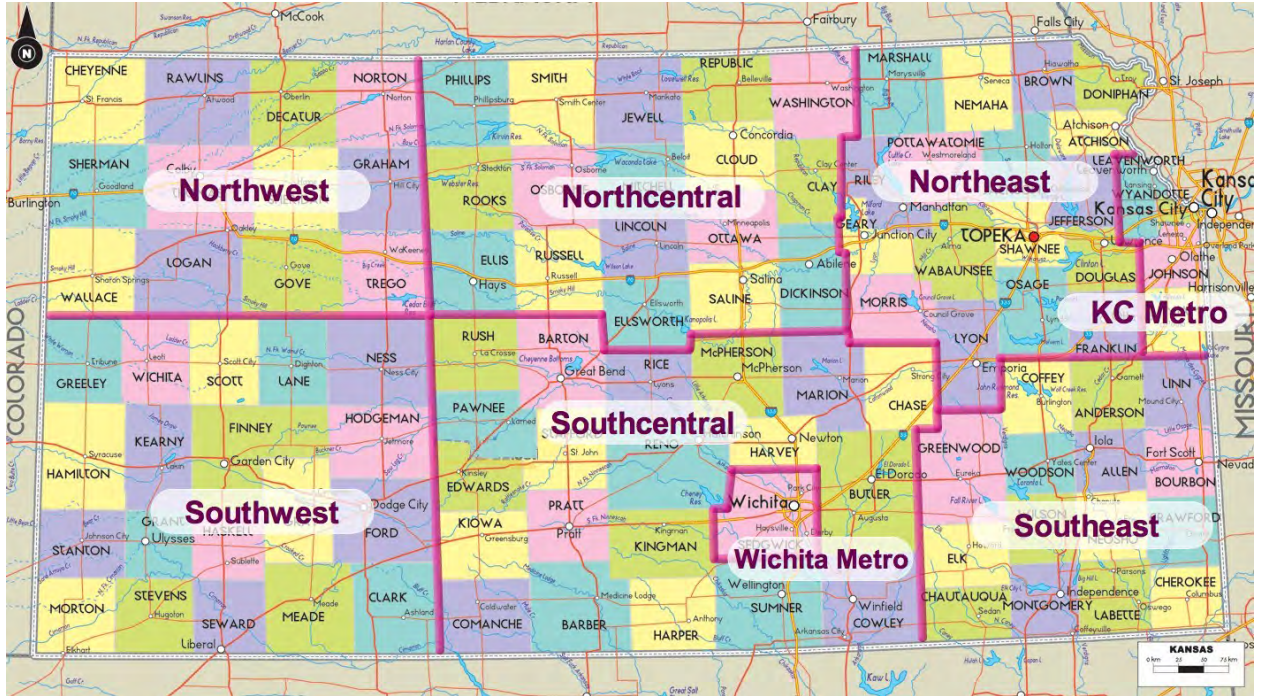
**Laurie Curtis**

Kansas State University  
Teacher Preparation

**Shirley Lefever**

Wichita State University  
Teacher Preparation

## Appendix B. Map of Kansas Regions





## Appendix C. Research on Addressing Teacher Vacancies and Supply

1. There is strong evidence that attractive compensation is key for recruitment and retention. There is moderate evidence that attractive working conditions are key for recruitment and retention.

(From *Eight Questions On Teacher Recruitment and Retention: What Does The Research Say?* Education Commission of the States, 2005, <http://files.eric.ed.gov/fulltext/ED489332.pdf>)

2. “The strategies of states and districts that have turned around shortages ... include increased salaries alongside increased standards, stronger pipelines to teacher preparation, and improved teaching conditions, including mentoring and professional development.” Retention has greater impact than recruitment. Incentives for increasing supply of new teachers and retaining experienced teachers included:

- scholarships;
- raising/equalizing salaries;
- more supportive school environments;
- improved working conditions;
- expert mentor teachers and paid mid-career recruits in hard-to-fill locations;
- professional development school model;
- and structured induction for beginning teachers and strong mentoring.

Evidence against lowering standards for high-need areas:

- Students need more skilled teachers to help close educational gaps.
- Untrained teachers have greater turnover, and thereby cost districts more.

Recommended actions: scholarships, salary incentives, improved working conditions with smaller class sizes, increased support for supplies & materials, and increased time for planning and professional development

(From *Recruiting and Retaining Teachers: What Matters Most and What Can Government Do?* L. Darling-Hammond, 2007, <http://www.forumforeducation.org/news/recruiting-and-retaining-teachers-what-matters-most-and-what-can-government-do>)

3. Environment beyond salary is also important for retention: “Special preparation for [location-specific] teaching, support from more experienced colleagues, and schools that offered opportunities for knowing students better (i.e., through more flexible schedules and advisory classes) all played an important role in recruiting and retaining.”

“Money is necessary, but clearly not sufficient.” “Location, lack of administrative support, poor working conditions, and a lack of preparation for the challenging work” were also determining factors in teachers accepting positions at high-needs schools.

“A six-state survey found overwhelmingly that financial incentives alone will not lure these accomplished teachers to low-performing schools. Other factors such as strong principal leadership, a collegial staff with

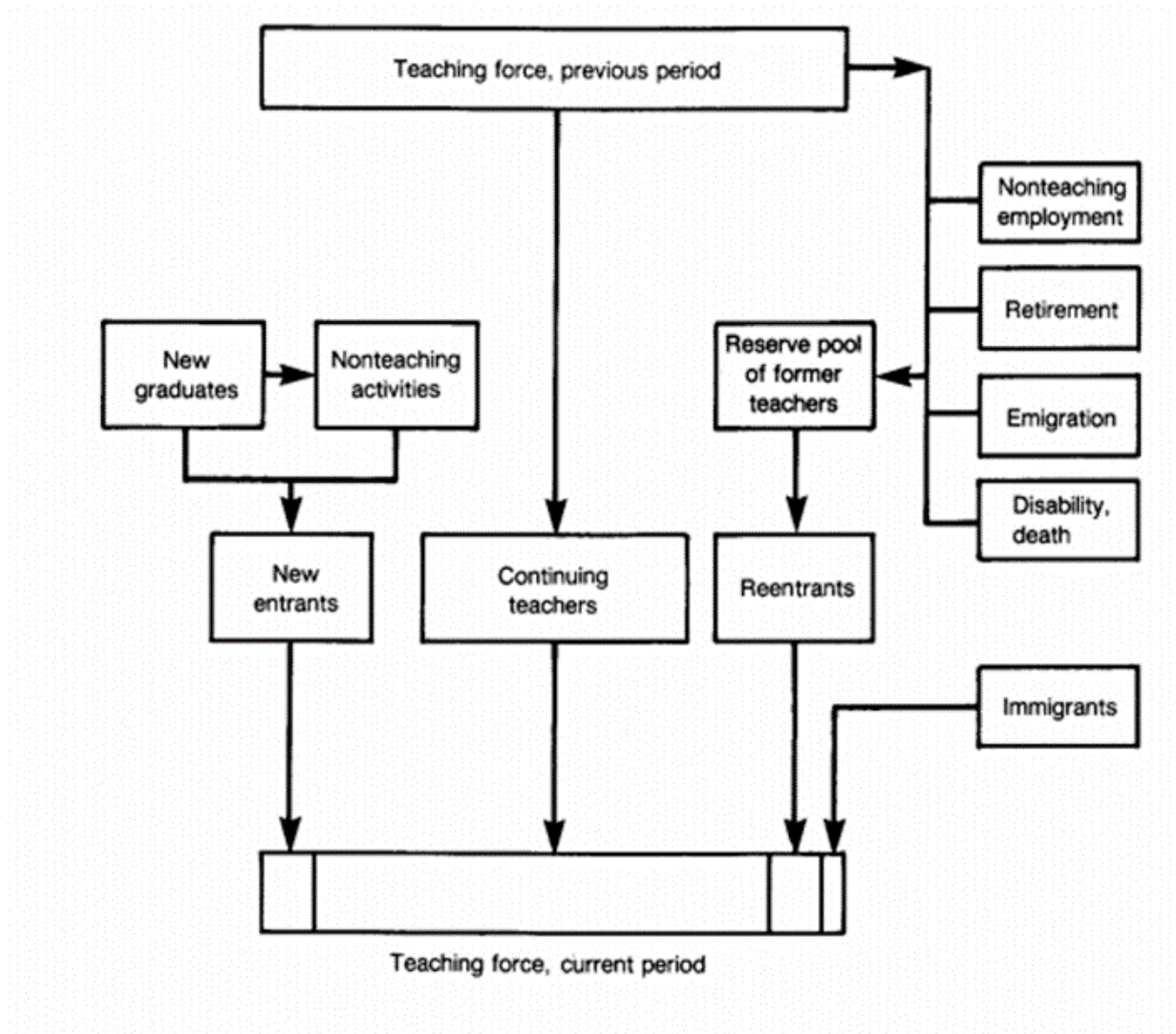
a shared teaching philosophy, adequate resources necessary to teach, and a supportive and active parent-community were far more powerful determinants.”

Recommendations from National Board Certified Teachers include:

- Transform the teaching and learning conditions in high-needs schools.
- Prepare and support teachers for the specific challenges posed by working in high-needs schools.
- Recruit and develop administrators who can draw on the expertise of specially-prepared teacher leaders.
- Create a menu of recruitment incentives, but focus on growing teaching expertise within high-needs schools.
- Build awareness among policymakers, practitioners, and the public about the importance of National Board Certification [advanced teaching qualifications] for high-needs schools.

(From *Recruiting and Retaining Quality Teachers for High-Needs Schools: Insights from NBCT Summits and Other Policy Initiatives*, B. Berry, M. Rasberry, & A. Williams, 2007, Center for Teaching Quality, [http://www.nea.org/assets/docs/HE/mf\\_nationalstrategyforumreport.pdf](http://www.nea.org/assets/docs/HE/mf_nationalstrategyforumreport.pdf))

## Appendix D. Sources of Teacher Supply



## Appendix E. Distribution of 2015-2016 Unfilled Positions by District and Region

| REGION          | DISTRICT        | COUNT                | REGION        | DISTRICT        | COUNT      |   |
|-----------------|-----------------|----------------------|---------------|-----------------|------------|---|
| NORTHWEST       | Goodland        | 2                    | SOUTHWEST     | Deerfield       | 2          |   |
|                 | Northern Valley | 1                    |               | Dodge City      | 32         |   |
|                 | St. Francis     | 1                    |               | Dighton         | 1          |   |
|                 | <b>TOTAL</b>    | <b>4</b>             |               | Elkhart         | 1          |   |
| NORTH CENTRAL   | Barnes          | 1                    |               | Garden City     | 22         |   |
|                 | Central Plains  | 1                    |               | Greely          | 1          |   |
|                 | Hays            | 1                    |               | Healy           | 4          |   |
|                 | Rock Hills      | 2                    |               | Hugoton         | 3          |   |
|                 | Russell County  | 1                    |               | Kismet-Plains   | 2          |   |
|                 | Salina          | 2                    |               | Lakin           | 5          |   |
|                 | Smith Center    | 1                    |               | Leoti           | 4          |   |
|                 | Southern Cloud  | 1                    |               | Liberal         | 20         |   |
|                 | Thunder Ridge   | 2                    |               | Ness City       | 1          |   |
|                 | Waconda         | 3                    |               | Rolla           | 2          |   |
|                 | <b>TOTAL</b>    | <b>15</b>            |               | Syracuse        | 1          |   |
|                 | NORTHEAST       | De Soto              |               | 1               | Ulysses    | 8 |
|                 |                 | Easton               | 1             | <b>Total</b>    | <b>109</b> |   |
| Emporia         |                 | 4                    | SOUTH CENTRAL | Clearwater      | 2          |   |
| Geary County    |                 | 1                    |               | Fort Larned     | 2          |   |
| Holton          |                 | 1                    |               | Hutchinson      | 1          |   |
| Jefferson Co N  |                 | 1                    |               | Kingman-Norwich | 5          |   |
| Kansas City     |                 | 28                   |               | Newton          | 1          |   |
| Lawrence        |                 | 7                    |               | Stafford        | 1          |   |
| Leavenworth     |                 | 1                    |               | Wichita         | 61         |   |
| Manhattan-Ogden |                 | 4                    |               | Winfield        | 1          |   |
| Mission Valley  |                 | 1                    |               | <b>TOTAL</b>    | <b>74</b>  |   |
| S. Lyon Co      |                 | 3                    |               | SOUTHEAST       | Fredonia   | 1 |
| Topeka          |                 | 4                    |               |                 | Galena     | 1 |
| Turner-KC       |                 | 1                    | Goddard       |                 | 13         |   |
| <b>TOTAL</b>    |                 | <b>58</b>            | Jayhawk       |                 | 1          |   |
|                 |                 | Uniontown            | 1             |                 |            |   |
|                 |                 | <b>TOTAL</b>         | <b>17</b>     |                 |            |   |
|                 |                 | <b>OVERALL TOTAL</b> | <b>277</b>    |                 |            |   |

## **Appendix F. Glossary of Geographic Codes from the National Center for Education Statistics ([https://nces.ed.gov/ccd/rural\\_locales.asp](https://nces.ed.gov/ccd/rural_locales.asp))**

### Urban-Centric Locale Codes

#### 11 - City, Large:

- Territory inside an urbanized area and inside a principal city with population of 250,000 or more.

#### 12 - City, Midsize:

- Territory inside an urbanized area and inside a principal city with population less than 250,000 and greater than or equal to 100,000.

#### 13 - City, Small:

- Territory inside an urbanized area and inside a principal city with population less than 100,000.

#### 21 - Suburb, Large:

- Territory outside a principal city and inside an urbanized area with population of 250,000 or more.

#### 22 - Suburb, Midsize:

- Territory outside a principal city and inside an urbanized area with population less than 250,000 and greater than or equal to 100,000.

#### 23 - Suburb, Small:

- Territory outside a principal city and inside an urbanized area with population less than 100,000.

#### 31 - Town, Fringe:

- Territory inside an urban cluster that is less than or equal to 10 miles from an urbanized area.

#### 32 - Town, Distant:

- Territory inside an urban cluster that is more than 10 miles and less than or equal to 35 miles from an urbanized area.

#### 33 - Town, Remote:

- Territory inside an urban cluster that is more than 35 miles from an urbanized area.

#### 41 - Rural, Fringe:

- Census-defined rural territory that is less than or equal to 5 miles from an urbanized area, as well as rural territory that is less than or equal to 2.5 miles from an urban cluster.

#### 42 - Rural, Distant:

- Census-defined rural territory that is more than 5 miles but less than or equal to 25 miles from an urbanized area, as well as rural territory that is more than 2.5 miles but less than or equal to 10 miles from an urban cluster.

#### 43 - Rural, Remote:

- Census-defined rural territory that is more than 25 miles from an urbanized area and is also more than 10 miles from an urban cluster.

## Appendix G. Teacher Preparation Providers in Kansas (IHE stands for Institution of Higher Education)

|                                   |                                     |
|-----------------------------------|-------------------------------------|
| Baker University                  | Traditional; Alternative, IHE-based |
| Barclay College                   | Traditional                         |
| Benedictine College               | Traditional                         |
| Bethany College                   | Traditional                         |
| Bethel College                    | Traditional                         |
| Central Christian College         | Traditional                         |
| Donnelly College                  | Traditional                         |
| Emporia State University          | Traditional; Alternative, IHE-based |
| Fort Hays State University        | Traditional; Alternative, IHE-based |
| Friends University                | Traditional                         |
| Haskell Indian Nations University | Traditional                         |
| Kansas State University           | Traditional                         |
| Kansas Wesleyan University        | Traditional                         |
| McPherson College                 | Traditional                         |
| MidAmerica Nazarene University    | Traditional                         |
| Newman University                 | Traditional                         |
| Ottawa University                 | Traditional                         |
| Pittsburg State University        | Traditional; Alternative, IHE-based |
| Southwestern College              | Traditional; Alternative, IHE-based |
| Sterling College                  | Traditional                         |
| Tabor College                     | Traditional                         |
| University of Kansas              | Traditional                         |
| University of Saint Mary          | Traditional                         |
| Washburn University               | Traditional                         |
| Wichita State University          | Traditional; Alternative, IHE-based |

## **Appendix H. Roster of Kansas Organizations Involved in Teaching and Teacher Preparation**

Association of Teacher Educators-Kansas (ATE-K)

Kansas Association for Supervision and Curriculum Development (KASCD)

Kansas Association of American Educators (KSNAAE)

Kansas Association of Colleges for Teacher Education (KACTE)

Kansas Association of Community College Trustees (KAACT)

Kansas Association of Educational Service Agencies (Kansas-AESA)

Kansas Association of Elementary School Principals (KAESP)

Kansas Association of Independent and Religious Schools (KAIRS)

Kansas Association of Middle School Administrators (KAMSA)

Kansas Association of Private Colleges of Teacher Education (KAPCOTE)

Kansas Association of School Boards (KASB)

Kansas Association of School Business Officials (KASBO)

Kansas Association of School Personnel Administrators (KASPA)

Kansas Association of Secondary School Principals (KASSP)

Kansas Association of Special Education Administrators (KASEA)

Kansas Board of Regents (KBOR)

Kansas Council of Career and Technical Education Administrators (KCCTEA)

Kansas Independent College Association (KICA)

Kansas Learning First Alliance (KFLA)

Kansas National Education Association (KNEA)

Kansas School Public Relations Association (KanSPRA)

Kansas School Superintendents Association (KSSA)

Kansas State Board of Education (KSBE)

Kansas State Department of Education (KSDE)

Other state education organizations

United School Administrators of Kansas (USA Kansas)

# Appendix I. Routes to the Classroom



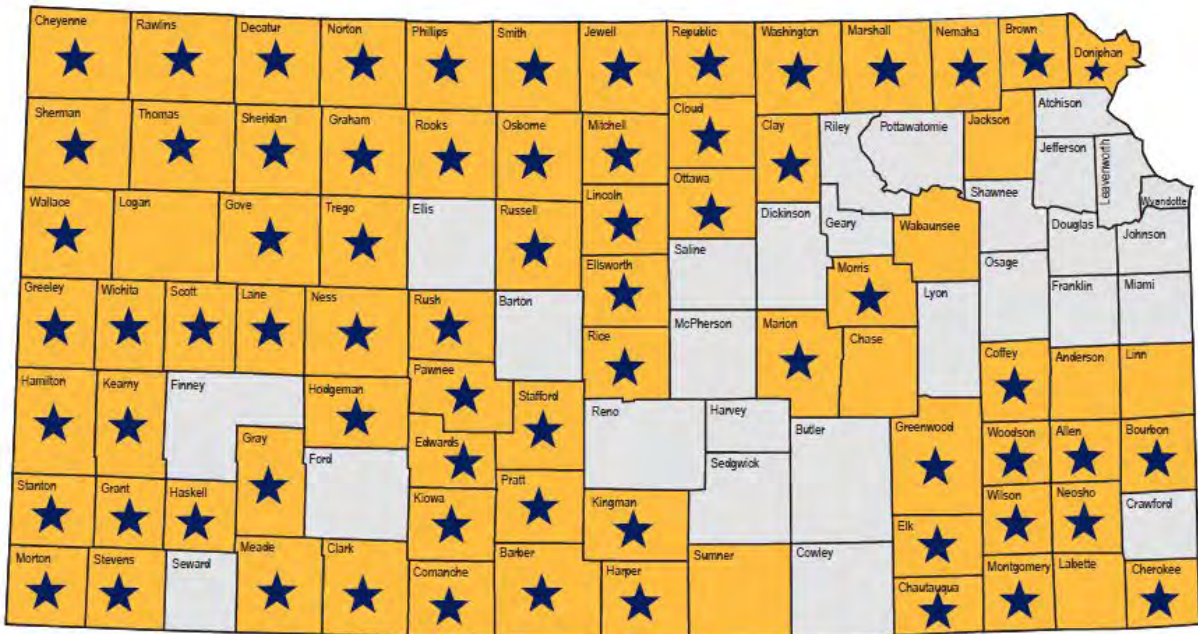


## Appendix J. Kansas Department of Commerce Rural Opportunity Zones

The shaded counties ( $N = 77$ ) have been offered to authorize the financial incentive of Kansas income tax waivers for up to five years to new full-time residents. The shaded counties with stars are eligible to provide student loan repayments up to \$15,000. Information and applications are available online at <http://www.kansascommerce.com/index.aspx?nid=320>.



### RURAL OPPORTUNITY ZONES



★ County is also participating in student loan program.





## Kansas State Department of Education

---

Landon State Office Building  
900 SW Jackson Street, Suite 307  
Topeka, Kansas 66612-1212

(785) 296-3201  
(785) 296-6659 - fax

[www.ksde.org](http://www.ksde.org)

**To:** Commissioner Randy Watson  
**From:** Jeannette Nobo  
**Subject:** Update on Math and English Language Arts standards and review of adoption process  
**Date:** 7/21/2016

**Board Goals:** Provide an effective educator in every classroom

The Division of Learning Services' Career, Standards and Assessment Services team, has as one of its responsibilities providing schools with curricular standards in a variety of content areas. Content standards are reviewed approximately every seven years. The review process is done with the support and assistance of educators from across the state representing all 10 State Board districts and all levels of education.

Members leading the review process for Mathematics and English Language Arts will be presenting to the State Board an update of activities to date as well as an updated timeline of the review process.





Kansans **CAN**

# Standards Review Update

August 9, 2016  
Jeannette Nobo

www.ksde.org

## Curricular Standards Reviewed

### ➤ Assessed Standards

- English Language Arts
- Mathematics
- History-Government
- Science
- English Language Proficient (ELP)

## Curricular Standards Reviewed

### ➤ Model Standards

- Counseling
- Driver Education
- Early Learning
- Fine Arts:
  - Dance
  - Music
  - Theater Arts
  - Visual Arts

### ➤ Model Standards

- Handwriting
- Health
- Library Media
- Physical Education
- Social, Emotional and Character Development
- World Language

## Curricular Standards Currently Under Review and Board Approval/Adoption Timeline

Dance – Spring 2017

Driver Education – Winter 2016-2017

English Language Arts – Spring/Summer 2017

Health – Winter/Spring 2017

Library Media - Winter 2016-2017

Mathematics – Spring/Summer 2017

Physical Education – Winter/Spring 2017

World Language – Summer/Fall 2017

## Standards Information Link


<http://www.ksde.org/Agency/Division-of-Learning-Services/Career-Standards-and-Assessment-Services/CSAS-Home/Standards-and-Fact-Sheets>

<http://www.ksde.org/Portals/0/CSAS/CSAS%20Home/Standards%20and%20Fact%20Sheets/Standards%20Review%20Timeline%20Revised%20062216.pdf?ver=2016-06-22-125304-957>

## CSAS Standards Contacts

Jeannette Nobo, Assistant Director

Kent Reed - Counseling  
 Joan Peterson - Driver Education  
*Tammy Mitchell (ECSET)* - Early Learning  
*Julie Ewing (ECSET)* - English Language Proficient (ELP)  
 Suzy Myers - English Language Arts  
 Joyce Huser - Fine Arts  
 Suzy Myers and *Tammy Mitchell (ECSET)* - Handwriting  
*Mark Thompson (CNW)* - Health  
 Don Gifford - History-Government  
 Jackie Lakin - Library Media  
 Melissa Fast and Sara Schafer - Mathematics  
*Mark Thompson (CNW)* - Physical Education  
 Lizette Burks - Science  
 Kent Reed - Social, Emotional and Character Development  
 Phyllis Farrar - World Language



**Kansans CAN**

# Standards Review Update English Language Arts and Mathematics

August 9, 2016  
Melissa Fast and Suzy Myers

www.ksde.org



# English Language Arts Standards Review

KANSAS STATE DEPARTMENT OF EDUCATION | www.ksde.org

**Kansans CAN**



## ELA Review Timeline

- ✓ **May 3-4** Writing workgroup meeting
- ✓ **June 1-2** Follow-up writing workgroup meeting
- ✓ **June 10** Initial draft posted for review workgroup  
(Review occurs June 13-August 12)
- ✓ **June 14** Draft presented at Emporia Impact Institutes  
(Feedback gathered through Google form)
- ✓ **July 7** Draft presented at Hays Impact Institutes  
(Feedback gathered through Google form)

## ELA Review Timeline

- Aug. 2016** Review workgroup completes first draft review
- Sept. 2016** Virtual meeting with review workgroup  
(Discuss and make changes to first draft.)
- Oct. 2016** Share second draft at KSDE Annual Conference  
(Feedback gathered through Google form)
- Jan/Feb 2017** Share second draft at four regional meetings  
(Feedback gathered through Google form)
- Mar. 2017** Develop third draft at full committee meeting

## ELA Review Timeline

April 2017

Third and final draft presented to State Board for review

May/June 2017

Third and final draft presented to State Board for approval



## Summary of Progress

Progressing in accordance with established timeline

On target for SBOE to receive final draft in April 2017

# ELA Standards Committee Workgroups

## Writing Workgroup

### Kindergarten-Grade 5

Nichole Kuhn  
Joy Brown  
Kambra Gallagher  
Representative Charles Macheers  
Carolyn Boyd

### Grade 6-Grade 8

Lindsay McCracken  
Kathy Gann  
Kimberlee Osenga \*CHAIR\*  
Julie Aikins  
Jeremy Goode

### Grade 9-Grade 12

Jeff Baxter  
Julie Buzard  
Melissa Reed  
Stephen Kucharik  
Elida Garza  
Cheryl Elligan-Brown

## Review Workgroup

### Kindergarten – Grade 2

Felicia Yoakam  
Tanya Mitchell

### Grade 3 – Grade 5

Debra Schapaugh  
Angela Pond

### Grade 6 – Grade 8

Senator Stephen Fitzgerald  
Linda Thurston  
Angela Goode  
Brent Wolf \*CHAIR\*

### Grade 9 – Grade 12

Sherry Irsik  
Brian Skinner  
Danny Wade  
Sara Sedgwick  
Anna Moon Bradley

# ELA Standards Committee Ad Hoc Members

Idalia Shuman  
Rachel Henderson  
Tracy Stokes  
Vera Stroup-Rentier  
Deb Matthews  
Lauren Adams  
Holly Dubiel

## ELA Standards Committee by Board Districts

|              |   |
|--------------|---|
| District 1:  | Felicia Yoakam, Lindsay McCracken, Carolyn Boyd           |
| District 2:  | Jeff Baxter, Sara Sedgwick                                |
| District 3:  | Angela Goode, Joy Brown                                   |
| District 4:  | Nichole Kuhn, Anna Moon Bradley, Danny Wade               |
| District 5:  | Sherry Irsik, Elida Garza, Julie Buzard, Stephen Kucharik |
| District 6:  | Kim Osenga*, Cheryl Elligan-Brown, Debra Schapaugh        |
| District 7:  | Brian Skinner, Angela Pond, Melissa Reed                  |
| District 8:  | Kambra Gallagher, Tanya Mitchell                          |
| District 9:  | Linda Thurston, Jeremy Goode, Julie Aikins                |
| District 10: | Brent Wolf*, Kathy Gann                                   |

\* Denotes Chairperson

## List of Documents Reviewed

- Current ELA Standards
- ACT College and Career Readiness Standards for ELA
- SAT Standards Alignment document
- Rose Capacities
- Oklahoma ELA Standards
- Nebraska ELA Standards
- Virginia ELA Standards
- NAEP 2015 Reading Framework
- Kansas Science Standards
- Kansas HGSS Standards
- Kansas English Language Proficiency Standards
- Kansas SECD Standards
- Kansas Early Learning Standards
- Kansas Standards for Visual Arts
- Kansas Standards for Theatre
- Kansas Guide to Learning: Literacy

## Proposed Changes-Draft 1

- Include learning progressions for all standards.
- Include “Student Success Statements” for all standards.
- Maintain Appendices from 2010 standards.
- Maintain wording of all 2010 standards.
- Compose “front matter” that includes references and connections to additional resources and other content areas.

## ELA Standards Review Website

For more information about the ELA Standards Review, visit the following site:

<http://community.ksde.org/Default.aspx?tabid=6152>



# Mathematics Standards Review

## Math Review Timeline

- ✓ **March 23** Virtual full committee meeting
- ✓ **May 11-12** Writing workgroup meeting
- **July 25-27** Follow-up writing committee workgroup mtg.
- **July 2016** Completion of first draft

## Math Review Timeline

- **Aug.-Sept. 2016** Develop second draft by review committee (Discuss and make changes to first draft.)
- **October 2016** Share second draft with field at annual conference (Feedback gathered through Google form)
- **Jan-Feb 2017** Share second draft at four regional meetings (Feedback gathered through Google form)
- **March 2017** Develop third draft at full committee meeting

## Math Review Timeline

- **April 2017** Third and final draft presented to State Board for review
- **May-June 2017** Third and final draft presented to State Board for approval

## Summary of Progress

Progressing in accordance with established timeline

On target for SBOE to receive final draft in April 2017

## Math Committee Member Assignment

### Writing

#### K – 5

Maria Ortiz-Smith  
Representative Marc Rhoades  
Lynette Sharlow  
Brian Shelton  
**Debbie Thompson – Chair**

#### 6 – 8

Jerry Braun  
Danira Fernandez-Flores  
Sherri Martinie  
Elizabeth Peyser

#### 9 – 12

Cherry Delacruz  
Senator Forest Knox  
Kim Lackey  
Sheila Meggers  
John Scoggins  
Sarah Stevens  
Rich Wilson

### Review

#### K – 5

Bonnie Austin  
Jamie Junker  
Suzie Legg  
Connie Schrock  
Lucas Shivers

#### 6 – 8

Elisa Dorian  
Maureen Engen  
Sherry Kinderknecht  
Jenny Wilcox

#### 9 – 12

Jessica Barger  
**Christopher Carter – Chair**  
Larry Diepenbrock  
Kelli Ireton  
Rhonda Willis



## Ad Hoc Members

|                         |  |
|-------------------------|--|
| Barbara Dayal           | KSDE Early Childhood Special Education |
| Mickey DeHook           | Parent Representative                  |
| Shana Gorton            | Parent Representative                  |
| Paula Hough             | MTSS Representative                    |
| Shelby Jensen           | Technical College Representative       |
| Martin Kollman          | CTE Representative                     |
| Lisa Lajoie-Smith       | KATM Representative                    |
| Deb Matthews            | KSDE Special Education Assessment      |
| Alicia Stoltenberg      | CETE Math Test Development Coordinator |
| William (Bill) Thompson | Business & Industry Representative     |
| Ryan Willis             | Community College Representative       |
| Patrick Woods           | Business & Industry Representative     |
| Paul Wallen             | Business & Industry Representative     |

## List of Documents Reviewed

- ACT College & Career Ready Standards for Math
- Kansas Standards for English Language Proficiency
- Kansas Math Standards
- Kansas Science Standards
- Kansas Social Emotional Character Development Standards
- Mathematical Learning Progressions
- Learning Trajectories
- NAEP Mathematics Framework
- Nebraska Math Standards
- Oklahoma Math Standards
- Real Math Standards
- Rose Standards
- SAT Alignment to Common Core Standards
- Virginia Math Standards

## Proposed Changes by Committee

- Embed Current Kansas 15% Within the Appropriate Grades
- Maintain Current Language: Domain, Cluster, Standard
- Maintain Current Standards for Mathematical Practice
- Shifting of Some Standards to Different Grades
- Include learning progressions for all standards

## Proposed Changes by Committee

- Identifying Grade Levels Within High School Standards
- Clarification of Language
- Reworking of Examples Provided
- Embedding of Resources Within Document
- Compose “front matter” that includes references and connections to additional resources and other content areas.

# Mathematics Review Website

Visit the Following Website for Review Documents and Meeting Information

<http://community.ksde.org/Default.aspx?tabid=6151>



# Questions or Comments?





## REQUEST AND RECOMMENDATION FOR BOARD ACTION

Agenda Number: 13

**Staff Initiating:**

Kelli Broers

**Director:**

Scott Gordon

**Commissioner:**

Randy Watson

**Meeting Date: 8/9/2016**

---

### **Item Title:**

Act on recommendations of the Professional Practices Commission

### **Board Goals:**

Governmental Responsibility

### **Recommended Motion:**

It is moved that the Kansas State Board of Education adopt the findings of the Professional Practices Commission and its recommendation that Gage McGarry's voluntary surrender of his teaching license not be accepted and that his license and all associated endorsements be revoked.

### **Explanation of Situation Requiring Action:**

Gage McGarry, a licensed teacher since 2012, was charged in 2015 with criminal possession of marijuana and marijuana paraphernalia. He is currently on diversion for those charges as well as misdemeanor DUI. The Professional Practices Commission (PPC) listened to Mr. McGarry's testimony and read various letters of support submitted on Mr. McGarry's behalf. Mr. McGarry testified that although he was a long-time user of marijuana (from 1999 to his arrest in 2015), he had not smoked marijuana since his arrest. Mr. McGarry's testimony led some members of the PPC to believe he may have left marijuana and paraphernalia in his car while it was parked on school grounds. The PPC ordered Mr. McGarry to submit to two hair follicle tests – the first within 7 days of the PPC hearing and the second within 30 days prior to the next PPC hearing. Mr. McGarry decided he'd rather voluntarily surrender his license than submit to hair follicle drug testing. Mr. McGarry's voluntary surrender asks that there be no indication his license is revoked. The PPC discussed Mr. McGarry's surrender. Based on the recentness and severity of his 2015 offense, his own testimony that led them to believe he may have had drugs on school grounds, and his refusal to cooperate with their request for drug testing, the PPC does not believe Mr. McGarry to be trustworthy. The PPC recommends that Gage McGarry's voluntary surrender of his teaching license not be accepted and that his license and all associated endorsements be revoked.



**BEFORE THE KANSAS STATE BOARD OF EDUCATION  
PROFESSIONAL PRACTICES COMMISSION**

In the Matter of  
the License  
of Gage McGarry

Case No. 15-PPC-52  
OAH No. 16ED0012

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**BEFORE THE KANSAS STATE BOARD OF EDUCATION  
PROFESSIONAL PRACTICES COMMISSION**

In the Matter of  
the License  
of Gage McGarry

15-PPC-52

**COMPLAINT**

COMES NOW on this 22<sup>nd</sup> day of October, Dr. Scott Myers, Director of Teacher Licensure and Accreditation, Kansas State Department of Education (KSDE), 900 SW Jackson St., Topeka, Kansas 66612, and alleges the following:

1. Gage McGarry, 7113 Aminda Dr., Shawnee, Kansas 66086, currently holds a professional teaching license and an initial school leadership license. He has been continuously licensed in Kansas since 2012. **Exhibit 1.**
2. On June 27, 2015, Mr. McGarry was ticketed for DUI, Refusal of Preliminary Breath Test, Possession of Drug Paraphernalia, and Possession of Controlled Substances in the City of Merriam, Kansas. **Exhibit 2.**
3. On September 17, 2015, Mr. McGarry entered into a diversion agreement in the Municipal Court of the City of Merriam, Kansas wherein he stipulated to the charges and the facts as contained in the complaint, police reports, written, oral, or visual recorded witness statements, and videos. He further stipulated he was the individual arrested and charged. **Exhibit 3.**
4. Mr. McGarry will be on diversion for 12 months.
5. The State Board may suspend a license for misconduct or other just cause including entry into a diversion agreement after having been charged with drug-related conduct. K.A.R. 91-22-1a. Mr. McGarry's actions, which resulted in his arrest and entry into a criminal diversion agreement for drug possession, possession of paraphernalia, DUI, and refusal of preliminary breath test, are grounds for the suspension of his license and all related endorsements.
6. Pursuant to K.S.A. 72-8501, the Legislature has declared teaching and school administration to be professions in Kansas with all the similar rights, responsibilities and privileges accorded other legally recognized professions. An educator is in a position of public trust.
7. Mr. McGarry's conduct is inconsistent with the commonly-held perceptions and expectations of a member of the teaching profession. Such conduct violates the public trust and confidence placed in members of the profession. Mr. McGarry's conduct demonstrates a lack of fitness to perform the duties and responsibilities of a member of the teaching and school administration professions and is sufficient and just cause for suspending his license and all associated endorsements.



8. It is requested that Mr. McGarry's license and all associated endorsements be suspended.

### NOTICE

Pursuant to K.A.R. 91-22-1a(h) and K.S.A. 77-512, notice is hereby given of this complaint and request for suspension of Mr. McGarry's license.


### RIGHT TO A HEARING

Licensee has a right to request a hearing on the above issues and request for suspension in accordance with the provisions of the Kansas Administrative Procedures Act. To obtain a hearing, a written request for a hearing must be filed with the Secretary of the Professional Practices Commission within fifteen [15] days of the date of service of this notice at the following address:

Theresa Coté  
 Secretary, Professional Practices Commission  
 Kansas State Department of Education  
 900 SW Jackson St.  
 Topeka, Kansas 66612-1182

Licensee has a right to file a written answer to this complaint. Licensee has twenty [20] days from the date of service of this notice. If no answer is filed within 20 days, Licensee will be deemed to have admitted the allegations contained in the complaint and acquiesced in the proposed action. An Initial Order will be entered recommending the denial for the reasons stated in the complaint and that notice of the denial will be provided to all education agencies in the State of Kansas and to the agency responsible for issuing educator licenses/certificates in all other states.

Any answer shall type written or legibly printed. The answer must be signed and contain a statement under oath or affirmation that the statements made in the answer are true. The answer must be notarized and filed with the Secretary of the Professional Practices Commission by certified mail, return receipt requested, or by personal delivery to the address listed above.

  
 Dr. Scott Myers  
 Director, Teacher Education and Licensure

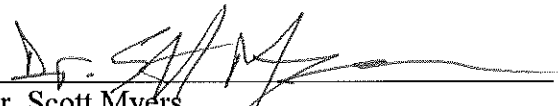
**VERIFICATION**

STATE OF KANSAS

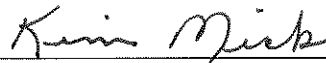
SS:

COUNTY OF SHAWNEE

Scott Myers, of lawful age, being first duly sworn, on oath deposes and states: He is the Complainant in the above-captioned action; he has read the above and foregoing Complaint knows and understands the contents thereof, and the statements and allegations contained therein are true and correct, according to his knowledge, information, and belief.

  
\_\_\_\_\_  
Dr. Scott Myers  
Director, Teacher Education and Licensure

SUBSCRIBED AND SWORN TO before me, the undersigned authority, on this 22<sup>nd</sup> day of October, 2015.

  
\_\_\_\_\_  
Notary Public


My appointment expires: \_\_\_\_\_



**CERTIFICATE OF SERVICE**

I hereby certify that on this 22<sup>nd</sup> day of October, 2015, a true and correct copy of the above and foregoing was filed with the Secretary for the Professional Practices Commission and one (1) copy was mailed by certified mail, return receipt requested, to:

Gage McGarry  
7113 Aminda Dr.  
Shawnee, Kansas 66086

  
\_\_\_\_\_  
Cheryl Martin  
Teacher Education and Licensure

# ELCS

User: kbroers District: KSDE Building: N/A Access Level: State Audit

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## Educator at a Glance

EAG Screen

SSN: [REDACTED]

Teacher ID: 7627892511

Full Name: Gage Robert McGarry

DOB: [REDACTED] 980

Address: 7113 Arinda Dr.  
Shawnee, KS 66227

[Record History](#) [Assurances](#) [Transcripts](#)

|   |
|---|
| Status: <b>LEGAL</b> ▼                  |
| <input checked="" type="checkbox"/> RAP |
| KBI/FBI Status: Legal                   |

Gender: Male

Bad Check

[Print Address Label](#)

M & E: 0

National Board

[Print Folder Label](#)

### Education

| University Number | University Name              | Year Earned | Last Term | Degree |
|-------------------|------------------------------|-------------|-----------|--------|
| 25041             | UNIVERSITY OF MISSOURI       | 11          | SU 11     | MA     |
| 13033             | LOYOLA UNIVERSITY OF CHICAGO | 02          |           | BA     |

1 ▼ Page Size: 10 ▼

### Licenses

| License Type | Basis for Issue | Original Effective Date | Current Effective Date | Expiration Date | Future Effective Date | Future Expiration Date |
|--------------|-----------------|-------------------------|------------------------|-----------------|-----------------------|------------------------|
| L INISL      | VERIFY          | 5/21/2013               | 5/21/2015              | 5/21/2017       |                       |                        |
| L PROF       | PASSESS         | 5/21/2013               | 5/21/2013              | 5/8/2018        |                       |                        |
| INISL        | NEWOS           | 5/21/2013               | 5/21/2013              | 5/21/2015       |                       |                        |
| INITCH       | NEWOS           | 8/7/2012                | 8/7/2012               | 8/7/2014        |                       |                        |

1 ▼ Page Size: 10 ▼

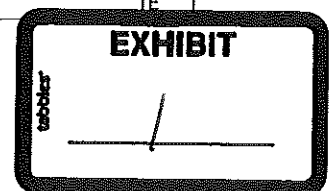
### Endorsements

| Original  | License Type              | Regulation Test Code | University Number | University Name        | Subject Number | Subject Name        | Level  | HQ |
|-----------|---------------------------|----------------------|-------------------|------------------------|----------------|---------------------|--------|----|
| 5/21/2013 | INITIAL SCHOOL LEADERSHIP |                      | 25041             | UNIVERSITY OF MISSOURI | 73010          | BUILDING LEADERSHIP | PRK-12 |    |

1 ▼ Page Size: 10 ▼

### Application History

| Note | Receipt   | Edited By | Edit Date | Status     | E |
|------|-----------|-----------|-----------|------------|---|
| N    | 3/30/2015 | cmartin   | 7/10/2015 | LEGAL      | E |
| N    | 3/30/2015 | bhamer    | 4/3/2015  | NOT ACTIVE | E |
| N    | 3/30/2015 | bhamer    | 4/3/2015  | PRINTED    | E |
| N    | 3/30/2015 | dstephan  | 4/2/2015  | ISSUED     | F |



|   |           |           |           |            |   |
|---|-----------|-----------|-----------|------------|---|
| N | 3/30/2015 | Scoffman  | 3/31/2015 | DS         | E |
| N | 5/21/2013 | ccomstock | 7/12/2013 | NOT ACTIVE |   |
| N | 5/21/2013 | ccomstock | 7/12/2013 | PRINTED    |   |
| N | 5/21/2013 | njnelson  | 7/11/2013 | ISSUED     |   |
| N | 5/21/2013 | njnelson  | 7/11/2013 | NN         |   |
| N | 5/21/2013 | sscarter  | 7/3/2013  | DS         |   |

1 > > | Page Size: 10

**Notes**

|        | Note                           | Status Date | Edited By | Edit Date |
|--------|--------------------------------|-------------|-----------|-----------|
| Select | <p>applicant called RE: </p>   | 7/3/2013    | kbeckley  | 7/11/2013 |
| Select | <p>Applicant is sending </p>   | 3/29/2013   | kbeckley  | 5/17/2013 |
| Select | <p>Application pulled fro</p>  | 3/29/2013   | kbeckley  | 5/17/2013 |
| Select | <p>retrieving file from Re</p> | 3/29/2013   | cmartin   | 5/17/2013 |
| Select | <p>Educator called RE: </p>    | 3/29/2013   | kbeckley  | 5/17/2013 |
| Select | <p>needs form 2A verify</p>    | 8/7/2012    | dstephan  | 8/7/2012  |
| Select | <p>Gage:</p><p>&nbsp;</p>      | 6/22/2012   | shelbert  | 7/30/2012 |
| Select | <p>Susan,&nbsp;</p><p></p>     | 6/22/2012   | shelbert  | 6/26/2012 |
| Select | <p>Gage:</p><p>&nbsp;</p>      | 6/22/2012   | shelbert  | 6/26/2012 |
| Select | <p>very rude - explained</p>   | 6/22/2012   | dstephan  | 6/25/2012 |

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**Background History**

Receipt: 05/08/2012 Submitted: 05/09/2012 Received from KBI: 05/17/2012 Date Clear: 05/17/2012

| Note | Status Date | Edited By | Edit Date | Status  |
|------|-------------|-----------|-----------|---------|
| Y    | 7/10/2015   | cmartin   | 7/10/2015 | Legal   |
| N    | 5/17/2012   | bhamer    | 5/17/2012 | Clear   |
| N    | 5/8/2012    | cmartin   | 5/8/2012  | Pending |
| N    | 5/8/2012    | jecook    | 5/8/2012  | FP REQ  |

1 Page Size: 10

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 900 SW Jackson Avenue  
 Topeka, KS 66612

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KANSAS UNIFORM COMPLAINT AND NOTICE TO APPEAR

9/27/2015

STATE OF KANSAS  
 COUNTY OF JOHNSON  
 CITY OF MERRIAM

S.S.

E014363

IN THE MUNICIPAL COURT OF MERRIAM, KANSAS  
 THE UNDERSIGNED, BEING DULY SWORN, UPON HIS OATH DEPOSES AND SAYS:

on the 27 day of June 2015 at 10:18 PM

MCGARRY, GAGE, ROBERT

NAME (LAST, FIRST, MIDDLE)

STREET ADDRESS 7113 AMINDA DRIVE

CITY SHAWNEE STATE KS ZIP 66227

DOB 1980 RACE W SEX M HT 6'0" WT 175

EYES BLU HAIR BRN PHONE \_\_\_\_\_

D.L. No. \_\_\_\_\_ STATE: KS

MONTH/YEAR 9/2020 ENDORSEMENTS: \_\_\_\_\_ CLASS: C

COMMERCIAL VEH.  YES CDL  YES

Did unlawfully at 8800 W SHAWNEE MISSION PKWY

CITY of MERRIAM, KANSAS

TRAFFIC Operate a vehicle, to wit:

|              |                |                |              |                       |
|--------------|----------------|----------------|--------------|-----------------------|
| Year<br>2007 | Make<br>NISSAN | Model<br>VERSA | Color<br>RED | Body Type<br>4D SEDAN |
|--------------|----------------|----------------|--------------|-----------------------|

|                       |                     |                       |          |
|-----------------------|---------------------|-----------------------|----------|
| Veh. Lic. #<br>649GTH | Veh. Lic. St.<br>KS | Veh. Lic. Yr.<br>2016 | Report # |
|-----------------------|---------------------|-----------------------|----------|

|       |          |
|-------|----------|
| VIN # | Report # |
|-------|----------|

Accident  Haz. Mat.  Con. Zone  School Zone

Alleged Speed \_\_\_\_\_ Legal Speed \_\_\_\_\_  Pace  Radar

Lidar  Other

1 Violation: (A)(1)1RST DUI OTHER COMP. EVIDENCE >= .08  
 E014363.1 Ordinance/Article/Section 1725 6-30 COURT

2 Violation: REFUSAL OF PRELIMINARY BREATH TEST  
 E014363.2 Ordinance/Article/Section 6-30.2 COURT

3 Violation: Drug Paraphernalia: Possession  
 E014363.3 Ordinance/Article/Section MMC 44-241 COURT

4 Violation: POSS OF CONTROLLED SUBSTANCES  
 E014363.4 Ordinance/Article/Section MMC 44-241 COURT

5 Violation: \_\_\_\_\_  
 Ordinance/Article/Section \_\_\_\_\_

6 Violation: \_\_\_\_\_  
 Ordinance/Article/Section \_\_\_\_\_

7 Violation: \_\_\_\_\_  
 Ordinance/Article/Section \_\_\_\_\_

8 Violation: \_\_\_\_\_  
 Ordinance/Article/Section \_\_\_\_\_

Cited for No Insurance, see back of ticket for instructions

MUST APPEAR in court to marked, see back of ticket for instructions

Admin Fee \$ 0.00

Total Due COURT

Officer's Signature: \_\_\_\_\_ No. 6679  
 CHRISTOPHER MEYERS

Appear before The Municipal Court of Merriam, Kansas at 9001 W. 62ND ST.  
 on the 28 day of July 2015 at 11:00 AM.

Signature: \_\_\_\_\_ Personal Service Made by Officer

Victim #1: Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

DOB: \_\_\_\_\_

Amount: \$ \_\_\_\_\_

Victim #2: Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

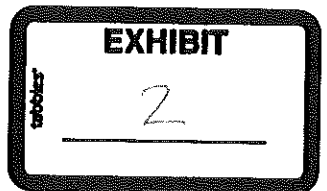
DOB: \_\_\_\_\_

Victim #3: Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone #: \_\_\_\_\_

DOB: \_\_\_\_\_



IN THE MUNICIPAL COURT OF THE CITY OF  
MERRIAM, KANSAS

CITY OF MERRIAM, KANSAS,  
Plaintiff,

v.

Case No. E 014363

Gage McGarry  
Defendant

DUI/DRUG DIVERSION AGREEMENT

Now on this 17 day of Sept, 2015, the above-captioned matter comes for hearing on the parties' joint agreement of diversion of prosecution and continuance for approval by the Court. The plaintiff appears through Elizabeth A. Boldt, City Prosecutor. The defendant appears in person and through his/her attorney, Steve Schaber. The parties inform the Court that on the 27 day of June, 2015, the defendant was charged with the offense of:

PBT, Paraphenols  DUI  Drug Violation  Other

Defendant states that the following information is true and correct as of this date:

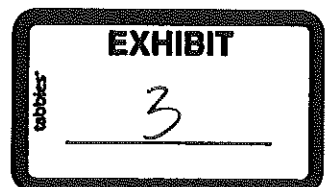
Gage Robert McGarry 816- [REDACTED] [REDACTED]  
Full Name Telephone D.L. Number  
7113 Anninda Dr Shamee KS 66227  
Street address City State Zip Code  
M W [REDACTED] 180  
Sex Race D/O/B Soc Sec # BAC

I. DEFENDANT'S STIPULATIONS AND WAIVER OF RIGHTS

The defendant understands and acknowledges that he/she has certain rights under the law or constitution of the United States and the State of Kansas, including:

GM THE RIGHT TO AN ATTORNEY: The right to retain counsel or if without sufficient funds to employ a lawyer, have the Court appoint one at no cost to the defendant. Knowing all of the foregoing, the defendant freely and voluntarily waives all rights to have counsel of his/her own choosing and does not desire that the Court appoint counsel for him/her.

GM THE RIGHT TO A SPEEDY TRIAL: The defendant informs the Court that he/she hereby knowingly and voluntarily waives all rights to a speedy arraignment and speedy trial pursuant to the United States and Kansas Constitutions and Kansas Statutes.



GM **THE RIGHT TO A TRIAL BY JURY:** The right to a trial by a jury of six persons in the event he/she is found guilty of the above offense(s) and appeals his/her conviction to the Johnson County District Court. The defendant informs the Court that he/she knowingly and voluntarily waives all right to a trial by jury.

GM **THE RIGHT TO CONFRONT EVIDENCE, PRESENT WITNESSES AND STIPULATION TO RECORD:** The right to confront the witnesses who would testify against him/her at trial and the right to cross-examine these witnesses and present evidence in a full and complete evidentiary hearing. Knowing all of the foregoing, the defendant freely and voluntarily waives all rights to confront, cross-examine, and present witnesses. Defendant stipulates to the charges and facts as they are contained in the complaint, police reports, written, oral or visual recorded witness statements, videos and test results prepared in connection with the above-referenced case and stipulates to the evidentiary foundation thereof. Defendant stipulates that his/her arrest occurred within the city limits of Merriam, Kansas and that he/she is the individual arrested and charged herein.

GM **THE RIGHT TO TRIAL UPON VIOLATION:** The right to a hearing in Merriam Municipal Court on alleged violations of any of the terms or conditions of this agreement. Upon a finding that the defendant has violated this agreement he/she understands and agrees that this case will proceed to trial based solely on the stipulations contained herein. Further, any proceedings on appeal to the Johnson County District Court shall be conducted solely on such stipulations.

GM **SERVICE OF PROCESS:** Defendant stipulates that service of process shall be deemed sufficient if notices and pleadings are mailed via United States mail to the address set out above unless the defendant notifies the Court in writing of a new address.

**I have read, understand, and voluntarily agree to the above stipulations and waiver of rights.**

  
Defendant's Signature

## II. CONDITIONS OF PRETRIAL DIVERSION

**DEFENDANT UNDERSTANDS, ACKNOWLEDGES, AND AGREES TO ABIDE BY THE FOLLOWING TERMS AND CONDITIONS OF THE DIVERSION AGREEMENT:**

### A. EXPLANATION AND CONSEQUENCES OF DIVERSION

- GM 1. Defendant acknowledges that he/she is voluntarily participating in this program and that his/her participation is not part of a Judgment of the Merriam Municipal Court.
- GM 2. Either party may seek modification or termination of this agreement upon motion to the Court.
- GM 3. Defendant acknowledges and understands that prosecution of this matter shall be deferred during the diversionary period. The defendant acknowledges that if the records of the prosecutor reflect that he/she has successfully complied with all of the terms and conditions of this agreement; the charges diverted will be dismissed by the City. The defendant shall keep copies of all records submitted as proof of compliance.
- GM 4. The term of this Diversion Agreement shall extend for a period of twelve (12) months from the date of this Agreement. The Defendant also understands the City has ninety (90) days after the diversion term to act on any violations of this agreement that occurred prior to the end of the diversion.
- GM 5. Defendant understands that should he/she violate any of the conditions of this Agreement, the case will be reinstated on the trial docket for further prosecution.
- GM 6. Defendant understands that if the diversion program is terminated, and the Court enters a finding of guilty, the Court will comply with the mandatory sentencing requirements for jail terms and fines.

- GM 7. Defendant understands that this Diversion Agreement is not a conviction; however, it may be used to enhance the defendant's sentence if he/she is subsequently convicted of the same or a similar offense.

### B, COMPLIANCE REQUIREMENTS

- GM 8. Defendant acknowledges that this Agreement and his education/treatment program (if required) shall be monitored by: Alcohol Safety Action Project

- GM 9. Defendant shall report to his/her Diversion Monitor at such times and in such manner as directed by their Diversion Monitor. within 5 days

- GM 10. Defendant shall keep the Court informed of his/her address changes.

- GM 11. Defendant shall not violate the laws of the United States or of any State or City during the term of this Agreement.

- GM 12. Defendant shall notify the City Prosecutor, in writing, within 72 hours of any arrests or violations of the law during the diversion term, excluding only minor traffic offenses.

- GM 13. Defendant shall not use, consume, possess, or ingest any intoxicating liquor, alcohol, cereal malt beverage, drug, or any other mood altering substance during the term of this Agreement without a valid doctor's prescription, a copy of which must be provided to the City Prosecutor prior to any such use.

- GM 14. Defendant agrees to submit to a test of breath, blood, saliva, or urine at any time during the diversion term if requested to do so by his/her Diversion Monitor, Prosecutor, Judge, or any law enforcement officer. The defendant stipulates that the results of said test(s) may be admitted without evidentiary foundation in a termination hearing. The defendant agrees to pay the costs associated with such testing prior to the actual test. The defendant shall also make the results of any such test available to the City and shall personally deliver a copy to his/her Diversion Monitor within forty-eight (48) hours of the receipt of such test results.

- GM 15. Defendant's Education/Treatment Plan (to be completed at the Defendant's expense):

GM a. Defendant shall complete the Level 1 alcohol/drug information school and provide written proof to the Court within sixty (60) days of the date of this Agreement.

\_\_\_ b. Defendant shall complete the Level 2 continuing education classes as scheduled by his/her Diversion Monitor. Said classes shall be completed, and the defendant shall provide written verification to the Court within sixty (60) days of the date of this Agreement.

\_\_\_ c. Defendant shall enter and complete an out-patient/in-patient alcohol treatment program at \_\_\_\_\_ . The defendant shall successfully complete the treatment program and provide written proof to the Court within one hundred eight (180) days of today's date. The defendant shall also complete aftercare as recommended by the treatment provider and provide written verification of the same within ten (10) days after completion of such program.

GM d. Defendant shall attend the DUI victim panel and provide written verification to the Court within one hundred eighty (180) days of today's date.

\_\_\_ e. The defendant shall attend \_\_\_\_\_ Alcoholics Anonymous/ Narcotics Anonymous group meetings and provide written proof of compliance to the Court after said meetings are completed.

\_\_\_ f. \_\_\_\_\_



16 Defendant understands that he/she shall pay a fee of \$ 1420 to enter into the diversion program. Pursuant to statute, there will be an additional \$400.00 fee assessed if KBI or Johnson County Crime Lab Services have been rendered. If the full balance not paid at the start of the diversion, the remaining balance is due with in \_\_\_\_\_ days, on \_\_\_\_\_ 20\_\_\_\_ at \_\_\_\_\_ P.M.

17 Defendant shall clear all outstanding warrants within thirty (30) days. The defendant shall remain warrant free during this term of diversion.

18 OTHER :

|     |
|-----|
| N/A |
|     |
|     |

**C. DISCLOSURE**

19 Defendant has not previously participated in a diversion of any DUI; or similar alcohol-related offense, or drug offense; not previously been convicted of or plead no contest to a violation of any such offense; nor had any such offense amended to a lesser charge.

20 Defendant has truthfully answered all questions during the alcohol evaluation and evaluation conference, and filled out this Diversion Agreement truthfully. The defendant acknowledges that he/she has fully disclosed all arrests, charges, and/or convictions occurring prior to this date and time.

I have read this diversion agreement and understand the conditions imposed upon me which one I agree to abide by and fully satisfy.

THEREFORE, pursuant to the above-stated agreement, I request a continuance in this matter throughout the diversion term.

APPROVED:

[Signature]  
Prosecutor

[Signature]  
Defendant

9/17/15  
DATE

[Signature]  
Attorney for Defendant

# **KSDE EXHIBITS**

**IN THE MATTER OF  
THE LICENSE  
OF GAGE MCGARRY**

**BEFORE THE KANSAS STATE BOARD OF EDUCATION  
PROFESSIONAL PRACTICES COMMISSION**

In the Matter of  
the License  
of Gage McGarry

Case No. 15-PPC-52  
OAH No. 16ED0012

**Exhibit List**

1. KSDE ELCS record included with complaint
2. City of Merriam Complaint and Notice to Appear
3. September 17, 2015, Diversion Agreement
4. Affidavit of Custodian of Business Records
5. June 28, 2015, Incident/Investigation Report (Merriam Police)
6. Justin Davis Voluntary Statement dated June 28, 2015
7. Drug and Alcohol Influence Report (Merriam Police)
8. Implied Consent Advisory and Notices
9. Notice of Suspension
10. June 27, 2015, Arrest Report (Merriam Police)
11. Video of June 27, 2015, traffic stop and arrest (Merriam Police)

# ELCS

User: kbroers District: KSDE Building: N/A Access Level: State Audit

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## Educator at a Glance

EAG Screen

SSN: [REDACTED]

Teacher ID: 7627892511

Full Name: Gage Robert McGarry

DOB: [REDACTED] 980

Address: 7113 Arinda Dr.  
Shawnee, KS 66227

[Record History](#)

[Assurances](#)

[Transcripts](#)

|   |
|---|
| Status: <b>LEGAL</b> <input type="button" value="v"/> |
| <input checked="" type="checkbox"/> RAP               |
| KBI/FBI Status: Legal                                 |

Gender: Male

Bad Check

[Print Address Label](#)

M & E: 0

National Board

[Print Folder Label](#)

### Education

| University Number | University Name              | Year Earned | Last Term | Degree |
|-------------------|------------------------------|-------------|-----------|--------|
| 25041             | UNIVERSITY OF MISSOURI       | 11          | SU 11     | MA     |
| 13033             | LOYOLA UNIVERSITY OF CHICAGO | 02          |           | BA     |

Page Size:

### Licenses

| License Type | Basis for Issue | Original Effective Date | Current Effective Date | Expiration Date | Future Effective Date | Future Expiration Date |
|--------------|-----------------|-------------------------|------------------------|-----------------|-----------------------|------------------------|
| L INISL      | VERIFY          | 5/21/2013               | 5/21/2015              | 5/21/2017       |                       |                        |
| L PROF       | PASSESS         | 5/21/2013               | 5/21/2013              | 5/8/2018        |                       |                        |
| INISL        | NEWOS           | 5/21/2013               | 5/21/2013              | 5/21/2015       |                       |                        |
| INITCH       | NEWOS           | 8/7/2012                | 8/7/2012               | 8/7/2014        |                       |                        |

Page Size:

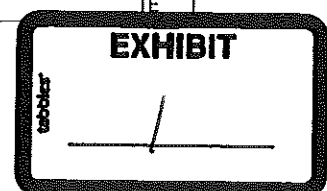
### Endorsements

| Original  | License Type              | Regulation Test Code | University Number | University Name        | Subject Number | Subject Name        | Level  | HQ |
|-----------|---------------------------|----------------------|-------------------|------------------------|----------------|---------------------|--------|----|
| 5/21/2013 | INITIAL SCHOOL LEADERSHIP |                      | 25041             | UNIVERSITY OF MISSOURI | 73010          | BUILDING LEADERSHIP | PRK-12 |    |

Page Size:

### Application History

| Note | Receipt   | Edited By | Edit Date | Status     | E |
|------|-----------|-----------|-----------|------------|---|
| N    | 3/30/2015 | cmartin   | 7/10/2015 | LEGAL      | E |
| N    | 3/30/2015 | bhamer    | 4/3/2015  | NOT ACTIVE | E |
| N    | 3/30/2015 | bhamer    | 4/3/2015  | PRINTED    | E |
| N    | 3/30/2015 | dstephan  | 4/2/2015  | ISSUED     | F |



|   |           |           |           |            |   |
|---|-----------|-----------|-----------|------------|---|
| N | 3/30/2015 | Scoffman  | 3/31/2015 | DS         | E |
| N | 5/21/2013 | ccomstock | 7/12/2013 | NOT ACTIVE |   |
| N | 5/21/2013 | ccomstock | 7/12/2013 | PRINTED    |   |
| N | 5/21/2013 | njnelson  | 7/11/2013 | ISSUED     |   |
| N | 5/21/2013 | njnelson  | 7/11/2013 | NN         |   |
| N | 5/21/2013 | sscarter  | 7/3/2013  | DS         |   |

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**Notes**

|        | Note                           | Status Date | Edited By | Edit Date |
|--------|--------------------------------|-------------|-----------|-----------|
| Select | <p>applicant called RE: </p>   | 7/3/2013    | kbeckley  | 7/11/2013 |
| Select | <p>Applicant is sending </p>   | 3/29/2013   | kbeckley  | 5/17/2013 |
| Select | <p>Application pulled fro</p>  | 3/29/2013   | kbeckley  | 5/17/2013 |
| Select | <p>retrieving file from Re</p> | 3/29/2013   | cmartin   | 5/17/2013 |
| Select | <p>Educator called RE: </p>    | 3/29/2013   | kbeckley  | 5/17/2013 |
| Select | <p>needs form 2A verify</p>    | 8/7/2012    | dstephan  | 8/7/2012  |
| Select | <p>Gage:</p><p>&nbsp;</p>      | 6/22/2012   | shelbert  | 7/30/2012 |
| Select | <p>Susan,&nbsp;</p><p></p>     | 6/22/2012   | shelbert  | 6/26/2012 |
| Select | <p>Gage:</p><p>&nbsp;</p>      | 6/22/2012   | shelbert  | 6/26/2012 |
| Select | <p>very rude - explained</p>   | 6/22/2012   | dstephan  | 6/25/2012 |

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**Background History**

Receipt: 05/08/2012 Submitted: 05/09/2012 Received from KBI: 05/17/2012 Date Clear: 05/17/2012

| Note | Status Date | Edited By | Edit Date | Status  |
|------|-------------|-----------|-----------|---------|
| Y    | 7/10/2015   | cmartin   | 7/10/2015 | Legal   |
| N    | 5/17/2012   | bhamer    | 5/17/2012 | Clear   |
| N    | 5/8/2012    | cmartin   | 5/8/2012  | Pending |
| N    | 5/8/2012    | jecook    | 5/8/2012  | FP REQ  |

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 Help Desk: (785) 296-7935  
 Front Desk: (785) 296-3201  
 FAX: (785) 296-7933  
 900 SW Jackson Avenue  
 Topeka, KS 66612

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KANSAS UNIFORM COMPLAINT AND NOTICE TO APPEAR

9/27/2015

STATE OF KANSAS  
COUNTY OF JOHNSON  
CITY OF MERRIAM

S.S.

E014363

IN THE MUNICIPAL COURT OF MERRIAM, KANSAS  
THE UNDERSIGNED, BEING DULY SWORN, UPON HIS OATH DEPOSES AND SAYS:

on the 27 day of June 2015 at 10:18 PM

MCGARRY, GAGE, ROBERT

NAME (LAST, FIRST, MIDDLE)

STREET ADDRESS 7113 AMINDA DRIVE

CITY SHAWNEE STATE KS ZIP 66227

DOB 1980 RACE W SEX M HT 6'0" WT 175

EYES BRO HAIR BRO PHONE \_\_\_\_\_

D.L. No. \_\_\_\_\_ STATE: KS

MONTH/YEAR 9/2020 ENDORSEMENTS: \_\_\_\_\_ CLASS: C

COMMERCIAL VEH.  YES CDL  YES

Did unlawfully at 8800 W SHAWNEE MISSION PKWY

CITY of MERRIAM, KANSAS

TRAFFIC Operate a vehicle, to wit:

|              |                |                |              |                       |
|--------------|----------------|----------------|--------------|-----------------------|
| Year<br>2007 | Make<br>NISSAN | Model<br>VERSA | Color<br>RED | Body Type<br>4D SEDAN |
|--------------|----------------|----------------|--------------|-----------------------|

|                       |                     |                       |          |
|-----------------------|---------------------|-----------------------|----------|
| Veh. Lic. #<br>649GTH | Veh. Lic. St.<br>KS | Veh. Lic. Yr.<br>2016 | Report # |
|-----------------------|---------------------|-----------------------|----------|

|                                   |                                    |                                    |                                      |
|-----------------------------------|------------------------------------|------------------------------------|--------------------------------------|
| <input type="checkbox"/> Accident | <input type="checkbox"/> Haz. Mat. | <input type="checkbox"/> Con. Zone | <input type="checkbox"/> School Zone |
|-----------------------------------|------------------------------------|------------------------------------|--------------------------------------|

|                     |                   |                                |                                |
|---------------------|-------------------|--------------------------------|--------------------------------|
| Alleged Speed _____ | Legal Speed _____ | <input type="checkbox"/> Pace  | <input type="checkbox"/> Radar |
|                     |                   | <input type="checkbox"/> Lidar | <input type="checkbox"/> Other |

|   |   |
|---|---|
| 1 | Violation: <u>(A)(1)1RST DUI OTHER COMP. EVIDENCE &gt;= .08</u><br>E014363.1 Ordinance/Article/Section <u>1725 6-30</u> COURT |
| 2 | Violation: <u>REFUSAL OF PRELIMINARY BREATH TEST</u><br>E014363.2 Ordinance/Article/Section <u>6-30.2</u> COURT               |
| 3 | Violation: <u>Drug Paraphernalia: Possession</u><br>E014363.3 Ordinance/Article/Section <u>MMC 44-241</u> COURT               |
| 4 | Violation: <u>POSS OF CONTROLLED SUBSTANCES</u><br>E014363.4 Ordinance/Article/Section <u>MMC 44-241</u> COURT                |
| 5 | Violation: _____<br>Ordinance/Article/Section _____   |
| 6 | Violation: _____<br>Ordinance/Article/Section _____   |
| 7 | Violation: _____<br>Ordinance/Article/Section _____   |
| 8 | Violation: _____<br>Ordinance/Article/Section _____   |

|   |                          |
|---|--------------------------|
| <input type="checkbox"/> Cited for No Insurance, see back of ticket for instructions                    | Admin Fee <u>\$ 0.00</u> |
| <input checked="" type="checkbox"/> MUST APPEAR in court to marked, see back of ticket for instructions | Total Due <u>COURT</u>   |

Officer's Signature: \_\_\_\_\_ No. 6679  
CHRISTOPHER MEYERS

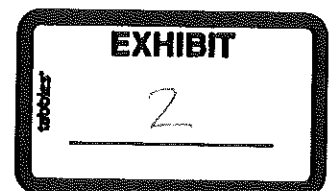
Appear before The Municipal Court of Merriam, Kansas at 9001 W. 62ND ST.  
on the 28 day of July 2015 at 11:00 AM.

Signature: \_\_\_\_\_ Personal Service Made by Officer

Victim #1: Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone #: \_\_\_\_\_  
DOB: \_\_\_\_\_  
Amount: \$ \_\_\_\_\_

Victim #2: Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone #: \_\_\_\_\_  
DOB: \_\_\_\_\_

Victim #3: Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
Phone #: \_\_\_\_\_  
DOB: \_\_\_\_\_



IN THE MUNICIPAL COURT OF THE CITY OF MERRIAM, KANSAS

CITY OF MERRIAM, KANSAS, Plaintiff,

v.

Case No. E 014363

Gage McGarry Defendant

DUI/DRUG DIVERSION AGREEMENT

Now on this 17 day of Sept, 2015, the above-captioned matter comes for hearing on the parties' joint agreement of diversion of prosecution and continuance for approval by the Court. The plaintiff appears through Elizabeth A. Boldt, City Prosecutor. The defendant appears in person and through his/her attorney, Steve Schaber. The parties inform the Court that on the 27 day of June, 2015, the defendant was charged with the offense of:

PBT, Paraphenols [checked] DUI [checked] Drug Violation [ ] Other

Defendant states that the following information is true and correct as of this date:

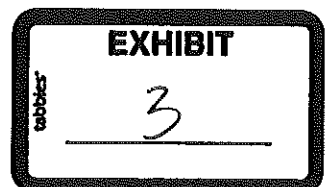
Gage Robert McGarry 816- [redacted] [redacted] Full Name Telephone D.L. Number
7113 Anninda Dr Shawnee KS 66227 Street address City State Zip Code
M W [redacted] 180 Sex Race D/O/B Soc Sec # BAC

I. DEFENDANT'S STIPULATIONS AND WAIVER OF RIGHTS

The defendant understands and acknowledges that he/she has certain rights under the law or constitution of the United States and the State of Kansas, including:

THE RIGHT TO AN ATTORNEY: The right to retain counsel or if without sufficient funds to employ a lawyer, have the Court appoint one at no cost to the defendant. Knowing all of the foregoing, the defendant freely and voluntarily waives all rights to have counsel of his/her own choosing and does not desire that the Court appoint counsel for him/her.

THE RIGHT TO A SPEEDY TRIAL: The defendant informs the Court that he/she hereby knowingly and voluntarily waives all rights to a speedy arraignment and speedy trial pursuant to the United States and Kansas Constitutions and Kansas Statutes.



GM **THE RIGHT TO A TRIAL BY JURY:** The right to a trial by a jury of six persons in the event he/she is found guilty of the above offense(s) and appeals his/her conviction to the Johnson County District Court. The defendant informs the Court that he/she knowingly and voluntarily waives all right to a trial by jury.

GM **THE RIGHT TO CONFRONT EVIDENCE, PRESENT WITNESSES AND STIPULATION TO RECORD:** The right to confront the witnesses who would testify against him/her at trial and the right to cross-examine these witnesses and present evidence in a full and complete evidentiary hearing. Knowing all of the foregoing, the defendant freely and voluntarily waives all rights to confront, cross-examine, and present witnesses. Defendant stipulates to the charges and facts as they are contained in the complaint, police reports, written, oral or visual recorded witness statements, videos and test results prepared in connection with the above-referenced case and stipulates to the evidentiary foundation thereof. Defendant stipulates that his/her arrest occurred within the city limits of Merriam, Kansas and that he/she is the individual arrested and charged herein.

GM **THE RIGHT TO TRIAL UPON VIOLATION:** The right to a hearing in Merriam Municipal Court on alleged violations of any of the terms or conditions of this agreement. Upon a finding that the defendant has violated this agreement he/she understands and agrees that this case will proceed to trial based solely on the stipulations contained herein. Further, any proceedings on appeal to the Johnson County District Court shall be conducted solely on such stipulations.

GM **SERVICE OF PROCESS:** Defendant stipulates that service of process shall be deemed sufficient if notices and pleadings are mailed via United States mail to the address set out above unless the defendant notifies the Court in writing of a new address.

**I have read, understand, and voluntarily agree to the above stipulations and waiver of rights.**

  
Defendant's Signature

## II. CONDITIONS OF PRETRIAL DIVERSION

**DEFENDANT UNDERSTANDS, ACKNOWLEDGES, AND AGREES TO ABIDE BY THE FOLLOWING TERMS AND CONDITIONS OF THE DIVERSION AGREEMENT:**

### A. EXPLANATION AND CONSEQUENCES OF DIVERSION

- GM 1. Defendant acknowledges that he/she is voluntarily participating in this program and that his/her participation is not part of a Judgment of the Merriam Municipal Court.
- GM 2. Either party may seek modification or termination of this agreement upon motion to the Court.
- GM 3. Defendant acknowledges and understands that prosecution of this matter shall be deferred during the diversionary period. The defendant acknowledges that if the records of the prosecutor reflect that he/she has successfully complied with all of the terms and conditions of this agreement; the charges diverted will be dismissed by the City. The defendant shall keep copies of all records submitted as proof of compliance.
- GM 4. The term of this Diversion Agreement shall extend for a period of twelve (12) months from the date of this Agreement. The Defendant also understands the City has ninety (90) days after the diversion term to act on any violations of this agreement that occurred prior to the end of the diversion.
- GM 5. Defendant understands that should he/she violate any of the conditions of this Agreement, the case will be reinstated on the trial docket for further prosecution.
- GM 6. Defendant understands that if the diversion program is terminated, and the Court enters a finding of guilty, the Court will comply with the mandatory sentencing requirements for jail terms and fines.



- GM 7. Defendant understands that this Diversion Agreement is not a conviction; however, it may be used to enhance the defendant's sentence if he/she is subsequently convicted of the same or a similar offense.

### B, COMPLIANCE REQUIREMENTS

- GM 8. Defendant acknowledges that this Agreement and his education/treatment program (if required) shall be monitored by: Alcohol Safety Action Project

- GM 9. Defendant shall report to his/her Diversion Monitor at such times and in such manner as directed by their Diversion Monitor. within 5 days

- GM 10. Defendant shall keep the Court informed of his/her address changes.

- GM 11. Defendant shall not violate the laws of the United States or of any State or City during the term of this Agreement.

- GM 12. Defendant shall notify the City Prosecutor, in writing, within 72 hours of any arrests or violations of the law during the diversion term, excluding only minor traffic offenses.

- GM 13. Defendant shall not use, consume, possess, or ingest any intoxicating liquor, alcohol, cereal malt beverage, drug, or any other mood altering substance during the term of this Agreement without a valid doctor's prescription, a copy of which must be provided to the City Prosecutor prior to any such use.

- GM 14. Defendant agrees to submit to a test of breath, blood, saliva, or urine at any time during the diversion term if requested to do so by his/her Diversion Monitor, Prosecutor, Judge, or any law enforcement officer. The defendant stipulates that the results of said test(s) may be admitted without evidentiary foundation in a termination hearing. The defendant agrees to pay the costs associated with such testing prior to the actual test. The defendant shall also make the results of any such test available to the City and shall personally deliver a copy to his/her Diversion Monitor within forty-eight (48) hours of the receipt of such test results.

- GM 15. Defendant's Education/Treatment Plan (to be completed at the Defendant's expense):

GM a. Defendant shall complete the Level 1 alcohol/drug information school and provide written proof to the Court within sixty (60) days of the date of this Agreement.

\_\_\_ b. Defendant shall complete the Level 2 continuing education classes as scheduled by his/her Diversion Monitor. Said classes shall be completed, and the defendant shall provide written verification to the Court within sixty (60) days of the date of this Agreement.

\_\_\_ c. Defendant shall enter and complete an out-patient/in-patient alcohol treatment program at \_\_\_\_\_ . The defendant shall successfully complete the treatment program and provide written proof to the Court within one hundred eight (180) days of today's date. The defendant shall also complete aftercare as recommended by the treatment provider and provide written verification of the same within ten (10) days after completion of such program.

GM d. Defendant shall attend the DUI victim panel and provide written verification to the Court within one hundred eighty (180) days of today's date.

\_\_\_ e. The defendant shall attend \_\_\_ Alcoholics Anonymous/ Narcotics Anonymous group meetings and provide written proof of compliance to the Court after said meetings are completed.

\_\_\_ f. \_\_\_\_\_

16 Defendant understands that he/she shall pay a fee of \$ 1420 to enter into the diversion program. Pursuant to statute, there will be an additional \$400.00 fee assessed if KBI or Johnson County Crime Lab Services have been rendered. If the full balance not paid at the start of the diversion, the remaining balance is due with in \_\_\_\_\_ days, on \_\_\_\_\_ 20\_\_\_\_ at \_\_\_\_\_ P.M.

17 Defendant shall clear all outstanding warrants within thirty (30) days. The defendant shall remain warrant free during this term of diversion.

18 OTHER :

|     |
|-----|
| N/A |
|     |
|     |

**C. DISCLOSURE**

19 Defendant has not previously participated in a diversion of any DUI; or similar alcohol-related offense, or drug offense; not previously been convicted of or plead no contest to a violation of any such offense; nor had any such offense amended to a lesser charge.

20 Defendant has truthfully answered all questions during the alcohol evaluation and evaluation conference, and filled out this Diversion Agreement truthfully. The defendant acknowledges that he/she has fully disclosed all arrests, charges, and/or convictions occurring prior to this date and time.

I have read this diversion agreement and understand the conditions imposed upon me which one I agree to abide by and fully satisfy.

THEREFORE, pursuant to the above-stated agreement, I request a continuance in this matter throughout the diversion term.

APPROVED:

[Signature]  
Prosecutor

[Signature]  
Defendant

9/17/15  
DATE

[Signature]  
Attorney for Defendant

**BEFORE THE KANSAS STATE BOARD OF EDUCATION  
PROFESSIONAL PRACTICES COMMISSION**

In the Matter of  
the License  
of Gage McGarry

15-PPC-52  
OAH No. 16 ED0012

**AFFIDAVIT OF CUSTODIAN OF BUSINESS RECORDS**

State of Kansas  
County of Johnson

I, Apreen J. Gibson, being first duly sworn, on oath, depose and say that;

1. I am a duly authorized custodian of business records of the Merriam Police Department and have the authority to certify those records;
2. The copy of the records attached to this affidavit is a true copy of the records described in the subpoena; and
3. The records were prepared by the personnel or staff of the business, or persons acting under their control, in the regular course of the business at or about the time of the act, condition or event recorded.

Apreen J. Gibson  
Signature of Custodian

Subscribed and sworn to before the undersigned on December 30<sup>th</sup> 2015

**RONDA BRUMBAUGH**  
Notary Public - State of Kansas  
My Appt. Expires 5-16-18

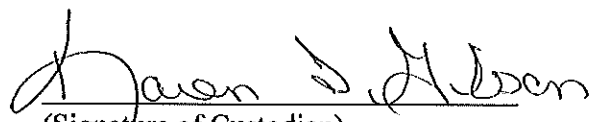
Ronda Brumbaugh  
Notary Public

My Appointment Expires 5-16-18

**CERTIFICATE OF MAILING**

I certify that on 12-30-15, 2015, a copy of the foregoing was delivered to:

Kelli M. Broers  
Kansas State Department of Education  
900 SW Jackson St., Suite 102  
Topeka, Kansas, 66612.

  
(Signature of Custodian)

|  |   |  |  |                              |   |                |  |             |  |                  |     |  |  |
|--|---|--|--|------------------------------|---|----------------|--|-------------|--|------------------|-----|--|--|
| I<br>N<br>C<br>I<br>D<br>E<br>N<br>T<br>D<br>A<br>T<br>A   | Agency Name<br><i>Merriam Police Department</i>                 |  | <b>INCIDENT / INVESTIGATION<br/>REPORT</b> |                              |   |                | OCA<br><i>15-01715</i>                               |             | 022  |                  |     |  |  |
|  | ORI<br><i>KS0460300</i>   |  |  |                              |   |                | Date / Time Reported<br><i>SU Jun 28, 2015 15:30</i> |             |  |                  |     |  |  |
|  | #1  | Crime Incident<br><i>POSS OF HALLUCINOGENIC DRUG</i> | UCR:35A Local Statute: 21 5706 b 3         | <input type="checkbox"/> Att | Last Known Secure                                       |                |  |             |  |                  |     |  |  |
|  |   | Activity: Possess                                    | <input checked="" type="checkbox"/> Com    | <i>SA Jun 27, 2015 20:15</i> |   |                |  |             |  |                  |     |  |  |
| #2   | Crime Incident<br><i>USE/POSS DRUG PARAPHERNALIA/HUMAN BODY</i> | UCR:35B Local Statute: 21 5709 b 2                   | <input type="checkbox"/> Att               | At Found                     |   |                |  |             |  |                  |     |  |  |
|  |   | Activity: Possess                                    | <input checked="" type="checkbox"/> Com    | <i>SA Jun 27, 2015 20:19</i> |   |                |  |             |  |                  |     |  |  |
| #3   | Crime Incident<br><i>DUI; Misdemeanor</i>                       | UCR:90D Local Statute: 08 1567                       | <input type="checkbox"/> Att               |                              |   |                |  |             |  |                  |     |  |  |
|  |   |  | <input checked="" type="checkbox"/> Com    |                              |   |                |  |             |  |                  |     |  |  |
| Location of Incident   |   | <i>8600 Shawnee Mission Pkwy, Merriam, KS 66202</i>  |  |                              | Premise Type  |                | <i>Bank / Savings And Loan</i>                       |             | Offense Tract  | <i>R</i>         |     |  |  |
| MO   |   |  |  |                              |   |                |  |             |  |                  |     |  |  |
| How Attacked or Committed <i>Instrument Used For(Not Applicable), Point Of Entry(Not Applicable), Point Of Exit(Not Applicable), Premise</i>   |   |  |  |                              |   |                |  |             |  |                  |     |  |  |
| Weapon / Tools   |   |  |  |                              |   |                |  |             |  |                  |     |  |  |
| Forcible Entry <input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> N/A  |   |  |  |                              |   |                |  |             |  |                  |     |  |  |
| V<br>I<br>C<br>T<br>I<br>M   | # Victims   | <i>1</i>   |  | Type Society/ Public         |   |                | Injury   | <i>None</i> |  | Residency Status |     |  |  |
|  | Victim/Business Name (Last, First, Middle)                      |  |  |                              | Victim of Crime #                                       |                |  |             | Age / DOB  | Race             | Sex |  |  |
|  | <i>V1 City Of Merriam Ks</i>                                    |  |  |                              | <i>1,2,3</i>  |                |  |             |  |                  |     |  |  |
|  | Relationship to Offenders                                       |  |  |                              |   |                |  |             |  |                  |     |  |  |
|  | Home Address  |  |  |                              |   |                | Home Phone   |             |  |                  |     |  |  |
|  | <i>9001 W 62nd St, Merriam, KS 66202</i>                        |  |  |                              |   |                | <i>(913) 322-5500</i>                                |             |  |                  |     |  |  |
| Employer Name/Address  |   |  |  |                              |   | Business Phone |  |             |  |                  |     |  |  |
|  |   |  |  |                              |   |                |  |             |  |                  |     |  |  |
| VYR  | Make  | Model  | Style                                      | Color                        | Lic/Lis   | VIN            |  |             |  |                  |     |  |  |
| O<br>T<br>H<br>E<br>R<br>S   |   |  |  |                              |   |                |  |             |  |                  |     |  |  |
| CODES: V - Victim (Denote V2, V3) O = Owner (if other than victim) R = Reporting Person (if other than victim) I = Other Involved  |   |  |  |                              |   |                |  |             |  |                  |     |  |  |
| Code   | Name (Last, First, Middle)                                      |  |  |                              | Victim of Crime #                                       | Age / DOB      | Race   | Sex         |  |                  |     |  |  |
|  |   |  |  |                              |   |                |  |             |  |                  |     |  |  |
| Home Address   |   |  |  |                              |   | Home Phone     |  |             |  |                  |     |  |  |
| Employer Name/Address  |   |  |  |                              |   | Business Phone |  |             |  |                  |     |  |  |
| Code   | Name (Last, First, Middle)                                      |  |  |                              | Victim of Crime #                                       | Age / DOB      | Race   | Sex         |  |                  |     |  |  |
|  |   |  |  |                              |   |                |  |             |  |                  |     |  |  |
| Home Address   |   |  |  |                              |   | Home Phone     |  |             |  |                  |     |  |  |
| Employer Name/Address  |   |  |  |                              |   | Business Phone |  |             |  |                  |     |  |  |
| I<br>N<br>V<br>O<br>L<br>V<br>E<br>D   |   |  |  |                              |   |                |  |             |  |                  |     |  |  |
| Status Codes L = Lost S = Stolen R = Recovered D = Damaged Z = Seized B = Burned C = Counterfeit / Forged F = Found U = Unknown<br>(Check "OJ" column if recovered for other jurisdiction) |   |  |  |                              |   |                |  |             |  |                  |     |  |  |
| P<br>R<br>O<br>P<br>E<br>R<br>T<br>Y   | Victim #  | UCR  | Status - Date                              | Value                        | OJ  | QTY            | Property Description                                 | Make/Model  | Serial Number  |                  |     |  |  |
|  |   | <i>0915</i>  | <i>Z - 6/28/2015</i>                       | <i>\$1.00</i>                |   | <i>1.00</i>    | <i>METAL MARIJUANA PIPE</i>                          |             |  |                  |     |  |  |
|  |   | <i>0603</i>  | <i>- 7/2/2015</i>                          | <i>\$1.00</i>                |   | <i>1.00</i>    | <i>BOOKING VIDEO</i>                                 |             |  |                  |     |  |  |
|  |   | <i>0603</i>  | <i>- 7/2/2015</i>                          | <i>\$1.00</i>                |   | <i>1.00</i>    | <i>IN CAR VIDEO</i>                                  |             |  |                  |     |  |  |
|  |   | <i>0603</i>  | <i>- 7/2/2015</i>                          | <i>\$1.00</i>                |   | <i>1.00</i>    | <i>VIE VUE VIDEO CASTANEDA MEYERS</i>                |             |  |                  |     |  |  |
|  |   | <i>0603</i>  | <i>- 7/2/2015</i>                          | <i>\$1.00</i>                |   | <i>1.00</i>    | <i>EVIDENCE PHOTOS</i>                               |             |  |                  |     |  |  |
|  |   |  |  |                              |   |                |  |             |  |                  |     |  |  |
|  |   |  |  |                              |   |                |  |             |  |                  |     |  |  |
|  |   |  |  |                              |   |                |  |             |  |                  |     |  |  |
|  |   |  |  |                              |   |                |  |             |  |                  |     |  |  |
| Number of Vehicles Stolen  |   |  | <i>0</i>                                   |                              | Number Vehicles Recovered                               |                |  | <i>0</i>    |  |                  |     |  |  |
| ID   | Officer<br><i>(5679) MEYERS, CHRISTOPHER L</i>                  |  |  |                              | Officer Signature                                       |                |  |             | Supervisor Signature<br><i>(6128) LEWIS, PHIL</i>                    |                  |     |  |  |
|  | Complainant Signature   |  |  |                              | Case Status:<br><i>Closed/cleared<br/>June 28, 2015</i> |                |  |             | Case Disposition:<br><i>Cleared By Arrest Adult<br/>Jun 28, 2015</i> |                  |     |  |  |

# Incident / Investigation Report

023

Merriam Police Department

OCA: 15-01715

| Status Codes  | L = Lost S = Stolen R = Recovered D = Damaged Z = Seized B = Burned C = Counterfeit / Forged F = Found U = Unknown |              |                              |  |
|---------------|--|--------------|------------------------------|--|
| Status        | Quantity   | Type Measure | Suspected Drug Type          |  |
| Z - 6/28/2015 | 0.10   | Gram         | Marijuana In Glass Container |  |
|               |  |              |                              |  |
|               |  |              |                              |  |
|               |  |              |                              |  |
|               |  |              |                              |  |
|               |  |              |                              |  |
|               |  |              |                              |  |
|               |  |              |                              |  |
|               |  |              |                              |  |
|               |  |              |                              |  |

|  |   |   |                                     |                                     |   |
|--|---|---|-------------------------------------|-------------------------------------|---|
| <b>O<br/>F<br/>F<br/>E<br/>N<br/>D<br/>E<br/>R</b> | Offender(s) Suspected of Using<br><input type="checkbox"/> Drugs <input checked="" type="checkbox"/> N/A<br><input type="checkbox"/> Alcohol<br><input type="checkbox"/> Computer | Offender 1 <b>SUI</b><br>Age: 35    Race: W    Sex: M | Offender 2<br>Age:    Race:    Sex: | Offender 3<br>Age:    Race:    Sex: | Primary Offender Resident Status<br><input type="checkbox"/> Resident<br><input type="checkbox"/> Non-Resident<br><input checked="" type="checkbox"/> Unknown |
|  | Offender 4<br>Age:    Race:    Sex:   | Offender 5<br>Age:    Race:    Sex:                   | Offender 6<br>Age:    Race:    Sex: |                                     |   |

|  |                       |                       |                              |   |                               |                                 |                         |                       |  |
|--|-----------------------|-----------------------|------------------------------|---|-------------------------------|---------------------------------|-------------------------|-----------------------|--|
| Name (L, F M) <b>McGarry, Gage Robert</b>  |                       |                       |                              | Home Address<br><b>7113 Aminda St, Shawnee, KS 66227</b>                        |                               |                                 |                         | Home Phone            |  |
| SUI    AKA   |                       |                       |                              |   |                               |                                 |                         |                       |  |
| Occupation<br><b>Teacher</b>   |                       |                       |                              | Business Address<br><b>Kansas City Ks Public Schools / 3600 SPRINGFIELD ST,</b> |                               |                                 |                         | Business Phone        |  |
| DOB. / Age<br><b>1980 / 35</b>   |                       | Race<br><b>W</b>      | Sex<br><b>M</b>              | Hgt<br><b>6'00</b>  | Wgt<br><b>175</b>             | Build                           | Hair Color <b>Brown</b> | Eye Color <b>Blue</b> |  |
|  |                       |                       |                              | Hair Style  | Hair Length                   | Glasses                         |                         |                       |  |
| Scars, Marks, Tattoos, or other distinguishing features (i.e. limp, foreign accent, voice characteristics) |                       |                       |                              |   |                               |                                 |                         |                       |  |
| Hat  |                       | Shirt/Blouse          |                              |   | Coat/Suit                     |                                 | Socks                   |                       |  |
| Jacket   |                       | Tie/Scarf             |                              |   | Pants/Dress/Skirt             |                                 | Shoes                   |                       |  |
| Was Suspect Armed?   |                       | Type of Weapon        |                              |   | Direction of Travel           |                                 | Mode of Travel          |                       |  |
| VYR<br><b>2007</b>   | Make<br><b>NISSAN</b> | Model<br><b>VERSA</b> | Style/Doors<br><b>SEDAN,</b> | Color<br><b>RED</b>   | Lic/Lis<br><b>649GTH - KS</b> | Vin<br><b>3N1BC13E17L377126</b> |                         |                       |  |
| Suspect Hate / Bias Motivated: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No         |                       |                       |                              | Type:   |                               |                                 |                         |                       |  |

|  |  |  |  |  |                          |                        |                     |                 |
|--|--|--|--|--|--------------------------|------------------------|---------------------|-----------------|
| <b>W<br/>I<br/>T<br/>N<br/>E<br/>S<br/>S</b> | Name (Last, First, Middle)<br><b>Davis, Justin James</b> |  |  |  | D.O.B.<br>[REDACTED]     | Age<br><b>45</b>       | Race<br><b>W</b>    | Sex<br><b>M</b> |
|  | Home Address<br><b>[REDACTED] Overland_park, KS</b>      |  |  |  | Home Phone<br>[REDACTED] | Employer<br>[REDACTED] | Phone<br>[REDACTED] |                 |

**NARRATIVE**

Assisting Officers  
 (5679) MEYERS, CHRISTOPHER L  
 (6128) LEWIS, PHIL  
 (5890) FILSON, TIMOTHY

On 06/27/2015 at approximately 2015 hours, I was dispatched to 8600 Shawnee Mission Pkwy at US Bank in reference to an intoxicated driver call. Dispatch noted that a witness, Justin Davis, observed a red car driving down Shawnee Mission Pkwy with no tire. He told dispatch that the tire came off on Shawnee Mission Pkwy and part of the tire was in Eastbound lanes.

Upon arrival, I observed a 2007 red Nissan Versa with Kansas license plate 649GTH facing the wrong direction in the drive through line at the US Bank. I made contact with the driver, Gage McGarry, who told me he was trying to change his tire. McGarry's speech was very slurred, and he was having a lot of difficulty trying to use the jack for his vehicle. He said his tire blew out when he was driving on Shawnee Mission Pkwy. I looked at the wheel and the tire was completely shredded. The rim

## Incident / Investigation Report

Merriam Police Department

OCA: 15-01715

### Officer's Narrative (continued)

of the tire looked like it had been driven on for a while, as it had gashes and grooves from the asphalt. There were also scrapes on the asphalt of the parking lot where McGarry had driven the vehicle, which appeared to have been from the rim of the wheel. McGarry said that he did not have anything to drink, but when asked a second time, he said he had 2 beers. When I approached McGarry for a second time, I smelled a strong odor of alcohol on his breath. I also observed a 6 pack of beer in the driver's seat with 5 unopened bottles of beer and 1 missing. I asked McGarry for his driver's license and he began to get upset and said he was just trying to change his tire. Officer Castaneda asked McGarry how much he had to drink and McGarry started to get angry with him. McGarry then said he just told us that he had 2 or 3 drinks.

I then started the Standardized Field Sobriety Tests.

The first test was the Horizontal Gaze Nystagmus test. McGarry exhibited all six clues during this test. He showed lack of smooth pursuit in both the left and right eye, distinct and sustained nystagmus at maximum deviation in both the left and right eye, and the onset of nystagmus prior to 45 degrees in both the left and right eye. He did not show signs of vertical nystagmus. During this test, McGarry continued to turn his head with the pen light after being told repeatedly to not move his head and only follow the pen light with his eyes.

I explained and demonstrated the walk and turn test. During the instruction phase of the Walk and Turn, McGarry did not follow instructions as asked and started walking before I instructed him to start. He did not maintain the position I explained to him after he acknowledged that he understood my instructions. I had to tell him multiple times to stay in the starting position and to follow instructions. He did not keep his arms by his side during the instruction phase of the test. During the first part of the walking stage of the test, McGarry counted 9 steps, but walked 10. He also did not touch heel to toe on any of the first 9 steps, did not keep his arms on his sides and stepped off the line. He then stopped after he did an improper turn and asked, "Correct? Nine?" On his second 9 steps, he missed heel to toe on all 9 steps and did not keep his arms on his sides. This test independently shows signs of impairment.

I explained and demonstrated the one leg stand test. He exhibited 3 of 4 clues during this test. The clues observed were sways while balancing, uses arms to balance and puts foot down. This test independently shows signs of impairment.

I administered the finger to nose test. He touched his upper lip with the index finger of his right hand and did not extend his arm out as instructed. He also touched his upper lip with his index finger of his left hand.

I administered the number test, which I asked him to count backwards from 68 to 53. He counted in this sequence: 68, 67, 66, 65, 64, 63, 64, 63, 62, 61, 60, 50, 59, 58, 57, 56, 57, 58, 59, 58, 57, 56, 55. This test independently shows signs of impairment.

I asked McGarry to recite the alphabet from the letter "c" to the letter "p" without without singing. He attempted to recite the alphabet, but he went too fast and slurred some of the letters together. He then recited the alphabet in this sequence: c, d, e, f, i, g, h, i, j, k, l, m, n, o, p.

I then read McGarry the Preliminary Breath Test (PBT) advisory. He refused to give a PBT sample.

I believed McGarry was under the influence of alcohol and placed him under arrest. I then did an inventory search of his vehicle and found the following: a small glass container in the glove box

**Incident / Investigation Report***Merriam Police Department*

OCA: 15-01715

**Officer's Narrative (continued)**

containing a green leafy vegetation that smelled like marijuana, a metal pipe under the front driver's side floor mat that smelled of burnt marijuana and had burnt residue at one end, and 5 bottles of unopened beer. Nothing else of an apparent value of \$500 or more was found. His vehicle was towed by Johnson County Tow.

At the station I gave McGarry a copy of the Implied Consent Advisory (DC-70) and read it aloud to him from a separate copy. I asked him to submit to a breath test on the Intoxilyzer 8000, but he refused to provide a breath sample. He was personally served her Officer's Notice of Suspension (DC-27). While I was speaking with McGarry after I read him the Implied Consent Advisory, he asked me why he was arrested. I told him it was for driving under the influence. In the conversation McGarry said, "My tire blew. Like, that's what happened. And I pulled over to the nearest spot, that's where it was, and I was trying to change my tire."

I read McGarry his Miranda Rights and he invoked his rights and did not wish to answer any questions.

It should be noted that after McGarry was removed from my patrol car, there was a strong odor of alcohol from within which was not there prior to him being in the car. While at the station he was placed in cell #2 and after he was removed there was a strong odor of alcohol from within which was not there prior to him being inside.

At the station, I tested the green leafy vegetation with a Lynn Peavey Quick Check marijuana test kit and it tested positive as marijuana. The green leafy vegetation weighed 0.1 grams. The marijuana and pipe were placed into property as evidence. The 5 bottles of beer were also disposed of at the station.

I made contact with the reporting party and witness, Justin Davis, who said he would come to the Merriam PD to fill out a voluntary statement based on what he observed. I will attach that statement upon receipt. A request was made for the in-car, VieVu and booking room video so it could be placed into property.

Nothing further.

Meyers - 5679



# Incident / Investigation Report

*Merriam Police Department*

OCA: 15-01715

**Officer's Supplement**

Officer 1502948

Date / Time Reported SU Jun 28, 2015 15:30

**THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY**

### Incident / Investigation Report

*Merriam Police Department*

OCA: 15-01715

#### Additional Officer Supplements

**THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY**

Officer (5679) MEYERS, CHRISTOPHER L

Supplement Type: VOUCHER PROPERTY

Date/Time 6/28/2015 18:55

167264 Voucher ID created for this supplement.

### Incident / Investigation Report

Merriam Police Department

OCA: 15-01715

**Additional Officer Supplements**

**THE INFORMATION BELOW IS CONFIDENTIAL - FOR USE BY AUTHORIZED PERSONNEL ONLY**

Officer (5679) MEYERS, CHRISTOPHER L

Supplement Type: VOUCHER PROPERTY

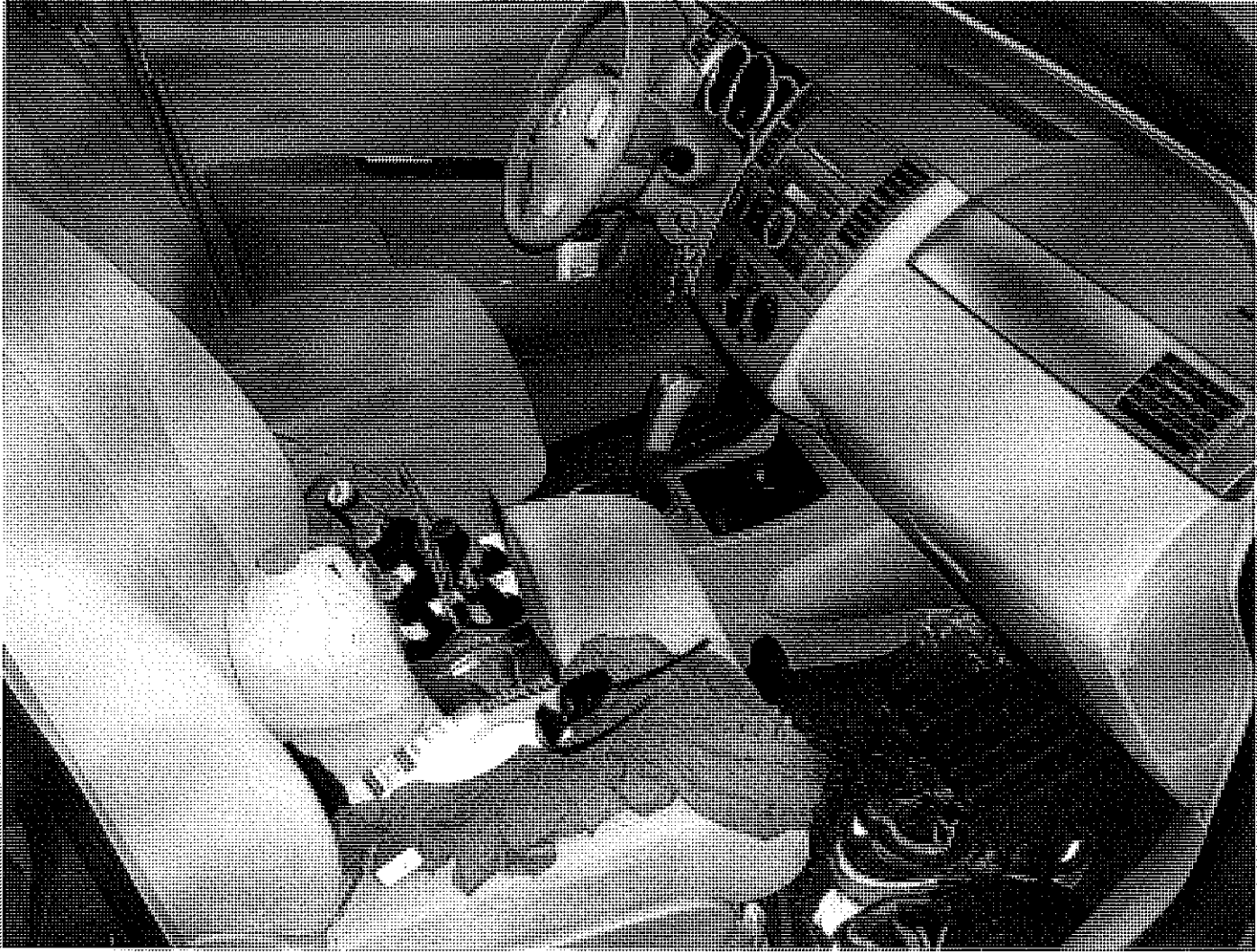
Date/Time 7/2/2015 15:25

167373 Voucher ID created for this supplement.

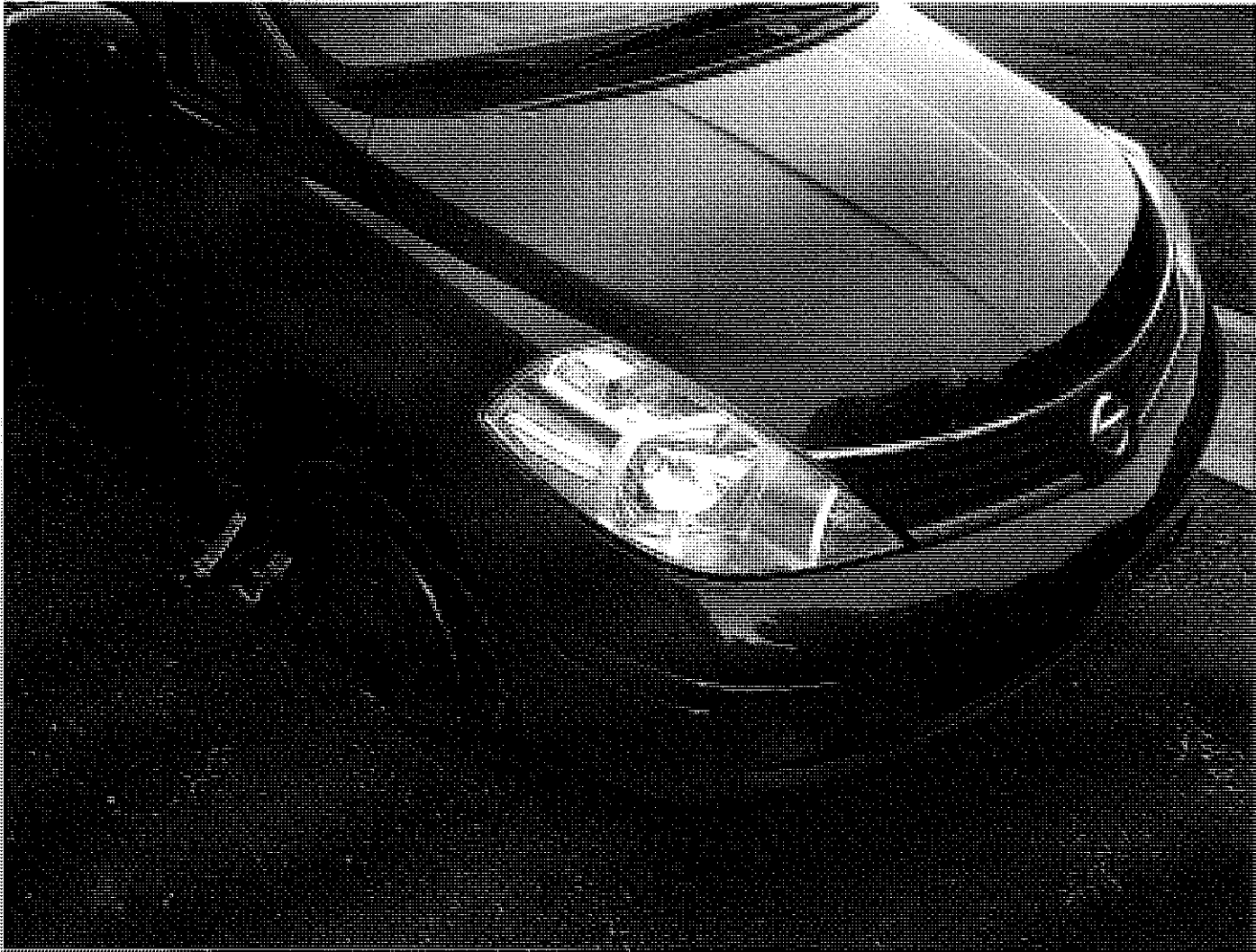
Attached Picture: CAR OVERVIEW



Attached Picture: ALCOHOL IN PASSENGER SEAT



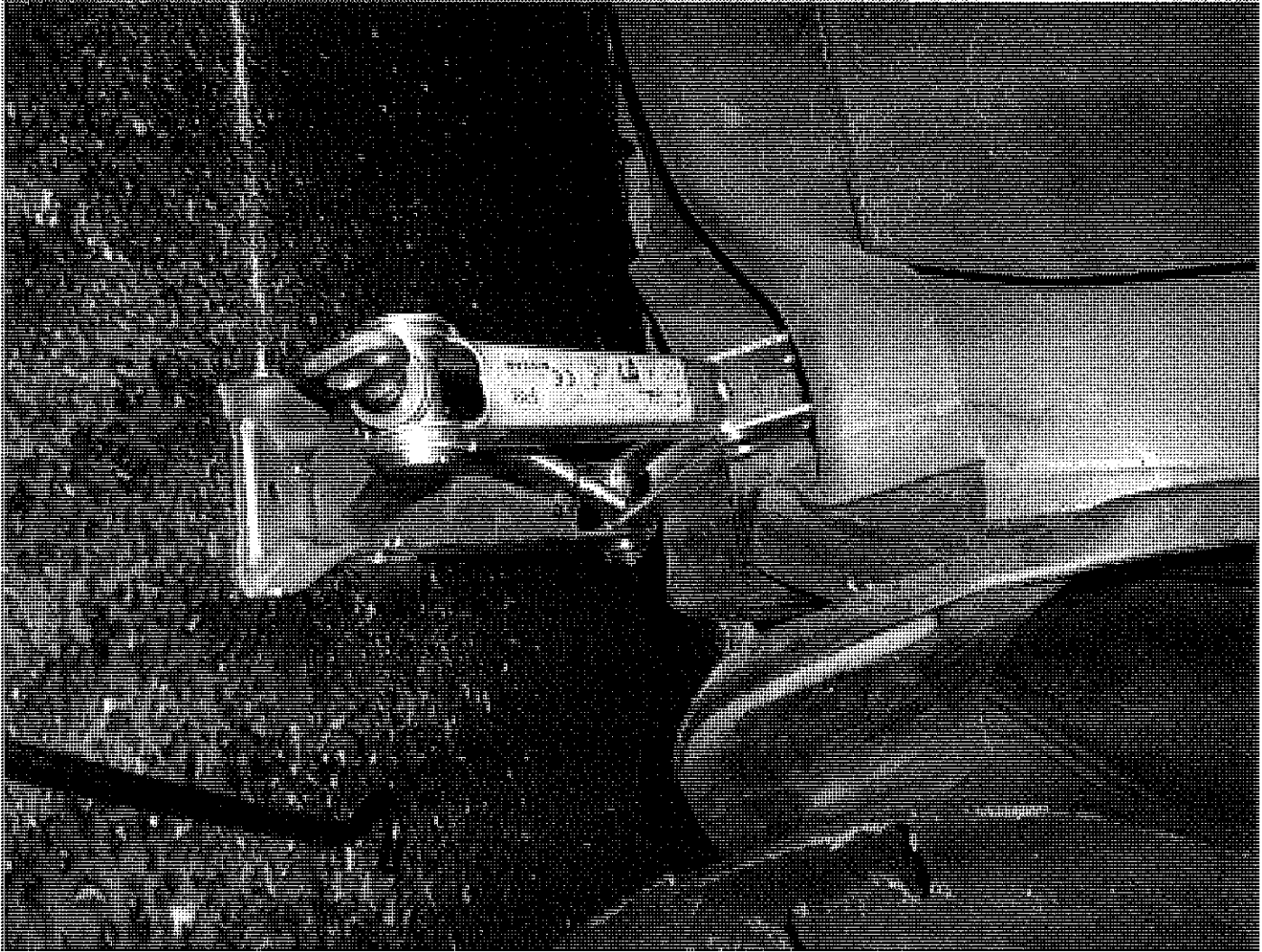
Attached Picture: PASSENGER FRONT TIRE



Attached Picture: PASSENGER FRONT TIRE CLOSE

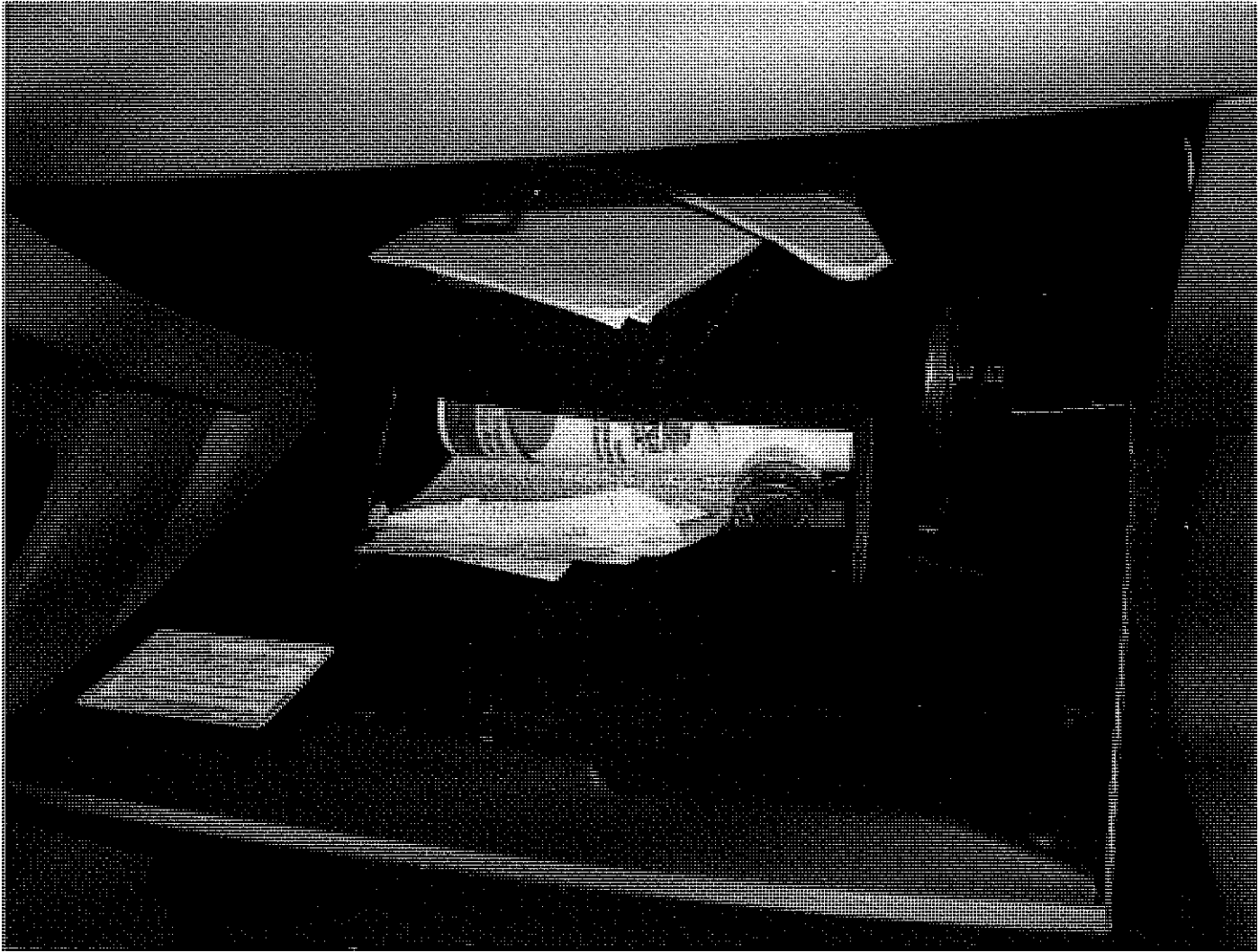


Attached Picture: TIRE JACK





Attached Picture: MARIJUANA IN GLOVE BOX



Attached Picture: METAL PIPE



Attached Picture: MARIJUANA TEST KIT



### MERRIAM POLICE DEPARTMENT VOLUNTARY STATEMENT

I, Justin Davis am not under arrest, nor am I being detained for any criminal offenses concerning the events I am about to make known to Officer Meyers.

I volunteer this information of my own free will, for whatever purposes it may serve.

|                                   |                      |                                  |   |                         |
|-----------------------------------|----------------------|----------------------------------|---|-------------------------|
| Last Name: <u>DAVIS</u>           | First: <u>Justin</u> | Mid: <u>James</u>                | Phone Numbers Home: <u>[REDACTED]</u>     | Work: <u>[REDACTED]</u> |
| Street Address: <u>[REDACTED]</u> |                      | City: <u>[REDACTED]</u>          | State/Zip: <u>Overland Park, KS 66202</u> |                         |
| Race: <u>Caucasian</u>            | Sex: <u>Male</u>     | Date of Birth: <u>[REDACTED]</u> | Height: <u>5-9"</u>                       | Weight: <u>190</u>      |
|                                   |                      |                                  | Hair: <u>Brn</u>                          | Eyes: <u>Blues</u>      |

STATEMENT:  
 I pulled out of Highpoint Apts on Shawnee Mission Pkwy heading west. I smelled smoke & saw a red car driving with a flat tire & the wheel smoking. The car was headed west & the hub cap came off. The car kept driving & the tire came off in front of the Nissan Dealership on S.M. Pkwy - The car continued west to the light at Antioch and was in the left lane. The driver then crossed all lanes to the right & headed north on Antioch and turned in to the back parking lot of the U.S. Bank. I called & reported the driver and witnessed the Merriam police dept pull in to address the driver who was out of his car apparently trying to change the tire out.

When the driver of the red car got to the intersection at S.M. Pkwy & Antioch he was down to driving on his rim & the rim was sparking all over the road.

I have read this statement consisting of 1 page(s), each page of which bears my signature, and corrections, if any, bear my initials. I certify that the facts contained herein are true and correct.

DATE OF STATEMENT: 6/28/15 TIME: 21:49 (PAGE 1 of 1)

WITNESS: \_\_\_\_\_ SIGNATURE: [Signature]

Merriam Police Department

038

Veh Yr: 2007 Make: Nissan Model: Versa Color: Red 06/27/2015 / 2019 [ ]AM [X]PM Date/Time of Accident or Violation

DRUG AND ALCOHOL INFLUENCE REPORT

Case #: 15-01715 Traffic Case: Observation/Begin: 2019 [ ]Accident

Name: Mc Garry Gage DOB: [redacted] 1980 Race/Sex: W/M Weight: 175 DL#: [redacted] State: KS

I observed the above vehicle doing the following:

- [ ] Turning with a wide radius [ ] Swerving [ ] Driving into opposing traffic [ ] Weaving [ ] Straddling center or lane marker [ ] Slow speed (more than 10 below) [ ] Signal inconsistent with actions [ ] Drifting [ ] Appearing to be impaired [ ] Stopping without cause in lane [ ] Slow response to traffic signals [ ] Headlights off [ ] Almost striking an object [ ] Following too closely [ ] Stopping inappropriately [ ] Braking erratically [ ] Driving on other than the roadway [ ] Improper or unsafe lane change [ ] Accelerating or decelerating rapidly [ ] Turning abruptly or illegally [ ] Other

Reaction time to emergency equipment:

Stopped vehicle properly [ ] Yes [ ] No [ ] Other

PERSONAL CONTACT

- Fumbled getting license? [ ] Yes [X] No [ ] Other Unsteady exiting vehicle? [ ] Yes [ ] No [ ] Other Alcohol in vehicle? [X] Yes [ ] No [ ] Other

BREATH: (Odor of Alcoholic Beverage) [ ] None [ ] Faint [ ] Moderate [X] Strong

SPEECH: [ ] Good [ ] Fair [ ] Mumbled [X] Slurred [ ] Profanity [ ] Soft [ ] Loud [ ] Other

EYES: [ ] Bloodshot [ ] Watery [ ] Glazed [X] Droopy [ ] Normal [ ] Other

ATTITUDE: [ ] Polite [ ] Excited [X] Talkative [ ] Carefree [ ] Sleepy [ ] Abusive [ ] Antagonistic [ ] Cooperative [ ] Indifferent [ ] Insulting [ ] Combative [ ] Cocky [ ] Crying [ ] Other

SUSPECT FOOTWEAR [ ] Shoes [ ] Sneakers [ ] Boots [ ] High Heels [ ] Low Heels [X] Sandals [ ] Bare Feet

SUSPECT CLOTHING [ ] Pants [X] Shorts [ ] Dress [ ] Skirt [ ] Blouse [ ] Light Jacket [ ] Other [X] Short Sleeve Shirt [ ] Long Sleeve Shirt [ ] Heavy Jacket

APPEARANCE: [X] Neat [ ] Dirty [ ] Soiled [ ] Other:

PRE ARREST SCREENING

HORIZONTAL GAZE NYSTAGMUS

Right Left

- LACK OF SMOOTH PURSUIT [X] [X] DISTINCT AND SUSTAINED NYSTAGMUS AT MAXIMUM DEVIATION [X] [X] ONSET OF NYSTAGMUS PRIOR TO 45 DEGREES [X] [X]

Wearing Contacts?

[ ] Yes [ ] No

Eyes Track Equally

[X] Yes [ ] No

Pupils Appear Equal

[X] Yes [ ] No

VERTICAL NYSTAGMUS

[ ] Yes [X] No

TOTAL CLUES: 6

WALK AND TURN

INSTRUCTION STAGE

- Loses Balance During Instructions [X] Start Before Instructions Finished [X]

CANNOT DO TEST [ ]

TOTAL CLUES: 8

WALKING STAGE

- Stops While Walking [X] Does not Touch Heel to Toe [X] Steps off Line [X] Raises Arms [X] Improper Turn [X] Incorrect Numbers of Steps [X]

1st 9 2nd 9

[X] [ ]

[X] [X]

[X] [ ]

[X] [ ]

[X]

[X]

Comments: [redacted]

ONE LEG STAND

Leg Raised  Left  Right

TOTAL CLUES: 4

CANNOT DO TEST

TEST

|                          | 1-10                                | 11-20                               | 21-30                               |
|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|
| 1. Sways While Balancing | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| 2. Uses Arms to Balance  | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |
| 3. Hopping               | <input type="checkbox"/>            | <input type="checkbox"/>            | <input type="checkbox"/>            |
| 4. Puts Foot Down        | <input type="checkbox"/>            | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> |

Comments:

OTHER FIELD SOBRIETY TESTS

Alphabet (describe performance):

Number (describe performance):

Finger to Nose (describe performance):

Unable to complete

Touched Side:  Right  Left

Touched Lip:  Right  Left

Touched Bridge:  Right  Left

CHEMICAL TEST INFORMATION

Implied Consent Advisory Given to Subject?  Yes  No

Was PBT Administered?  Yes  No

Implied Consent Advisory Read to Subject?  Yes  No

Was PBT Reading Positive?  Yes  No Result .

Did they have anything in their mouth?  Yes  No

Type of Test Offered:  Blood  Breath  Urine  Refused

Visually Inspected?  Yes  No

TEST RESULTS:

grams of alcohol per 100 milliliters of blood or 210 liters of breath

ENVIRONMENTAL CONDITIONS

Weather:  Clear  Cloudy  Rain  Snow  Fog  Windy  Calm Temperature: 76°

Road Conditions:  Normal  Holes  Ruts  Bumps  Gravel

Surface Conditions:  Dry  Wet  Snow  Ice  Other:

Lighting Conditions:  Sunny  Dark  Moonlight Streetlights:  On  Off  None

POST ARREST INTERVIEW

Miranda Given  Yes  No Were you operating the vehicle?  Yes  No

Where were you going?

Where were you coming from?

What road were you on?

What direction were you going?

Actual Road:

Actual direction:

What time is it right now?

Actual time

Have you been drinking or taking drugs?  Yes  No

What? How much? Where?

What time did you start? What time did you stop?

Do you feel you can operate a vehicle safely?  Yes  No

Do you feel you are under the influence now?  Yes  No

Have you been involved in an accident today?  Yes  No

Have you been drinking or taking drugs since the accident?  Yes  No

Are you ill or injured?  Yes  No How are you ill or injured?

Have you been to a Dr or Dentist recently?  Yes  No

When? Why?

Do you take prescription medicine?  Yes  No

What?

Are you diabetic?  Yes  No Do you take insulin?  Yes  No

SUBJECT INVOKED MIRANDA RIGHTS AND REFUSED TO ANSWER QUESTIONS

CONCLUSIONS: Influence of Alcohol and or Drugs  Slight  Obvious  Extreme  Other

Comments:

Arresting Officer: Meyers

Badge # 5679 Assisting Officer

Badge #

15-0115 2130 040  
15-01715

**IMPLIED CONSENT ADVISORY**

**INSTRUCTIONS:** A copy of this form is required to be provided to the person from whom testing is to be requested. From another copy of the form, the officer must also read each of the notices contained in the "Implied Consent Advisory" to the person. A place is provided on the reverse side for the officer to record the name of the licensee and the date. The officer may retain his copy of this form to document that the notices were provided. The officer must also certify on the DC-27 form that the notices were provided.

Notices are also provided on the reverse side of this form to be used if the person was operating a commercial motor vehicle, pursuant to K.S.A. 8-2,145, or if the person is under 21 years of age, pursuant to K.S.A. 8-1567a. If either of those notices apply and are provided by the officer, the officer must also certify on the appropriate certification form regarding those notices.

**IMPLIED CONSENT NOTICES**

1. Kansas law (K.S.A. 8-1001) requires you to submit to and complete one or more tests of breath, blood or urine to determine if you are under the influence of alcohol or drugs or both.
2. The opportunity to consent to or refuse a test is not a constitutional right.
3. You have no constitutional right to consult with an attorney regarding whether to submit to testing.
4. If you refuse to submit to and complete any test of breath, blood or urine hereafter requested by a law enforcement officer, you may be charged with a separate crime of refusing to submit to a test to determine the presence of alcohol or drugs, which carries criminal penalties that are greater than or equal to the criminal penalties for the crime of driving under the influence if you have a prior refusal for an evidentiary test for alcohol or drugs or a prior conviction or diversion for DUI or driving a commercial motor vehicle with an alcohol content of .04 or more, and such prior refusal or conviction occurred on or after July 1, 2001, and when you were 18 years of age or older.
5. In addition, if you refuse to submit to and complete any test of breath, blood or urine hereafter requested by a law enforcement officer, your driving privileges will be suspended for 1 year.
6. If you submit to a breath or blood test requested by a law enforcement officer and produce a completed test result of .15 or greater, your driving privileges will be suspended for 1 year.
7. If you submit to a breath or blood test requested by a law enforcement officer and produce a completed test result of .08 or greater, but less than .15, the length of suspension will depend upon whether you have a prior occurrence. A prior occurrence is a prior test refusal, test failure or conviction or diversion for an alcohol or drug related conviction as defined in K.S.A. 8-1013, and amendments thereto, or any combination thereof, whether before, on or after July 1, 2001.
8. If you fail a test with an alcohol content of .08 or greater, but less than .15, and do not have any prior occurrences, your driving privileges will be suspended for 30 days.
9. If you have a prior occurrence and fail a test with an alcohol content of .08 or greater, but less than .15, your driving privileges will be suspended for one year.
10. Refusal to submit to testing may be used against you at any trial on a charge arising out of the operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both.
11. The results of the testing may be used against you at any trial on a charge arising out of the operation or attempted operation of a vehicle while under the influence of alcohol or drugs, or both.
12. After the completion of testing, you have the right to consult with an attorney and may secure additional testing, which, if desired, should be done as soon as possible and is customarily available from medical care facilities willing to conduct such testing.

**(After completing the above notices, refer to the reverse side of this form.)**

IF THE PERSON IS UNDER 21 YEARS OF AGE AT THE TIME OF THE TEST REQUEST, THE FOLLOWING NOTICES ARE ALSO APPLICABLE. IF THE PERSON IS 21 YEARS OF AGE OR OVER AT THE TIME OF THE TEST REQUEST, THE FOLLOWING NOTICES DO NOT APPLY.

1. It is unlawful for any person less than 21 years of age to operate or attempt to operate a vehicle in this state with a breath or blood alcohol content of .02 or greater; and
2. If the person is less than 21 years of age at the time of the test request and submits to and completes the test or tests and the test results show an alcohol concentration of .02 or greater, but less than .08, on the person's first occurrence, the person's driving privileges will be suspended for 30 days and on the person's second or subsequent occurrence, the person's driving privileges shall be suspended for one year.

**CDL ADVISORY**

IF THE PERSON WAS DRIVING A COMMERCIAL MOTOR VEHICLE, AS DEFINED BY KANSAS LAW, THE FOLLOWING NOTICE IS ALSO APPLICABLE. IF THE PERSON WAS NOT DRIVING A COMMERCIAL MOTOR VEHICLE, AS DEFINED BY KANSAS LAW, THE FOLLOWING NOTICE DOES NOT APPLY.

Whenever a law enforcement officer has reasonable grounds to believe a person has been driving a commercial motor vehicle while having alcohol or other drugs in such person's system and the person refuses to submit to and complete a test or tests requested by a law enforcement officer or submits to and completes a test requested by a law enforcement officer which determines that the person's alcohol concentration is .04 or greater, the person will be disqualified from driving a commercial motor vehicle for at least one year, pursuant to Kansas law.

AFTER PROVIDING A COPY OF THIS FORM TO THE PERSON AND READING ALL APPLICABLE NOTICES, THE OFFICER SHOULD THEN REQUEST THAT THE PERSON SUBMIT TO A TEST OR TESTS, AS FOLLOWS:

WILL YOU TAKE A:  Breath  Blood  Urine test (Indicate the test(s) offered)

RESPONSE:  Yes  No

The officer who administers testing should complete the following information on the copy of this form retained by the officer. The officer's copy of this form can be retained in the officer's file to document that the required notices were given.

Gage McGarry  
Name of licensee

Meyers 5679  
Name of law enforcement officer administering testing

06/27/15  
Date



**OFFICER'S CERTIFICATION AND NOTICE OF SUSPENSION  
(SEE REVERSE SIDE FOR HEARING INFORMATION)**

**15-01715**

INSTRUCTIONS: This form is to be used to certify a test refusal or test failure. A copy of the completed form is required to be served upon the person; a copy is to be forwarded to the Division of Vehicles within seven (7) days after service on the driver; and a copy should be retained by a certifying officer.

| DRIVER INFORMATION   |                |                   |         |
|----------------------|----------------|-------------------|---------|
| Name (Last)          | McGarry        | (First)           | Prage   |
|                      |                | (M/I)             | R       |
| Date of Birth        |                |                   | 1978    |
| Current Address      | 7113 Amanda Dr |                   | City    |
|                      |                |                   | Shawnee |
|                      |                | State             | KS      |
| Driver's License No. |                | State of Issuance | KS      |
|                      |                | Zip               | 66227   |

**CDL** YES  NO       **CMV** YES  NO  (If yes, CDL-5 form required also)      **HAZ MAT** YES  NO

ADDRESS: The above address will be treated as a change of address if different from that on file with the Division of Vehicles and will be used for all correspondence with the person unless the Division of Vehicles is notified by the person in writing of a different address or a change of address. You can change your address on the Internet, by mail or fax to Central Office Operations, or by going to any Kansas Driver's License Examining Station.

**LAW ENFORCEMENT OFFICER'S CERTIFICATION**

**CERTIFICATION INSTRUCTIONS:** To certify a test refusal or test failure, (1) each officer must complete the statement, if necessary, (2) at least one officer must initial on the line to the left of each of the statements intended to be certified and (3) each officer who initials a statement must sign in the space provided below.

- On June 27, 2015, reasonable grounds existed to believe that the above-named person, within the State of Kansas in Johnson County,  had been operating a vehicle while under the influence of alcohol and/or drugs in violation of state statute, city ordinance or county resolution, or  had been attempting to operate a vehicle while under the influence of alcohol and/or drugs in violation of state statute, city ordinance or county resolution (if certifying a failure of a test, the officer must certify that reasonable grounds existed to believe the person was operating a vehicle); and/or  had been driving a commercial vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person's system; and/or  is under 21 years of age while having alcohol or other drugs in such person's system.
- The person had been placed under arrest or otherwise taken into custody or had been involved in a vehicle accident or collision.
- The person was presented oral and written notice as required by K.S.A. 8-1001(k) and amendments thereto.
- Check one:  The person refused to submit to or complete testing as requested by a law enforcement officer.  The result of the test showed that the person had an alcohol concentration of .08 or greater in such person's blood or breath. **NOTE:** Please attach a readable copy of the test report.
- Reason(s) for the initial contact and/or stop:  committed traffic violation(s) (explain below);  officer arrived at scene of accident;  vehicle already stopped;  other (explain)
- Reasonable grounds for my belief that the person was operating or attempting to operate a vehicle;  saw person operate;  person identified self as driver;  other (explain)
- Reasonable grounds for my belief that the person was under the influence of alcohol and/or drugs:  odor of alcoholic beverages;  alcohol's beverage containers found in vehicle;  failed sobriety tests;  slurred speech;  bloodshot eyes;  difficulty in communicating;  poor balance or coordination;  person stated alcohol/drugs consumed;  failed preliminary breath test;  other (explain)
- A copy of this document which contains a Notice of Driver's License Suspension is being served on the above-named person on June 27, 2015 by (check one)  personal service;  mailing by first-class mail to the address shown above. **NOTE:** Personal service is required if a determination of refusal or failure is made while the person is in custody.

**IF CERTIFYING A FAILURE OF A BREATH TEST, STATEMENTS 9, 10 AND 11 MUST ALSO BE COMPLETED AND CERTIFIED**

- The testing equipment used was certified by the Kansas Department of Health and Environment.
- The testing procedures used were in accordance with the requirements set out by the Kansas Department of Health and Environment.
- The person who operated the testing equipment was certified by the Kansas Department of Health and Environment to operate such equipment.

I hereby certify to the Division of Vehicles that each of the statements I have initialed above are true and accurate, under penalty of K.S.A. 8-1002(b), and amendments thereto.

|                           |                                      |                           |                                      |
|---------------------------|--------------------------------------|---------------------------|--------------------------------------|
| Title and name (printed): | <u>Officer Christopher Meyers</u>    | Title and name (printed): | _____                                |
| Agency name:              | <u>Merriam PD</u>                    | Agency name:              | _____                                |
| Agency address:           | <u>9010 W 62nd St</u>                | Agency address:           | _____                                |
| City/state/zip:           | <u>Merriam KS 66202</u>              | City/state/zip:           | _____                                |
|                           | <u>[Signature]</u>                   |                           | _____                                |
|                           | Signature of Law Enforcement Officer |                           | Signature of Law Enforcement Officer |

**TEMPORARY DRIVER'S LICENSE**

THIS NOTICE IS:

- NOT VALID as a temporary license for the reason that your license:  has expired;  has been revoked;  has been suspended;  has been cancelled; or  you have no driver's license.
- VALID as a temporary license until the 30th day after the date of service of this document. You must carry this notice with you when driving. This temporary license allows the operation of the same classes of vehicle and is subject to the same restrictions as the driver's license surrendered.

Any temporary driver's license will end and your driving privileges will be suspended on the 30th day after service of this document unless an administrative hearing has been timely requested and the required \$50 hearing fee paid, as set out in the INSTRUCTIONS FOR REQUESTING AN ADMINISTRATIVE HEARING ON THE REVERSE SIDE OF THIS FORM.

Before a test or tests are administered, the officer is required by K.S.A. 8-1001, and amendments thereto, to provide the person the oral and written notices contained on the implied consent advisory (DC-70). If the person was driving a commercial motor vehicle, as defined by Kansas law, the oral and written notice required by K.S.A. 8-2,146 should also be given. If the person is under the age of 21, the oral and written notice required by K.S.A. 8-1567a should also be given.

Distribution: 1<sup>st</sup> copy (white) copy to Division of Vehicles      2<sup>nd</sup> copy (yellow) for your file      3<sup>rd</sup> copy (pink) to Licensee/driver

**NOTICE OF DRIVER'S LICENSE SUSPENSION**  
(Pursuant to K.S.A. 8-1002)

Based upon the certification on the reverse side of this form, your driving privileges are hereby suspended, pursuant to K.S.A. 8-1014, effective the 30th day after the date of service of this notice, unless a timely request for hearing is made, together with timely payment of the required hearing fee (see below). The action taken on your license depends upon whether the officer(s) certified a test refusal or a test failure (a completed test result of .08 or greater) and whether you have any prior "occurrences" on your driving record. "Occurrence" is defined in K.S.A. 8-1013(e), as amended by the 2013 legislature, as "a test refusal, test failure or alcohol or drug-related conviction, or any combination thereof arising from one arrest." "Alcohol or drug-related conviction" includes violations of K.S.A. 8-1667, 8-2-144, 8-1028, and for aggravated battery while committing an act described in K.S.A. 8-1567, as set out in K.S.A. 21-5413(b)(3). Entry into a diversion agreement in lieu of prosecution on a prior occasion is treated as a prior "alcohol or drug-related conviction," pursuant to K.S.A. 8-1013(b)(2). You may request a copy of your driving record in writing from Central Office Operations, Division of Vehicles, Kansas Department of Revenue at PO Box 12021, Topeka, Kansas, 66601 or, visit <http://www.kansas.gov/mvr> to request a copy of your driving record online.

If paragraph 4 of the certification on the reverse side indicates you refused to submit to or complete a test, the following action will be taken on your driving privileges:

First Occurrence: 1 year suspension & 2 year Ignition Interlock restriction  
Second Occurrence: 1 year suspension & 3 year Ignition Interlock restriction  
Third Occurrence: 1 year suspension & 4 year Ignition Interlock restriction  
Fourth Occurrence: 1 year suspension & 5 year Ignition Interlock restriction  
Fifth or Subsequent Occurrence: 1 year suspension & 10 year Ignition Interlock restriction

If paragraph 4 of the certification on the reverse side indicates you failed a test and the test result was .08 or above, but less than .15, the following action will be taken on your driving privileges:

First Occurrence: 30 day suspension & 180 days of Ignition Interlock restriction if you have not previously had your driving privileges revoked, suspended, canceled or withdrawn or been previously convicted of any of the following violations: (1) K.S.A. 8-1599; (2) K.S.A. 41-727; (3) any violations listed in K.S.A. 8-285(a) or (4) been convicted of three or more moving traffic violations committed on separate occasions within a 12-month period. If your driving privileges have previously been revoked, suspended, canceled or withdrawn or your driving record contains convictions as set out above, you will receive a 30 day suspension & 1 year of Ignition Interlock restriction.  
Second Occurrence: 1 year suspension & 1 year Ignition Interlock restriction  
Third Occurrence: 1 year suspension & 2 year Ignition Interlock restriction  
Fourth Occurrence: 1 year suspension & 3 year Ignition Interlock restriction  
Fifth or Subsequent Occurrence: 1 year suspension & 10 year Ignition Interlock restriction

If paragraph 4 of the certification on the reverse side indicates you failed a test and the test result was .15 or above, the following action will be taken on your driving privileges:

First Occurrence: 1 year suspension & 1 year Ignition Interlock restriction  
Second Occurrence: 1 year suspension & 2 year Ignition Interlock restriction  
Third Occurrence: 1 year suspension & 3 year Ignition Interlock restriction  
Fourth Occurrence: 1 year suspension & 4 year Ignition Interlock restriction  
Fifth or Subsequent Occurrence: 1 year suspension & 10 year Ignition Interlock restriction

If you possess a commercial driver's license, the following additional action will be taken on your commercial driving privileges as a result of a conviction for violating K.S.A. 8-1587 or K.S.A. 8-1026 or upon a final determination that you have refused or failed a test, as defined in K.S.A. 8-1013, and amendments thereto.

First Occurrence, as defined by K.S.A. 8-1013(e): 1 year suspension of commercial driving privileges  
Second Occurrence, as defined by K.S.A. 8-1013(e): permanent revocation of commercial driving privileges

**PROCEDURE FOR REQUESTING AN ADMINISTRATIVE HEARING**

• A hearing request may be made either by mailing a written request which is postmarked within 14 calendar days after the date of service of this form, or by sending a written request by electronic facsimile (fax) to the Division of Vehicles within 14 calendar days after the date of service of this form. If this form was served on you by mail, you will have an additional 3 days, pursuant to K.S.A. 60-208(d).

• The hearing request must include your full name, driver's license number, birth date and a telephone number at which you or your legal representative can be reached if necessary.

• The hearing request must include your current address. If the address you provide in your written request for a hearing is different than the address on the reverse side of this form, the address in your hearing request will be treated as a change of address pursuant to K.S.A. 8-248. All correspondence will be sent to the address provided in the hearing request.

• The hearing request must state whether you want to have the certifying officer(s) subpoenaed to the administrative hearing. If you wish to contest the facts contained in the officer's certification at the administrative hearing, you have the burden of disproving those facts, and you may need to compel the appearance of the certifying officer(s) to do so. If you fail to request any officer's attendance at the time you make a hearing request, your right to compel that attendance by subpoena will be deemed waived and the Law Enforcement Officer's Certification will be admitted as evidence at the hearing.

• You must pay a nonrefundable hearing fee of \$50.00 within the time period for making a timely request for a hearing (check or money order preferred). The \$50 hearing fee must be postmarked within the time period for making a timely hearing request or your hearing request will be denied. (A faxed image of cash or of a check or money order will not be accepted.) Checks should be made payable to: Administrative Hearing Section, Kansas Department of Revenue.

• **HEARING LOCATION.** Upon receipt of your timely written hearing request and fee, a hearing will be scheduled by telephone conference call. You may request that the hearing be conducted in person before a representative of the Director of Vehicles. Any request for an in person hearing must be made at the time you request a hearing. A written notice will be mailed to you setting out the time, date and place of the hearing. Any temporary driving privileges granted on the reverse side of this document will be extended until a final determination is made.

• Mail hearing requests to:  
 DL Administrative Hearing Section  
 Kansas Department of Revenue  
 P.O. Box 2744  
 Topeka, KS 66601-2744  
 (785) 296-8911

• Send electronic facsimile (fax) requests to: (785) 296-0275

DC-27 (Rev. 07/13)

# ARREST REPORT

|  |                             |
|--|-----------------------------|
| Fingerprinted                          | R84 Completed               |
| <input type="checkbox"/> Yes           | 04 Yes                      |
| <input checked="" type="checkbox"/> No | <input type="checkbox"/> No |

|  |   |  |  |  |  |
|--|---|--|--|--|--|
| <b>1 ORI #</b>   | <b>2 AGENCY NAME</b>                              | <b>3a. ARREST #</b>  | <b>3b. CASE #</b>  | <b>4 SFX</b>   |  |
| KS0460300  | Merriam Police Department                         | 2015000633   | 15-01715   |  |  |
| <b>5 LAST, FIRST, MIDDLE NAME</b>  |   |  | <b>6 ALIAS AKA</b>   |  |  |
| Mcgarry, Gage Robert   |   |  |  |  |  |
| <b>7 SEX</b>   | <b>8 RACE</b>                                     | <b>9 HGT.</b>  | <b>10 WGT.</b>   | <b>11 EYE</b>  |  |
| M  | W   | 6'00   | 175-0  | BLU  |  |
| <b>12 HAIR</b>   | <b>13 SKIN</b>                                    | <b>14</b> <input type="checkbox"/> SCARS <input type="checkbox"/> MARKS <input type="checkbox"/> TATOOS <input type="checkbox"/> AMPUTATIONS |  |  |  |
| BRO  |   |  |  |  |  |
| <b>15 PLACE OF BIRTH (CITY, COUNTY, STATE)</b>   |   |  | <b>16 SSN</b>  | <b>17 DATE OF BIRTH</b>  |  |
|  |   |  | [REDACTED]   | 1980   |  |
| <b>18 AGE</b>  | <b>19 MISCELLANEOUS ID #</b>                      |  |  |  |  |
| 35   |   |  |  |  |  |
| <b>20 SID #</b>  | <b>21 FINGERPRINT CLASS</b>                       | <b>22 DL #</b>   |  | <b>23 ST</b>   |  |
|  | KEY MAJOR PRIMARY SCDV SUB-SECONDARY FINAL        | [REDACTED]   |  | KS   |  |
| <b>24 FBI #</b>  | <b>HENRY CLASS</b>                                |  | <b>25 IDENTIFICATION COMMENTS</b>  |  |  |
|  | [REDACTED]  |  |  |  |  |
| <b>26</b> <input type="checkbox"/> RESIDENT <input checked="" type="checkbox"/> NON-RESIDENT   | <b>27 HOME ADDRESS (STREET, CITY, STATE, ZIP)</b> |  | <b>28 RESIDENCE PHONE</b>  | <b>29 OCCUPATION (BE SPECIFIC)</b>   |  |
|  | 7113 Aminda St, Shawnee, KS 66227                 |  |  | Teacher  |  |
| <b>30 EMPLOYER (NAME OF COMPANY/SCHOOL)</b>  |   | <b>31 BUSINESS ADDRESS (STREET, CITY, STATE, ZIP)</b>  |  | <b>32 BUSINESS PHONE</b>   |  |
| Kansas City Ks Public Schools  |   | 3600 Springfield St, Kansas City, Ks 66103   |  |  |  |
| <b>33 LOCATION OF ARREST (STREET, CITY, STATE, ZIP)</b>  |   |  | <b>34 SECTOR #</b>   | <b>35 ARRESTED FOR YOUR JURISDICTION?</b> <input type="checkbox"/> YES <input type="checkbox"/> NO |  |
| 8600 Shawnee Mission Pkwy Merriam, Ks  |   |  |  | <input checked="" type="checkbox"/> IN STATE AGENCY <input type="checkbox"/> OUT STATE AGENCY      |  |
| <b>36 CONDITION OF ARRESTEE:</b> <input type="checkbox"/> DRUNK <input checked="" type="checkbox"/> SOBER <input type="checkbox"/> DRUGS <input type="checkbox"/> DRINKING <input type="checkbox"/> DRUGS  |   | <b>37 RESIST ARREST?</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO   | <b>38 INJURIES?</b> <input type="checkbox"/> NONE <input type="checkbox"/> OFFICER <input type="checkbox"/> ARRESTEE | <b>39 ARMED?</b> <input type="checkbox"/> Y <input checked="" type="checkbox"/> N                  | <b>40 DESCRIPTION OF WEAPON</b>  |
| <b>41 DATE OF ARREST</b>   |   | <b>42 TIME OF ARREST</b>   | <b>43 DAY OF ARREST</b>  | <b>44 TYPE ARREST</b>  | <b>45 ARRESTED BEFORE?</b>   |
| 06/27/2015   |   | 20:38  | S M T W T F S  | ON-VIEW ARREST   | YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> UNKNOWN <input type="checkbox"/> |
| <b>46 CHARGE-1</b> <input type="checkbox"/> FEL <input checked="" type="checkbox"/> MISD   | <b>47 UCR CODE</b>                                | <b>50 STATE CODE/LOCAL ORD.</b>  | <b>51 WARRANT #</b>  | <b>DISPOSITION</b>   | <b>62 DATE ISSUED</b>  |
| Pos of Hallucinogenic  | 35A   | 21 5706 b 3  | E014363  |  |  |
| <b>48 CHARGE-2</b> <input type="checkbox"/> FEL <input checked="" type="checkbox"/> MISD   | <b>49 UCR CODE</b>                                | <b>53 STATE CODE/LOCAL ORD.</b>  | <b>54 WARRANT #</b>  | <b>DISPOSITION</b>   | <b>55 DATE ISSUED</b>  |
| Use/poss Drug  | 35B   | 21 5709 b 2  | E014363  |  |  |
| <b>56 CHARGE-3</b> <input type="checkbox"/> FEL <input checked="" type="checkbox"/> MISD   | <b>57 UCR CODE</b>                                | <b>60 STATE CODE/LOCAL ORD.</b>  | <b>61 WARRANT #</b>  | <b>DISPOSITION</b>   | <b>62 DATE ISSUED</b>  |
| Dui; Misdemeanor   | 90D   | 08 1567  | E014363  |  |  |
| <b>58 CHARGE-4</b> <input type="checkbox"/> FEL <input checked="" type="checkbox"/> MISD   | <b>59 UCR CODE</b>                                | <b>63 STATE CODE/LOCAL ORD.</b>  | <b>64 WARRANT #</b>  | <b>DISPOSITION</b>   | <b>65 DATE ISSUED</b>  |
|  |   |  |  |  |  |
| <b>66 ARREST DISPOSITION</b>   |   |  | <b>68 ARRESTED WITH (1) ACCOMPLICE (FULL NAME)</b>   |  |  |
| Cleared By Arrest  |   |  |  |  |  |
|  |   |  | <b>69 ARRESTED WITH (2) ACCOMPLICE (FULL NAME)</b>   |  |  |
|  |   |  |  |  |  |
| <b>70 VYR</b>  | <b>71 VMA</b>                                     | <b>72 VMO</b>  | <b>73 VST</b>  | <b>74 VCO</b>  |  |
|  |   |  |  | TOP  |  |
|  |   |  |  | BOTTOM   |  |
| <b>78 VIN</b>  |   |  | <b>79 IMPOUNDED?</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO                             | <b>80 STORAGE LOCATION/IMPOUND #</b>   |  |
|  |   |  |  |  |  |
| <b>81 OTHER EVIDENCE SEIZED/PROPERTY SEIZED</b>  |   |  |  |  |  |
|  |   |  |  |  |  |
| <b>82 JUVENILE DISPOSITION:</b> <input type="checkbox"/> HANDLED AND RELEASED <input type="checkbox"/> REF. TO WELFARE AGENCY <input type="checkbox"/> REF. TO ADULT COURT <input checked="" type="checkbox"/> REF. TO JUVENILE COURT <input type="checkbox"/> REF. TO OTHER POLICE AGENCY |   |  |  | <b>83 RELEASED TO</b>  |  |
|  |   |  |  |  |  |
| <b>84 PARENT OR GUARDIAN (LAST, FIRST, MIDDLE NAME)</b>  |   | <b>85 ADDRESS (STREET, CITY, STATE, ZIP)</b>   |  | <b>86 HOME PHONE</b>   |  |
|  |   |  |  |  |  |
| <b>87 PARENTS EMPLOYER</b>   | <b>88 OCCUPATION</b>                              |  | <b>89 ADDRESS (STREET, CITY, STATE, ZIP)</b>   | <b>90 WORK PHONE</b>   |  |
|  |   |  |  |  |  |
| <b>91 DATE AND TIME OF RELEASE</b>   |   | <b>92 RELEASING OFFICER NAME</b>   |  | <b>93 AGENCY/DIVISION</b>  |  |
| 06/27/2015 23:00   |   | Meyers, Christopher L  |  | 5679   |  |
| <b>95 RELEASED TO</b>  |   | <b>96 AGENCY/DIVISION</b>  |  | <b>97 AGENCY ADDRESS</b>   |  |
|  |   |  |  |  |  |
| <b>98 PERSONAL PROPERTY RELEASED TO ARRESTEE</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO <input type="checkbox"/> PARTIAL  |   | <b>99 PROPERTY NOT RELEASED/HOLD AT:</b>   |  | <b>100 PROPERTY #</b>  |  |
|  |   |  |  |  |  |
| <b>101 REMARKS (NOTE ANY INJURIES AT TIME OF RELEASE)</b>  |   |  |  |  |  |
|  |   |  |  |  |  |
| <b>102 SIGNATURE OF RECEIVING OFFICER</b>  |   |  | <b>103 SIGNATURE OF RELEASING OFFICER</b>  |  |  |
|  |   |  |  |  |  |
| <b>MULTIPLE CASES CLOSED</b>   | <b>104 CASE #</b>                                 | <b>105 SFX</b>   | <b>106 CASE #</b>  | <b>107 SFX</b>   |  |
|  |   |  |  |  |  |
| <b>111 ARRESTING OFFICER (LAST, FIRST, M.)</b>   |   | <b>112 ID #</b>  | <b>113 ARRESTING OFFICER (LAST, FIRST, M.)</b>   |  |  |
| Meyers, Christopher L  |   | 5679   |  |  |  |
| <b>114 ID #</b>  | <b>115 SUPERVISOR</b>                             | <b>116 WATCH CMDR.</b>   |  |  |  |
|  | Lewis   | ID # 6128  |  |  |  |

|  |                             |       |   |              |         |
|--|-----------------------------|-------|---|--------------|---------|
| <b>ADDITIONAL ARREST<br/>NARRATIVE CONTINUED</b> | 117 DATE AND TIME OF ARREST |       | <input type="checkbox"/> AM<br><input checked="" type="checkbox"/> PM<br><input type="checkbox"/> MIL | 118a. CASE # | 119 SFX |
|  | 06/27/2015                  | 20:38 |   | 15-01715     | 045     |
|  |                             |       | 118b. ARREST #<br>2015000633  |              |         |

<sup>120</sup> ADDITIONAL ARREST INFORMATION

The listed subject, Gage McGarry, was contacted on a traffic call. He had an odor of alcoholic beverage coming from him and admitted to consuming it. He failed sobriety tests, refused the PBT and was arrested. A search of McGarry's vehicle revealed a small glass container with green leafy vegetation that smelled like marijuana in the glove box. Also, a silver metal pipe that smelled of burnt marijuana was located under the drivers side front floor mat. I tested the green leafy vegetation at the station and it tested positive as marijuana. At the station he refused to provide a breath sample. He posted his \$1,000.00 bond for DUI at the Merriam Police Department with a credit card and was released from the station. His court date is 07/28/2015 at 1100 hours in the Merriam Municipal Court.

Meyers 5679

NARRATIVE

NARRATIVE

NARRATIVE

# **EXHIBIT 11**

## **VIDEO/CD**

**BEFORE THE KANSAS STATE BOARD OF EDUCATION  
PROFESSIONAL PRACTICES COMMISSION**

In the Matter of  
the License  
of Gage McGarry

Case No. 15-PPC-52  
OAH No. 16ED0012

**LICENSEE'S INDEX OF EXHIBITS**

The Licensee, by and through counsel, submits the following index of exhibits list  
in this matter:

| No. | Description   | ID | Off | Admit |
|-----|---|----|-----|-------|
| 1.  | Certificate of Completion of Drug and Alcohol Information School (Oct. 24, 2015). |    |     |       |
| 2.  | MADD Victim Impact Panel Receipt (Dec. 16, 2015).                                 |    |     |       |
| 3.  | Performance evaluation, 2015-16 school year.                                      |    |     |       |
| 4.  | Performance evaluation, 2014-15 school year.                                      |    |     |       |
| 5.  | Performance evaluation, 2013-14, school year.                                     |    |     |       |
| 6.  | Performance evaluation, 2012-13 school year.                                      |    |     |       |
| 7.  | Performance evaluation, 2011-12 school year.                                      |    |     |       |
| 8.  | Letter of reference from Julie Day (Jan. 28, 2016)                                |    |     |       |
| 9.  | Letter of reference from Natalie Alewine (Feb. 1, 2016)                           |    |     |       |
| 10. | Letter of reference from Kristian Foster-Reynolds (March 7, 2016)                 |    |     |       |
| 11. | Note of thanks from student.  |    |     |       |
| 12. | Note of thanks from student in practicum program for undergraduate degree.        |    |     |       |
|     |   |    |     |       |
|     |   |    |     |       |
|     |   |    |     |       |
|     |   |    |     |       |
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|     |   |    |     |       |
|     |   |    |     |       |
|     |   |    |     |       |

**BEFORE THE KANSAS STATE BOARD OF EDUCATION  
PROFESSIONAL PRACTICES COMMISSION**

In the Matter of  
the License  
of Gage McGarry

Case No. 15-PPC-52  
OAH No. 16ED0012

**STATEMENT OF FACTS AND CHRONOLOGY**

Gage McGarry holds a Kansas professional teaching license and an initial school leadership license. He has been continuously licensed in Kansas since 2012. He is employed as an English Language Arts teacher at Rosedale Middle School in Kansas City, Kansas, USD 500.

On the evening of June 27, 2015, Mr. McGarry was on his way home in Shawnee, Kansas by traveling westbound in his vehicle on Shawnee Mission Parkway. That road is a major arterial roadway in Johnson County, Kansas.

Mr. McGarry became aware that one of his tires had blown. Soon after that, he realized that he was driving on the wheel rim for the tire that had blown.

Mr. McGarry turned off Shawnee Mission Parkway at the first location where he could safely make a turn. As was preparing to change the blown tire for the spare, a police officer of the Merriam, Kansas Police Department approached him.

That officer then arrested Mr. McGarry for driving under the influence of alcohol. In a subsequent inventory search of Mr. McGarry's vehicle, officers discovered a residual amount of marijuana and an item of drug paraphernalia.

He was charged with violations of city ordinances for possessing those items. He was also charged with refusing to take a preliminary breath test.

On September 17, 2015, Mr. McGarry entered into a diversion agreement with the City of Merriam for the charges. The agreement runs for twelve months. The diversion

agreement is not a conviction. Successful completion of the agreement results in a dismissal of the charges.

On October 22, 2015, Dr. Scott Myers of KSDE filed a complaint against Mr. McGarry seeking suspension of his license and all associated endorsements.



KANSAS CITY, KANSAS  
ALCOHOL SAFETY ACTION PROJECT

SECURITY NATIONAL BANK BLDG.  
M-6  
707 MINNESOTA AVENUE  
KANSAS CITY, KANSAS 66101  
(913) 342-3011

CERTIFICATE OF COMPLETION

THIS CERTIFIES THAT GAGE MCGARRY HAS  
COMPLETED THE KANSAS CITY KANSAS ALCOHOL SAFETY ACTION PROJECT'S DRUG  
AND ALCOHOL INFORMATION SCHOOL. THIS EIGHT HOUR EDUCATIONAL SERIES WAS  
COMPLETED ON OCTOBER 24, 2015.

BY Janet Roberts  
KANSAS CITY KANSAS ALCOHOL SAFETY ACTION PROJECT

KC2-39715.1

GM1

GOAL STATUS

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EMPLOYEE ID 14496  
 EVALUATOR Travis Helm  
 EVALUATEE Gage McGarry

GOAL:

Effective Scaffolding of Information within Lessons  
 Identifying Critical Content  
 Understanding Students' Interests and Backgrounds

COMMENTS ON GOAL STATUS:

Mr. McGarry continues to be a huge asset to Rosedale Middle School. He is always willing to help out where we need him, rather it be to fill in as an administrator, work with a new teacher, or assist with a leadership role in priority school. Mr. McGarry has a very solid knowledge of his curriculum. He has very well managed classes, and has a number of creative activities to help keep his students engaged. Mr. McGarry's observations and ratings in iObservation are attached.

Attached Workflow Std. Signature  
 Current Status Approved  
 Workflow Steps

- 1 Signed by TRAVIS HELM on 02/01/2016 at 4:51 PM ADM PRINC MS  
 Signature: Travis Helm
- 2 Signed by Gage McGarry on 02/01/2016 at 7:32 PM TCH MS  
 Signature: Gage mcgarry  
 Disclaimer: Signature indicates evaluation has been completed and reviewed, not concurrence. Employee has the option to submit a rebuttal within 10 duty days of signing this evaluation. You must contact Human Resources to obtain this form.

## Observation Results for Gage McGarry

|                            |  |  |
|----------------------------|--|--|
| Observer:<br>Travis Helm   | Date Started:<br>Jan 12, 2016 1:24:26 PM | Date Submitted:<br>Jan 13, 2016 9:51:58 AM               |
| Type:<br>Standard (Formal) | Location:<br>ROSEDALE MIDDLE<br>SCHOOL   | Evaluation:<br>These results count towards<br>evaluation |

### Domain 2: Planning and Preparing (v2)

The teacher plans for clear goals and identifies them in the plan; he or she describes methods for tracking student progress and measuring success.  
Copyright 2011 Robert J. Marzano, exclusive in *Observation (2)*

#### Effective Scaffolding of Information within Lessons

Within lessons, the teacher prepares and plans the organization of content in such a way that each new piece of information builds on the previous piece.

##### Evidence:

##### Planning Evidence:

- Content is organized to build upon previous information
- Presentation of content is logical and progresses from simple to complex
- Where appropriate, presentation of content is integrated with other content areas, other lessons and/or units
- The plan anticipates potential confusions that students may experience

##### Teacher Evidence:

- When asked, the teacher can describe the rationale for how the content is organized
- When asked, the teacher can describe the rationale for the sequence of instruction
- When asked, the teacher can describe how content is related to previous lessons, units or other content
- When asked, the teacher can describe possible confusions that may impact the lesson or unit

##### Resources:

Scale

##### Scale:

Not Applicable   Not Using   Beginning   Developing   **Applying**   Innovating

##### Comments:

*Desired Effect: Within lessons, the teacher prepares and plans the organization of content in such a way that each new piece of information builds on the previous piece.*

*Applying on the Scale is: Within lessons the teacher organizes content in such a way that each new piece of information clearly builds on the previous piece*

*Today is the first day of Salem Witch Trial. The students are supposed to read an article, watch a video on the iPad, and fill out a work sheet*

*Today's lesson is a lead in to the book "Which Trials" that the students will be reading. It should give the students some background knowledge as they begin the book. This is the first piece of the scaffolding instruction.*

*I feel that at this point in time, Mr. McGarry has a very good understanding of how to scaffold lessons and help students make connections to build their understanding.*

#### Overall Comments and Notifications

##### Notifications:

This observation has been completed by Travis Helm on Jan 13, 2016 9:51:58 AM

Gage McGarry acknowledged this observation on Jan 13, 2016 10:35:03 AM

##### Signatures

<https://www.effectiveeducators.com/observation/show/589552ccc4b0248ea01bc0ec>

Page 1 of 2

Observer Signature:

Date:

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Learner Signature:

Date:

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## Observation Results for Gage McGarry

|                            |  |  |
|----------------------------|--|--|
| Observer:<br>Travis Helm   | Date Started:<br>Jan 12, 2016 1:23:57 PM | Date Submitted:<br>Jan 13, 2016 9:52:45 AM               |
| Type:<br>Standard (Formal) | Location:<br>ROSEDALE MIDDLE<br>SCHOOL   | Evaluation:<br>These results count towards<br>evaluation |

### Domain 1: Classroom Strategies and Behaviors (v3)

Domain 1 is based on the Art and Science of Teaching Framework and identifies the 41 elements or instructional categories that happen in the classroom. The 41 instructional categories are organized into 8 Design Questions (DQ) and further grouped into 3 Lesson Segments to define the Observation and Feedback Protocol. Domain 1 of the 2014 Marzano Teacher Evaluation Model is updated for deep implementation of College and Career Readiness Standards containing explicit references to cognitive rigor and cognitive skills. Copyright Roban J. Marzano

#### Identifying Critical Content

**Focus Statement:** The teacher continuously identifies accurate critical content during a lesson or part of a lesson that portrays a clear progression of information that leads to deeper understanding of the content.

**Desired Effect:** Students know what content is important and what is not important.

#### Evidences:

##### Example Teacher Evidences:

- Teacher highlights critical content that portrays a clear progression of information related to standards or goals
- Teacher identifies differences between the critical and non-critical content
- Teacher continuously calls students' attention to accurate critical content
- Teacher integrates cross-curricular connections to critical content

##### Example Student Evidence:

- Students can describe the level of importance of the critical content addressed in class
- Students can identify the critical content addressed in class
- Students can explain the difference between critical and non-critical content
- Formative data show students attend to the critical content (e.g., questioning, artifacts)
- Students can explain the progression of critical content

#### Resources:

[Scale](#) | [Reflection Questions](#) | [Video](#)

#### Scale:

Not Applicable   Not Using   Beginning   Developing   **Applying**   Innovating

#### Comments:

*Desired Effect:* Students know what content is important and what is not important.

*Applying it:* Signals to students critical versus non-critical content and portrays a clear progression of information and monitors for evidence of the extent to which the majority of students are attending to critical versus non-critical content.

*Teacher explained what was not going to be graded in grade-stone, i.e. identifying non-critical information. This lesson is a lead into a historical fiction novel that the students will read.*

*Students were able to identify the critical information of the lesson.*

#### Overall Comments and Notifications

##### Notifications:

This observation has been completed by Travis Helm on Jan 13, 2016 9:52:45 AM

Gage McGarry acknowledged this observation on Jan 13, 2016 10:35:39 AM

**Signatures**

Observer Signature:

Date:

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Learner Signature:

Date:

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## Observation Results for Gage McGarry

|                            |  |  |
|----------------------------|--|--|
| Observer:<br>Travis Helm   | Date Started:<br>Jan 12, 2016 1:25:23 PM | Date Submitted:<br>Jan 13, 2016 6:54:00 AM               |
| Type:<br>Standard (Formal) | Location:<br>ROSEDALE MIDDLE<br>SCHOOL   | Evaluation:<br>These results count towards<br>evaluation |

### Domain 1: Classroom Strategies and Behaviors (v3)

Domain 1 is based on the Art and Science of Teaching Framework and identifies the 41 elements or instructional categories that happen in the classroom. The 41 instructional categories are organized into 9 Design Questions (DQ) and further grouped into 3 Lesson Segments to define the Observation and Feedback Protocol. Domain 1 of the 2014 Marzano Teacher Evaluation Model is updated for deep implementation of College and Career Readiness Standards containing explicit references to cognitive rigor and cognitive skills. Copyright Robert J. Marzano

#### Understanding Students' Interests and Backgrounds

**Focus Statement:** The teacher uses students' interests and backgrounds to produce a climate of acceptance and community.

**Desired Effect:** Students' perceptions of acceptance and sense of community are enhanced as a result of the teacher exhibiting understanding of students' interests and backgrounds.

#### Evidences:

##### Example Teacher Evidence:

- Teacher relates content-specific knowledge to personal aspects of students' lives
- Teacher has side discussions with students about events in their lives
- Teacher has discussions with students about topics in which they are interested
- Teacher builds student interest into lessons
- Teacher uses discussion of students' personal interests to highlight or reinforce cognitive skills (e.g., cultivating a growth mindset)

##### Example Student Evidence:

- Students describe the teacher as someone who knows them and/or is interested in them
- Students respond when the teacher demonstrates understanding of their interests and backgrounds
- Student verbal and non-verbal behaviors indicate they feel accepted by their teacher
- Students can describe how their personal interests connect to specific cognitive skills (e.g., cultivating a growth mindset)

#### Resources:

[Scale](#) | [Reflection Questions](#) | [Video](#)

#### Scale:

Not Applicable   Not Using   Beginning   **Developing**   Applying   Innovating

#### Comments:

*Desired Effect:* Students' perceptions of acceptance and sense of community are enhanced as a result of the teacher exhibiting understanding of students' interests and backgrounds.

*Applying it:* Uses students' interests and backgrounds during interactions with students and monitors for evidence of the sense of community in the classroom among the majority of students.

*This element calls for the more personable level of relationships. For example making connections around common interests or student interests. Getting to know student backgrounds and aspects of student lives and bringing that into side discussions with students. There is a relaxed mood in the room, the students appear to feel free to ask questions and share with Mr. McGarry. However, the personable aspect of the evidence is still something to keep in mind as you interact with students.*

*Reflection question for applying:* How might you adapt and create new strategies and techniques for using students' interests and backgrounds during interactions with students that address unique student needs and situations for all students?

#### Overall Comments and Notifications

##### Notifications:

This observation has been completed by Travis Helm on Jan 13, 2016 9:54:00 AM

Gage McGarry acknowledged this observation on Jan 13, 2016 10:36:00 AM

Signatures

Observer Signature:

Date:

\_\_\_\_\_

\_\_\_\_\_

Learner Signature:

Date:

\_\_\_\_\_

\_\_\_\_\_





# GOAL STATUS

EVALUATEE Gage McGarry

EVALUATOR Travis Helm

EMPLOYEE ID 14496

GOAL: To make more parental contact, primarily positive

**COMMENTS ON STATUS GOAL:**

This goal is centered around communication with parents. The teacher will call parents for positive and negative reasons. The teacher will also look for other ways to communicate with parents and get them involved.

Mr. McGarry wanted to make a point this year to call parents not just when students are misbehaving, but when they are doing what they are supposed to do. Mr. McGarry continues to look for opportunities to contact parents and improve in this area.

The evaluator feels that at this point in time, Mr. McGarry is meeting his goal. Parent contact and involvement is vital to students success. As a building, it is something that we want to continue to focus and improve on.

**EVALUATEE'S COMMENTS (OPTIONAL):**

SIGNATURES

DATE 2-11-15  
2/11/15



# GOAL STATUS

EVALUATEE Gage McGarry

EVALUATOR Travis Helm

EMPLOYEE ID 14498

GOAL: To utilize a variety of checking for understanding methods

### COMMENTS ON STATUS GOAL:

The purpose of this goal is for Mr. McGarry to become more familiar with a variety of checking for understanding strategies and use them in his classroom.

Mr. McGarry has taken on a variety of leadership roles within the building this year. One of those leadership roles is to work with first year teachers. When working with other staff members around the area of instruction, it forces you to reflect on your own instruction.

Like any good teacher, Mr. McGarry makes it a point to emphasize checking for understanding to know if a student is ready to move on, need re-teaching, or a total adjustment. Mr. McGarry utilizes whiteboards, popsicle sticks, productive talk, and task attack (for student feedback) as methods for checking for understanding.

The evaluator feels that at this point in time, Mr. McGarry is meeting his goal.

### EVALUATEE'S COMMENTS (OPTIONAL):

SIGNATURES

DATE

2-11-15  
2/11/15

-13-

WHITE COPY - PERSONNEL FILE; CANARY COPY - TEACHER; PINK COPY - EVALUATOR

Gage McGarry

14496

## GOAL STATUS

|             |                 |
|-------------|-----------------|
| EMPLOYEE ID | 14496           |
| EVALUATOR   | Nanette Coleman |
| EVALUATEE   | Gage McGarry    |

## GOAL:

1. Communicating Learning Goals and Feedback
2. Helping Students Interact with New Knowledge

## COMMENTS ON GOAL STATUS:

On April 3, 2014, I observed the students in Mr. McGarry's room engaged in discussion and activity around Utopia, in an effort to prepare the students for the upcoming novel *The Giver*. The group discussions were intentionally planned and it leaned itself for students to draw from their own knowledge and experiences.

On April 4, 2014, the students were reading the new novel, then there was a group discussion that allowed to check for the students understanding around the reading. I like the intentionality of the planning of questions for the novel and hopefully it will continue to keep students engaged in the reading.

Goals. 1) Communication learning goals and providing feedback has not be observed during observations in Mr. McGarry's classrooms, but maybe this will be something he will focus on being intentional about during the remainder of this unit on *The Giver*.

2) Helping students interact with new knowledge has been observed, and I believe Mr. McGarry has been intentional on getting students excited about the new material being covered in class.

Attached Workflow                      Std. Signature II

Current Status                              Approved

## Workflow Steps

|   |   |              |
|---|---|--------------|
| 1 | Signed by NANETTE COLEMAN on 04/04/2014 at 0:00 PM  | ADM PRINC MS |
|   | Signature: Nanette M. Coleman   |              |
| 2 | Signed by Gage McGarry on 04/04/2014 at 1:55 PM   | TCH MS       |
|   | Signature: gage mcgarry   |              |
|   | Disclaimer: Signature indicates evaluation has been completed and reviewed, not concurrence. Employee has the option to submit a rebuttal within 10 duty days of signing this evaluation. You must contact Human Resources to obtain this form. |              |

GOAL STATUS

|             |                    |
|-------------|--------------------|
| EMPLOYEE ID | 14496              |
| EVALUATOR   | Nanette M. Coleman |
| EVALUATEE   | Gage McGarry       |

## GOAL:

1. Tracking Student Progress

2. Identifying Critical Information

## COMMENTS ON GOAL STATUS:

10/31/13 9:04am

Mr. McGarry had a timer going while students were working on their persuasive 'Real Estate' brochures, to relevant to the house they had just read about in their prior lesson. All students were engaged and on task. Once the timer sounded Mr. McGarry transitioned into the new learning they students were about to get.

Mr. McGarry did a really nice job transitioning to the next section of class. He provided the students with an inventory sheet to start their thinking around the theme's that would be included in their new reading.

## Recommendations and/ or concerns:

1. I would like to see Mr. McGarry's obj, and focus question described more to identify what he wants the students to learn.
2. Make sure that he front-loads the new information with his students to ensure he is getting the expected outcome.

11/1/13 1:26 PM

Mr. McGarry did a really nice job of front loading new content with his students using K-W-H-L chart and providing them with the vocabulary they would be learning. The activities in which introduced these were appropriate and worked very well for what the students needed.

## Goals:

I did not see evidence on Goal #1 but for Goal #2 it was very evident with his new unit that Mr. McGarry front loaded what the students will need to get started, and I will follow up in future lessons to see if he continues to review and/or front load the critical information needed for students.

Attached Workflow

Std. Signature

Current Status

Approved

Workflow Steps

- |   |   |              |
|---|---|--------------|
| 1 | Signed by NANETTE COLEMAN on 11/01/2013 at 4:33 PM  | ADM PRINC MS |
|   | Signature: Nanelle Coleman  |              |
| 2 | Signed by Gage McGarry on 11/04/2013 at 6:00 PM   | TCH MS       |
|   | Signature: Gage McGarry   |              |
|   | Disclaimer: Signature indicates evaluation has been completed and reviewed, not concurrence. Employee has the option to submit a rebuttal within 10 duty days of signing this evaluation. You must contact Human Resources to obtain this form. |              |

**GOAL STATUS**

|             |                 |
|-------------|-----------------|
| EMPLOYEE ID | 14496           |
| EVALUATOR   | Michael Sechler |
| EVALUATEE   | Gage McGarry    |

**GOAL:**

Increase active engagement in classroom.

Bettering my ability to check for understanding

**COMMENTS ON GOAL STATUS:**

Mr. McGarry is employed at Rose Dale Middle School. During the 2012-2013 school year Mr. Sechler, Assistant Principal has supervised Mr. McGarry. We have had held meetings, discussions and a formal evaluation.

On my observation, Mr. McGarry had students taking a pre-test over figurative language. When they finished they discussed the similarities and differences of Tell Tall Heart. When discussing these similarities and differences, Mr. McGarry would pull popsicle sticks to decide who would be chosen to answer the next question. I saw many hands go up to answer the question but they knew that they were only able to answer if their name was called.

Next they went on to discuss the pre-test they had taken earlier, Mr. McGarry continued to pulled popsicle sticks to increase the engagement as well as checking their understanding of the concepts be taught. As he asked students questions pertaining to figurative language, Mr. McGarry did a good job following his question up with another question to see if they understood or if they were just guessing.

*Attached Workflow* Std. Signature

*Current Status* Approved

**Workflow Steps**

- |   |   |              |
|---|---|--------------|
| 1 | Signed by MICHAEL SECHLER on 10/31/2012 at 3:20 PM  | ADM PRINC EL |
|   | Signature: Michael Sechler  |              |
| 2 | Signed by Gage McGarry on 10/31/2012 at 3:24 PM   | TCH MS       |
|   | Signature: Gage McGarry   |              |
|   | Disclaimer: Signature indicates evaluation has been completed and reviewed, not concurrence. Employee has the option to submit a rebuttal within 10 duty days of signing this evaluation. You must contact Human Resources to obtain this form. |              |

**GOAL STATUS**

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|             |              |
|-------------|--------------|
| EMPLOYEE ID | 14496        |
| EVALUATOR   | Mick Sechler |
| EVALUATEE   | Gage McGarry |

**GOAL:**

1. Increase active engagement in classroom

2. Bettering my ability to check for understanding

**COMMENTS ON GOAL STATUS:**

Mr. McGarry is employed at Rosedale Middle School. During the 2012-2013 school year Mr. Sechler, Assistant Principal has supervised Mr. McGarry. We have had held meetings, discussions and a formal evaluation.

On my second semester observation, Mr. McGarry's students were studying the novel *Witch Child*. They were making inferences about the readings. As Mr. McGarry was speaking, he did a great job using specific vocabulary words that the students would need to know to be successful in this assignment. He used them in great detail and in ways the students could understand the meaning.

Next, Mr. McGarry pulled popsicle sticks to pair up the students. The students moved with their partner and went to work on their assignments. Mr. McGarry did a good job checking each group's level of understanding.

Mr. McGarry has successfully met each of his goals; I would like for Mr. McGarry to continue to incorporate these strategies in his classroom, as they are aligned with the goals of the school. I have no doubt that he will continue this task. As I look back at his previous evaluation, I recommended that he start using some cooperative learning strategies and he has done just that. I would recommend McGarry for a contract for the 2013-2014 school year



## GOAL STATUS

**EVALUATEE:** Gage McGarry

**EVALUATOR:** Michael Sechler

**SOCIAL SECURITY NUMBER:** 458-87-9338

**GOALS:**

1. Increase active engagement in classroom.
2. Bettering my ability to check for understanding

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**COMMENTS ON STATUS OF GOAL**

Mr. McGarry is employed at Rosedale Middle School. During the 2012-2013 school year Mr. Sechler, Assistant Principal has supervised Mr. McGarry. We have had held meetings, discussions and a formal evaluation.

On my observation, Mr. McGarry had students taking a pre-test over figurative language. When they finished they discussed the similarities and differences of Tell Tall Heart. When discussing these similarities and differences, Mr. McGarry would pull popsicle sticks to decide who would be chosen to answer the next question. I saw many hands go up to answer the question but they knew that they were only able to answer if their name was called.

Next they went on to discuss the pre-test they had taken earlier, Mr. McGarry continued to pulled popsicle sticks to increase the engagement as well as checking their understanding of the concepts be taught. As he asked students questions pertaining to figurative language, Mr. McGarry did a good job following his question up with another question to see if they understood or if they were just guessing.

**Goal 1: To Increase active engagement in classroom.**

In regards to this goal, Mr. McGarry was and has been using his popsicle sticks to increase not only his active engagement but his checking for understanding. Throughout the class period, Mr. McGarry, used this strategy, and you can tell from the class he consistently uses this method.

**Goal 2: Bettering my ability to check for understanding.**

Mr. McGarry along with goal one, has demonstrated in a few of the observation that he is working towards this goal.

**Goal 3:**



I would like for Mr. McGarry to continue to work on his goals. He does have a good grasp with the different types of engagement strategies. I would also like for him to start to incorporate more cooperative learning strategies into his class. (partners, groups ect.)

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

COPY 1 PERSONNEL FILE

COPY 2 TEACHER

COPY 3 EVALUATOR

Building: ROSEDALE MIDDLE SCHOOL

Gage McGarry  
14496

Responsible:

**CLASSIFIED EMPLOYEE EVALUATION FORM**

EMPLOYEE'S NAME: McGarry  
 Employee ID#: 14496  
 POSITION: Assessment Manager  
 LOCATION: Sumner  
 DATE: 05/04/2012  
 REASON FOR REVIEW ANNUAL

**Evaluation Ratings**

1. SUPERIOR PERFORMANCE - Consistently exceeds job requirements and clearly demonstrates outstanding performance
2. EXCEEDS EXPECTATIONS - Consistently exceeds job requirements
3. MEETS EXPECTATIONS - Meets job requirements
4. NEEDS IMPROVEMENT - Special assignments are required in the job frame set by the evaluator
5. UNSATISFACTORY - Does not meet job requirements

**Evaluation Areas***Ratings*

|   |                      |
|---|----------------------|
| ORGANIZATION: Plans ahead to maintain steady progress; recognizes strategic variables in advance      | SUPERIOR PERFORMANCE |
| JUDGEMENT: Uses good judgment in making decisions after comparing and analyzing available information | SUPERIOR PERFORMANCE |
| PRODUCTIVE: Produced quality work on time   | SUPERIOR PERFORMANCE |
| TRUSTWORTHINESS: Maintains confidence in sensitive matters  | SUPERIOR PERFORMANCE |
| EFFICIENCY: Efficiently utilizes time on the job in most effective manner                             | SUPERIOR PERFORMANCE |
| ATTITUDE: Willingness to accept assignments with the appropriate enthusiasm and initiative            | SUPERIOR PERFORMANCE |
| COORDINATES: Informs co-workers related to tasks of actions and decisions                             | SUPERIOR PERFORMANCE |
| DEPENDABILITY: Follows instructions, adjusts to peak workload to accomplish assignments               | SUPERIOR PERFORMANCE |
| VERSATILITY: Able to perform other services outside primary area of responsibility                    | SUPERIOR PERFORMANCE |
| ACCURACY: Produces precise work, free from error, neat and clear                                      | SUPERIOR PERFORMANCE |
| INITIATIVE: Originates useful ideas, makes feasible suggestions for improvement                       | SUPERIOR PERFORMANCE |
| COOPERATION: Able to successfully interact with others and willingness to help co-workers             | SUPERIOR PERFORMANCE |
| JOB KNOWLEDGE: Understands and fulfills job responsibilities and objectives                           | SUPERIOR PERFORMANCE |

Classified (Other)

Completed: 06/04/2012

Page 1 of 2

GM19

COMMUNICATION SKILLS: Expresses ideas clearly in good grammatical form, both written and verbal SUPERIOR PERFORMANCE

ATTENDANCE AND PUNCTUALITY: Abides by the attendance policy and maintains prescribed working hours SUPERIOR PERFORMANCE

PERSONAL APPEARANCE: Cleanliness and personal hygiene, neatness and appropriate attire SUPERIOR PERFORMANCE

COMMENTS:

An exceptional employee

Evaluation Summary

Overall Performance Rating

General Level of Performance SUPERIOR PERFORMANCE

Evaluator's Remarks

Gage came into the assignment at mid-year and excelled in all aspects of the job

Employee's Remarks (if any)

Employee's Signature

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Employee's signature is for informational and review of evaluation only. Signing does not indicate employee agreement.

Evaluator's Name Gage McGarry

Evaluator's Signature

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

January 28, 2015

Dear Kansas State Board of Education Professional Practices Commission,

My name is Julie Day and I'm writing this letter in reference to Mr. Gage McGarry. I am the 7<sup>th</sup> and 8<sup>th</sup> grade Targeted Literacy Instructor (TLI) at Rosedale Middle School in Kansas City, Kansas, USD 500. I have been teaching in the KCKPS District for ten years. I have been a member of the Rosedale Middle School leadership team for the past two years, I have instructed and trained a student teacher, I am currently a mentor teacher, and I was the STAR Teacher for the 2013-2014 school year.

Mr. McGarry was one of the teachers I was fortunate enough to mentor and collaborate with. He is extremely intelligent, organized, structured, and creative. He creates rigorous and differentiated unit plans, lessons, assignments, and activities, which engage all learners at every level.

Mr. McGarry researches, plans, and delivers excellent instruction to his students. His students consistently show academic growth year after year on state assessments. It is clear, as an eighth grade teacher, which students had Mr. McGarry for seventh grade English Language Arts. His students come well prepared for 8<sup>th</sup> grade English.

Mr. McGarry is an active member of our BIST (Behavior Intervention Support Team), Literacy Cadre, and was elected as the Literacy Cadre reform member to develop and help implement our school wide writing strategy. He is currently serving as the seventh grade Team Lead and is regularly called upon to be an acting administrator when ours are out of the building. As a member of the Aspiring Leaders Academy for USD 500, a Thinking Strategies Cadre member, and a member of the building Leadership Team, Mr. McGarry was called upon to present and lead staff in various leadership capacities. He is currently a Beginning Teacher Mentor and was a mentor teacher for a MidAmerica Nazarene University student's practicum.

Mr. McGarry is resourceful, helpful, and a leader in our school. He is not only a leader professionally, but has the ability to build relationships and guide and mentor his students successfully. Mr. McGarry's students respect and trust him, as do their parents and members of the community. He is an excellent educator, administrator, role model, and leader at Rosedale Middle School.

I can personally attest to the fact that I have never witnessed Mr. McGarry conduct himself in anything other than a respectable, professional manner. I have never witnessed Mr. McGarry involving himself with any illegal substances, alcohol, or anything prohibited by law or the school district, nor has his behavior ever implied that he has.

Sincerely,



Julie Day

Targeted Literacy Instructor- Rosedale Middle School  
 Kansas City, Kansas Public School District  
 913.627.6933 [julie.day@kckps.org](mailto:julie.day@kckps.org)

# Natalie Alewine

3600 Springfield Street  
 Kansas City, KS 66103  
 913-627-6900  
 natalie.alewine@kckps.org

Date: 02/01/2016

To Kansas State Board of Education Professional Board of Ethics:

I am a third year special education collaborative teacher working at Rosedale Middle School. I have worked in eight different classrooms throughout this school and I have seen all manner of teaching styles and strategies. When I started my career in the Kansas City Kansas Public Schools Mr. Gage McGarry was assigned as my in-building mentor and as my ELA co-teacher. He took this job very seriously. Anytime that I needed resources, or ideas Mr. McGarry was there to help me brainstorm, help me with activity ideas, and create lessons collaboratively. He worked with me while I learned how to implement BIST properly, research new learning strategies, and find interactive ways to make dynamic lessons for our students.

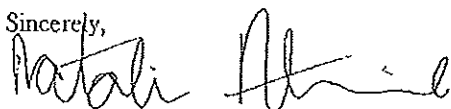
While learning how to be a better teacher I observed Mr. McGarry on a daily basis and learned what it means to care for kids. Everyday he integrates technology, differentiation, and a passion for education into his lessons. When planning his lessons he makes sure to meet kids where they are at and teach accordingly. Mr. McGarry works diligently to create an effective teaching environment where kids feel safe to learn and can grow into life-long learners.

As a seventh grade team leader Mr. McGarry is able to keep his coworkers organized and on task, while being a role model for how other teachers should be. During these meetings he is professional and acts as a resource for other teachers to work with. He is well prepared everyday to come to work and inspire people.

Gage McGarry is adept at inspiring excellence in his students. He raises the bar and uses every resource he has to make sure that his students have the ability to surpass it. This is a skill that brings out the best in students. When kids achieve in his class they are proud because they know it means something; they know they earned it.

Gage McGarry has never been in possession or under the influence of illegal drugs or alcohol on school grounds. He has never taught class or come to any school function impaired.

Sincerely,



Natalie Alewine  
 Special Education Collaborative Teacher

March 7, 2016

Attn. Kansas State Board of Education Professional Practices Commission:

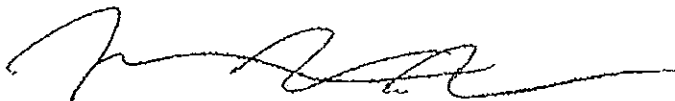
I have had the pleasure of knowing Mr. Gage McGarry since the fall semester of 2003 when he and I began teaching together at Southwest Charter School. Several years later, during the 2011-2012 school year, I was Mr. McGarry's supervisor in his position as School Assessment Manager at Sumner Academy of Arts and Science. At no point in the over 13 years that I have known Mr. McGarry has there ever been any evidence that he was under the influence of any substance while performing his professional duties.

The school that Mr. McGarry and I began teaching at served a high at-risk and low SES student population. Our resources were scarce and our students faced a variety of hardships outside of school that impacted their ability to focus and learn. It was in providing support for our students in need that I first witnessed Mr. McGarry's compassion and dedication to education. He consistently made efforts to ensure that students had materials and resources that they needed for class. Tutoring sessions were held after school and he would differentiate his instruction to accommodate his student's learning needs. He and I shared many of the same students and we, along with other content teachers, met regularly to strategize how to best support various kids. Mr. McGarry also started up a soccer team for our student's, demonstrating his belief in the need for kids to be involved in activities outside of the classroom. It would be a loss for students if Mr. McGarry is unable to continue working in education.

As the SAM at Sumner, Mr. McGarry made it a point to develop professional relationships with our staff, which helped him to gain the support needed to create a smooth and relatively stress-free testing schedule. He also effectively planned, coordinated, and carried out our rigorous testing schedule, which speaks volumes towards his organization skills. In addition to his SAM duties, Mr. McGarry readily helped out with other tasks and events, such as supervision of various activities and providing some tutoring for students and data based instructional support for teachers. He is clearly a highly competent and driven individual, skills that were recognized by our principal who assigned Mr. McGarry to be our Summer School Coordinator during the 2012 session. Mr. McGarry effective collaboration and coordination skills will be an asset to your administrative and instructional teams.

I have no doubt at all in my mind that Mr. Gage McGarry has ever done anything to compromise the safety of his students or his professional ethics. He is an excellent educator and punishing him in such a way that would impact his career going forward would be a disservice. I will reiterate that I have no reason what so ever to believe that he has ever been under the influence of any substance while working in his professional capacity as an educator. If you have further questions please do not hesitate to contact me.

Sincerely,



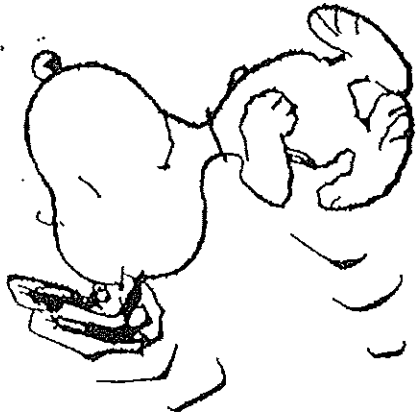
Kristian Foster-Reynolds  
Assistant Principal  
Sumner Academy of Arts and Science  
#913-627-7217

Dear Mr. McGarry,

Happy Teacher appreciation  
day! you helped me alot last year!  
thank you for dealing w/ me & my additude  
Wish I still heard you! Bye

Sincerely

Viridiana  
Ramirez,



**THANKS TO YOU,  
I'M DOING A LITTLE  
HAPPY DANCE!**

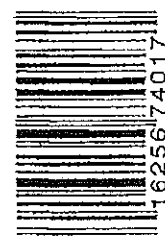
*Schultz*

*Sunrise*  
every artist has a story

Sunrise is the place where art meets life —  
where artists gather to inspire us, to refresh us,  
and to connect us.



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Thank you!

Mr. McGarry:

Thank you for your  
 help and your leadership  
 during my fall ~~experience~~  
 preschool experience and  
 for everything you do for  
 those outstanding kids  
 you work with every day.

Sincerely,

Michelle P. Powell

BEFORE THE KANSAS STATE DEPARTMENT OF EDUCATION

In the Matter of the License of  
GAGE McGARRY

Case No. 15-PPC-52  
OAH No. 16ED0012

**ORDER**

On March 29, 2016, the hearing in this matter was convened.

After hearing the evidence in this case, the Professional Practices Commission (PPC) determined that the matter should be continued to the first meeting/hearing date after the completion of Mr. McGarry's diversion.

The PPC also requires Mr. McGarry to submit two hair follicle tests, at his own expense: the first, within a week from the date of the hearing; and the second, approximately 30 days prior to Mr. McGarry's next appearance before the PPC.

Once the hearing date is established, a deadline will be established for Mr. McGarry to provide any additional documentation to the PPC with regard to his rehabilitation.

**IT IS SO ORDERED.**



Michele L. Tunnell  
Administrative Law Judge  
Office of Administrative Hearings  
1020 S. Kansas Avenue  
Topeka, KS 66612

CERTIFICATE OF SERVICE


On Apr 4, 2016, I mailed a copy of this document to:

Gage McGarry  
7113 Aminda Dr.  
Shawnee, KS 66086

Ted J. Lickteig  
Attorney at Law  
Greystone Office Plaza, Ste. 112  
12760 W 87<sup>th</sup> St.  
Lenexa, KS 66215 2878

Kelli M. Broers, Attorney  
Kansas State Department of Education  
900 SW Jackson, Ste. 102  
Topeka, KS 66612  
Telephone: 785-296-3204

Theresa Coté, Secretary  
Professional Practices Commission  
Kansas State Department of Education  
900 SW Jackson, Ste. 656  
Topeka, KS 66612

  
\_\_\_\_\_  
Staff Person  
Office of Administrative Hearings  
1020 S. Kansas Avenue  
Topeka, KS 66612  
Telephone: 785-296-2433

**LAW OFFICES OF THEODORE J. LICKTEIG**

---

Theodore J. Lickteig

Greystone Office Plaza, Suite 112  
12760 West 87<sup>th</sup> Street  
Lenexa, Kansas 66215-2878  
913-894-1090

April 20, 2016

Kelli M. Broers  
Attorney  
Kansas State Department of Education  
900 SW Jackson, Suite 102  
Topeka, Kansas 66612

Re: *In the Matter of the License of Gage McGarry*, No. 15-PPC-52, OAH No. 16 ED 12.

Dear Ms. Broers:

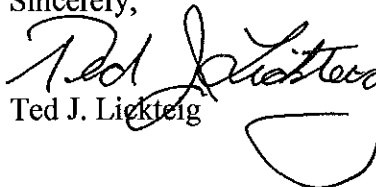
I have enclosed a statement of my client Gage McGarry to effect a voluntary surrender of his education licenses with the State of Kansas.

I have advised Mr. McGarry of the hearing time for this matter of April 25, 2016 at 11 a.m. and of his right to appear at that hearing.

We request that the Kansas reporting system for this matter reflect only that Mr. McGarry has voluntarily surrendered his licenses. Likewise, we request that any reporting to any national reporting system or database be limited to reflect only that he has voluntarily surrendered his licenses.

Any reporting beyond the fact that Mr. McGarry has voluntarily surrendered his licenses will be viewed as an unwarranted additional punishment.

Sincerely,



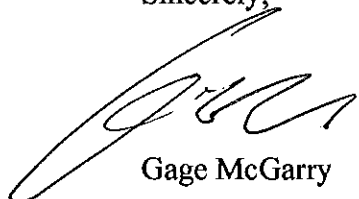
Ted J. Lickteig

Xc: Gage McGarry

April 20, 2016

I, Gage McGarry, voluntarily surrender my teaching and administrative licenses in the State of Kansas.

Sincerely,



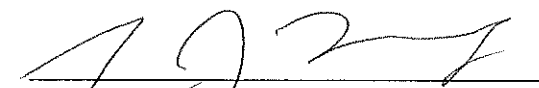
Gage McGarry  
7113 Aminda Dr.  
Shawnee, KS 66227

VERIFICATION

STATE OF Kansas  
COUNTY OF Johnson ss:

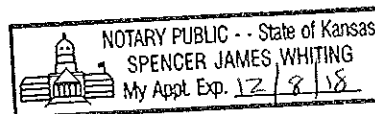
BE IT REMEMBERED that on this 20 day of April, 2016, before me, the undersigned, a notary public in and for the county and state aforesaid, came Gage McGarry, who is personally known to me to be the same person who executed the within instrument and such person duly acknowledged the execution of the same.

IN TESTIMONY WHEREOF, I have set my hand and affixed my official seal the day and year last above written.

  
\_\_\_\_\_  
Notary Public

My appointment expires:

December 8, 2018



BEFORE THE PROFESSIONAL PRACTICES COMMISSION  
KANSAS STATE DEPARTMENT OF EDUCATION

In the Matter of the License of  
GAGE McGARRY

Case No. 15-PPC-52  
OAH No. 16ED0012

**INITIAL ORDER**

Statement of Case

The above-captioned case comes on for hearing before the Professional Practices Commission (Commission) of the Kansas State Department of Education (KSDE) upon the Complaint filed by the KSDE against the licensee, Gage McGarry, seeking suspension of his license and all associated endorsements.

The hearing in this matter was convened on March 29, 2016. Appearing for the Commission were chairperson, Linda Sieck, and members, Bradley Nicks, Dorsey Burgess, Justin Henry, John McKinney, Jessica Snider, and Ginger Riddle.

Mr. McGarry appeared in person and with his counsel, Ted J. Lickteig.

Kelli Broers appeared as counsel for the KSDE.

After hearing the evidence, the Commission determined that the matter should be continued to the first meeting/hearing after the completion of Mr. McGarry's diversion period. The Commission also required Mr. McGarry to submit two hair follicle drug tests, at his own expense: the first, within a week from the date of the hearing; and the second, approximately 30 days prior to Mr. McGarry's next appearance before the Commission.

On April 14, 2016, the undersigned Administrative Law Judge (ALJ) was advised that in lieu of submitting a drug test, Mr. McGarry had elected to voluntarily surrender his license effective May 20, 2016.

On April 18, 2016, a status conference was convened with counsel. Mr. Lickteig appeared on behalf of Mr. McGarry. Ms. Broers appeared on behalf of the KSDE. Mr. Lickteig was advised that although his client wished to voluntarily surrender his license, the Commission could recommend to the Kansas State Board of Education (Board) that his surrender not be accepted and that discipline, up to revocation, could be imposed. Mr. Lickteig was advised that he and Mr. McGarry could appear on April 25, 2016 to present any testimony or evidence with regard to Mr. McGarry's decision not to take the drug test and voluntarily surrender his license. It was recommended that Mr. Lickteig formally submit Mr. McGarry's surrender by letter to Ms. Broers.

On April 20, 2016, Mr. Lickteig submitted a letter to Ms. Broers to which Mr. McGarry's statement that he was voluntarily surrendering his teaching and administrative licenses in the state of Kansas was attached. In the letter, Mr. Lickteig stated that he had advised Mr. McGarry of the hearing time and of his right to appear. He also requested that all reporting systems reflect only that Mr. McGarry voluntarily surrendered his license.

On April 22, 2016, the undersigned ALJ received notification by email from Mr. Lickteig that neither he nor Mr. McGarry would be appearing before the Commission on April 25, 2016.

On April 25, 2016, the hearing was again convened. Appearing for the Commission were chairperson, Linda Sieck, and members, Dorsey Burgess, Bradley Nicks, Tavis DeSormiers, Justin Henry, Kimberly Groom, and Jessica Snider.

As previously stated, neither Mr. McGarry nor his counsel appeared.

Kelli Broers appeared as counsel for the KSDE.

Ms. Broers presented Mr. Lickteig's letter with Mr. McGarry's voluntary surrender.

For the reasons stated below, the Commission unanimously recommends to the Board that Mr. McGarry's voluntary surrender not be accepted and that revocation of his license and all associated endorsements is warranted.

#### Findings of Fact

1. Mr. McGarry became a licensed educator in 2003, teaching in Kansas City, Missouri, for two years.
2. Thereafter, he had several jobs, but eventually returned to teaching.
3. Mr. McGarry currently holds a professional teaching license and an initial school leadership license. He has been continuously licensed in Kansas since 2012.
4. On June 27, 2015, Mr. McGarry was ticketed for DUI, Refusal of Preliminary Breath Test, Possession of Drug Paraphernalia, and Possession of Controlled Substances in the City of Merriam, Kansas.
5. On September 17, 2015, Mr. McGarry entered into a diversion agreement in the Municipal Court of the City of Merriam wherein he stipulated to the charges and the facts as contained in the complaint, police reports, written, oral, or visual recorded



witness statements, and videos. He further stipulated he was the individual arrested and charged.

6. Mr. McGarry was placed on diversion for 12 months.

7. On October 22, 2015, the KSDE filed the Complaint at issue.

8. Mr. McGarry timely requested a hearing in this matter.

9. As previously stated Mr. McGarry and his counsel appeared and the Commission heard testimony.

10. At the time, Mr. McGarry had not completed his diversion.

11. When questioned as to his use of marijuana, Mr. McGarry stated that he began using marijuana in 1999 and continued using marijuana until June 2015. He stated that he used marijuana for insomnia and would also occasionally use marijuana for recreational purposes.

12. When asked where he got the marijuana, Mr. McGarry stated that he played soccer and ran trails and would just "ask around."

13. When asked, he also testified that he was still in contact with the people from whom he had obtained the marijuana.

14. There was also testimony by Mr. McGarry indicating that he kept the marijuana and pipe in his car during times when it would have been parked on school property.

15. Mr. McGarry specifically testified that he had not used marijuana since the incident giving rise to his diversion in June 2015.

16. The crux of Mr. McGarry's argument was that he had an unblemished teaching record and that suspension would create a hardship on his family and do a disservice to his students. He also claimed that the incident giving rise to his diversion was "one night of poor judgment."

17. Based on Mr. McGarry's testimony, the Commission took the matter under advisement and continued Mr. McGarry's hearing to the first hearing/meeting date after the date of completion of his diversion. To confirm that Mr. McGarry was still not using marijuana as he had testified and to assure that he would not do so during this time period, the Commission ordered two hair follicle drug tests.

18. Mr. McGarry declined to take the first hair follicle drug test as required by the Commission.

Conclusions of Law  
and  
Discussion

1. The Board may suspend a license for misconduct or other just cause including entry into a diversion agreement after having been charged with drug-related conduct. K.A.R. 91-22-1a.

2. Mr. McGarry was not convicted of a misdemeanor involving drugs, however, entered into a diversion agreement for DUI, refusal of preliminary breath test, and possession of marijuana and drug paraphernalia. Successful completion of the agreement will result in dismissal of the charges.

3. The Commission, accepting Mr. McGarry's testimony that he was no longer using marijuana, continued Mr. McGarry's hearing to a date after the date his

diversion would be completed with the condition that he submit to the two hair follicle drug tests.

4. As previously stated, Mr. McGarry declined to submit to the first drug test. By doing so, the only conclusion that can be drawn by the Commission is that Mr. McGarry provided false testimony regarding when he last used marijuana.

5. While Mr. McGarry expressed his remorse for his behavior and recognition of the wrongfulness of his conduct, the Board is not now convinced of the truthfulness of such statements.

6. In addition, the Commission is also troubled by the fact that it appeared that Mr. McGarry kept marijuana and drug paraphernalia in the glove box of his car while his car was parked on school grounds.

7. The Commission finds that Mr. McGarry cannot be in a position of public trust as a teacher based on the following. First, Mr. McGarry's behavior, i.e., possessing and using marijuana, appears to not have ceased. Second, Mr. McGarry failed to provide truthful responses to the questions asked by the Commission about his continued marijuana use.

8. The Commission finds that Mr. McGarry's conduct is inconsistent with the commonly-held perceptions and expectations of a member of the teaching profession.


9. On a unanimous vote of 7-0, the Commission finds Mr. McGarry is not fit to be a member of the teaching profession.

IT IS THEREFORE RECOMMENDED by the Professional Practices Commission to the Kansas State Board of Education that Gage McGarry's voluntary surrender of his teaching license not be accepted and that his license and all associated endorsements be revoked.

This Initial Order of the Professional Practices Commission is not a Final Order and is required to be reviewed by the Kansas State Board of Education in accordance with the provisions of the Kansas Administrative Procedure Act.

The licensee may submit to the Kansas State Board of Education for its consideration as a part of its review of the Initial Order, a written brief citing legal authority as to why the above recommendation should not be accepted. The legal brief must be filed with the Secretary of the Professional Practices Commission, Kansas State Department of Education, 900 SW Jackson Street, Topeka, Kansas 66612, within fifteen days after service of the Initial Order for transmittal to the Kansas State Board of Education.

This Initial Order is made and entered this 11 day of May, 2016.

  
Linda Sieck, Chairperson  
Professional Practices Commission

**CERTIFICATE OF SERVICE**


I hereby certify that on this 26 day of May, 2016, a true and correct copy of the above and foregoing was filed with the Secretary for the Kansas State Board of Education and one (1) copy was mailed by certified mail, return receipt requested, to:

Gage McGarry  
7113 Aminda Dr.  
Shawnee, Kansas 66086

Ted Lickteig  
Attorney for Respondent  
Greystone Office Plaza, Ste. 112  
12760 W. 87<sup>th</sup> Street  
Lenexa, Kansas 66215

and via interoffice mail to:

Kelli Broers  
Assistant General Counsel, Kansas State Department of Education  
900 SW Jackson Street, Ste. 102  
Topeka, Kansas 66612

  
\_\_\_\_\_  
Gwen Kramer  
Secretary, Professional Practices Commission

**BEFORE THE KANSAS STATE BOARD OF EDUCATION**

In the Matter of the License of  
GAGE McGARRY

Case No. 15-PPC-52  
OAH No. 16ED0012

**BRIEF OF LICENSEE**  
**REGARDING INITIAL ORDER**

The license holder, Gage McGarry, by and through counsel, Theodore J. Lickteig, submits the following brief regarding the Initial Order of the Professional Practices Commission dated May 11, 2016.

I. Introduction.

The Initial Order of the PPC was based on speculation, conjecture, inferences not supported by facts and placed reliance on a drug test method that has drawn criticism in the professional literature.

II. Statements in Initial Order.

1. The PPC ordered Mr. McGarry to submit to two hair follicle tests at different points in time. (Initial Order at 1)
2. “There was also testimony by Mr. McGarry indicating that he kept the marijuana and pipe in his car during times when it would have been parked on school property.” (Initial Order, Para. 14 at 4)
3. “Mr. McGarry specifically testified that he had not used marijuana since the incident giving rise to his diversion in June 2015.” (Initial Order, Para. 15 at 4)
4. “Mr. McGarry declined to take the first hair follicle drug test as required by the Commission.” (Initial Order, Para. 18 at 5)
5. “As previously stated, Mr. McGarry declined to submit to the first

drug test. By doing so, the only conclusion that can be drawn by the Commission is that Mr. McGarry provided false testimony regarding when he last used marijuana.” (Initial Order, Para. 4 at 6)

6. “While Mr. McGarry expressed his remorse for his behavior and recognition of the wrongfulness of his conduct, the Board is not now convinced of the truthfulness of such statements.” (Initial Order, Para. 5 at 6)

7. “In addition, the Commission is also troubled by the fact that it appeared that Mr. McGarry kept marijuana and drug paraphernalia in the glove box of his car while his car was parked on school grounds.” (Initial Order, Para. 6 at 6)

8. “The Commission finds that Mr. McGarry cannot be in a position of public trust as a teacher based on the following. First, Mr. McGarry’s behavior, i.e., possessing and using marijuana appears not to have ceased. Second, Mr. McGarry failed to provide truthful responses to the questions asked by the Commission about his continued marijuana use.” (Initial Order, Para. 7 at 6)

### III. Legal Standards.

#### 1. Review Standards.

In Kansas, any action taken by a state agency, such as this Board, may not be based on a lack of proof by evidence that is substantial when viewed in light of the record as a whole. K.S.A. 77-621(c)(7). Also, any agency action may not be unreasonable, arbitrary or capricious. K.S.A. 77-621(c)(8).

#### 2. Evidentiary Standards.

“ ‘Circumstantial evidence’ is evidence that tends to prove a fact in issue by

proving other events or circumstances which, according to common experience of people, usually or always are attended by the fact in issue and, therefore, affords a basis for a reasonable inference by a jury or court of the occurrence of the fact in issue.” Barbara, Kansas Law and Practice: Lawyer’s Guide to Kansas Evidence, 5<sup>th</sup> ed, §1.16, p. 50 (2013).

“An ‘inference’ is not in itself evidence, but is the result of a reasoning process by which a fact is found to exist by making a deduction of its existence that is logically and reasonably drawn from another fact or set of facts established by the evidence.” *Id* at 49.

Evidentiary problems with inferences arise particularly when more than one inference is made from a fact that is found to exist. *Aylett v. Secretary of Housing and Urban Development*, 54 F.3d 1560 (10<sup>th</sup> Cir. 1995) (possibility, rather than probability, derived from chain of successive inferences about renting practices not adequately supported); *State v. Bornholdt*, 261 Kan. 644, 932 P.2d 964 (1997) (introduction into evidence of drug paraphernalia seized ten days after alleged murder was erroneous; link between the seizure and alleged murder was too tenuous and remote in time); See also, *United States v. Summers*, 414 F.3d 1287 (10<sup>th</sup> Cir. 2005) (discussing inference-on-inference rule)

Substantial evidence is evidence which possesses both relevance and substance and which furnishes a substantial basis of fact from which the issues can reasonably be resolved. *State v. Ralston*, 43 Kan.App.2d 353, 225 P.3d 741 (2010).

#### IV. Testimonial Evidence.

The PPC ordered Mr. McGarry to submit himself to two hair follicle tests. (SOF



1) Mr. McGarry declined to take the first test. (SOF 4) From this, the PPC inferred that Mr. McGarry provided false testimony regarding when he last used marijuana (SOF 5).

Simply put, the PPC's inference from the fact of Mr. McGarry's test refusal that he provided false testimony is unwarranted and improper. His testimony was that he last used marijuana in June of 2015. (SOF 3) Mr. McGarry's concern was that a hair follicle test, unlike a urinalysis, reveals ingestion of substances up to a year prior to the test date. Another concern was about the unreliability of hair follicle tests. His counsel requested that Mr. McGarry be allowed to submit a urinalysis instead of a hair follicle test at the conclusion of the March 29, 2016 hearing, but that request was denied.

A second improper inference by the PPC concerned possession of marijuana on school property. (SOF 2) There was an extended exchange between Commissioners and Mr. McGarry on this point during the March 29, 2016 hearing. (Ex. 1) The exchange included ambiguous and compound questions that resulted in ambiguous answers. The exchange concluded, however, with clarity. Mr. McGarry stated that any possession in his car was not "during school time." Thus, he could not have possessed it on school property.

The improper inferences continued in the hearing on April 25, 2016.<sup>1</sup> One Commissioner inferred that a breathalyzer was somehow connected with possession of "drugs that he had on school grounds, if I remember correctly." (Ex. 1) It is unclear what the Commissioner was trying to recollect but there is nothing in evidence connecting a breathalyzer test with possession of "drugs" on school grounds.

---

<sup>1</sup> Although secondary to the issues raised in this brief, counsel for the Department stated that Mr. McGarry had requested that he be allowed to submit a voluntary surrender for the Commission's consideration effective at the end of the school year so he could complete the school year. That was not an accurate representation of Mr. McGarry's position at the time.

In the same hearing, another Commissioner offered sheer speculation by saying that Mr. McGarry could have had marijuana in his glove compartment for several weeks or longer. She questioned his credibility on that basis. That Board should disregard that comment as having absolutely zero basis in fact.

It is clear that all of these inferences drove the PPC to recommend the refusal to accept Mr. McGarry's voluntary surrender of his licenses and to recommend revocation.

The inferences were based on circumstantial evidence that was not substantial. The PPC's actions were also arbitrary and unreasonable.

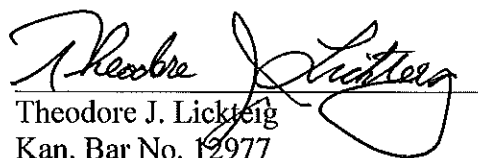
V. Hair Follicle Testing.

The Licensee notes the attached scientific literature regarding the unreliability of hair follicle tests.

1. A report from medicaldaily.com posted October 9, 2015. (Ex. 2) The report notes that cannabis can appear in hair follicle tests of a non-consuming person through hand contact, sweat or smoke. The report notes that for federal government employees only urine-based samples have been certified.

2. A study posted at nature.com on May 11, 2015. (Ex. 3) In its conclusion, the study notes that hair follicle tests might lead to false conclusions and cautions against their use.

Respectfully submitted,

  
Theodore J. Lickteig  
Kan. Bar No. 12977  
Law Offices of Theodore J. Lickteig

12760 W. 87<sup>th</sup> Street, Suite 112  
Lenexa, Kansas 66215-2878  
913-894-1090  
[tjlawoffice@planetkc.com](mailto:tjlawoffice@planetkc.com)  
*Attorney for Licensee*

CERTIFICATE OF SERVICE

I, Theodore J. Lickteig, hereby certify that I hand-delivered the above and foregoing this 10<sup>th</sup> day of June, 2016 to:

Gwen Kramer  
Secretary, Professional Practices Commission  
Kansas State Department of Education  
900 S.W. Jackson Street  
Topeka, Kansas 66612-1182

And mailed the above and foregoing first-class postage prepaid on the same date to:

Kelli Broers  
Assistant General Counsel  
Kansas State Department of Education  
900 SW Jackson Street, Suite 102  
Topeka, Kansas 66612

A handwritten signature in cursive script, reading "Theodore J. Lickteig", is written over a horizontal line.

# EXHIBIT

1

Transcripts  
In the Matter of the License of Gage McGarry  
March 29, 2016

1:38:47-1:41:30

By Commissioner Burgess: "Uh, earlier we were talking about Board policy if I recall and you were, you were stating that the Board policy as far as to reporting to your, uh your your acting supervisor, your principal or assistant principal that if you were convicted, are you aware of board policy, uh regarding having an illegal substance, uh, on, uh, school property?"

By Gage McGarry: "No."

By Commissioner Burgess: "For instance, uh, if if you were to drive onto your school property, and and you had maybe not even an illegal substance, let's say it's a legal and you had a case of beer in the back seat of your vehicle would that, uh, be construed based on your understanding of Board policy, uh, would that construed as acceptable behavior for a teacher?"

By Gage McGarry: "No, absolutely not."

By Commissioner Burgess: "Uh and that is because, why would that not be acceptable?"

By Gage McGarry: "Because it's illegal and"

By Commissioner Burgess: "Uh wait a case of beer in your backseat."

By Gage McGarry: "I mean that is legal, but that is not legal on school property."

By Commissioner Burgess: "Ok, that's that's that's what I was clarifying, but you did have this this glass jar, uh in your vehicle and you're not sure how long that had been there, correct?"

By Gage McGarry: "Correct. I mean it could have been the beginning of June, I'm not really sure, I'm not really sure, like I said the last time I smoked marijuana was around the beginning of June, so it could have very well been around then is the last time I had it or I put it in my car."

By Commissioner Burgess: "Oh ok, I just wasn't sure maybe had been there for, I I just wasn't aware of that."

By Commissioner Nicks: "Can I speak to the defendant please?"

By Commissioner Burgess: "Uh, yes go ahead."

By Commissioner Nicks: "Um, so as you're stating that though you're you're unsure if that's when it was in there so it is, it is you know though as far as I I understand all schools Kansas are are drug free zones but it is so it is possible or probable that that you had you know you are carrying around a drug paraphernalia and and marijuana in your car during the end of could have been in May sometime during during the school day, is is that correct?"

By Gage McGarry: "That is correct, but I highly doubt that was the case because I like I said around the last time I smoked marijuana was in around June and that would have not been during school time, but I don't know exactly when June that would have been in my car is what I was saying like I don't know when exactly that it was in my car, but it would have not been during school time."

Transcripts  
In the Matter of the License of Gage McGarry  
April 25, 2016

00:30

By Prosecutor Broers: "So those of you that weren't here March 29th, um, Mr. McGarry appeared with counsel and a full evidentiary hearing was held. The, um, agency had requested that Mr. McGarry's license be suspended until he completed diversion for a misdemeanor possession and misdemeanor DUI charge in the City of Merriam. At the conclusion of that hearing, uh one of the Commission's orders was that Mr. McGarry submit to a hair follicle drug test within 7 days, uh Mr. McGarry did not do that upon further discussion with his attorney, um Mr. McGarry first requested that he be allowed to submit a voluntary surrender for your consideration effective the end of the school year so he could complete the school year, um didn't receive that, a we had a status conference this past Monday, so a week ago today and, um Mr. McGarry's attorney, um represented that his client was just going to submit a voluntary surrender and ask that the Commission recommend that just be accepted without any discipline and so that's what we, um I have distributed to you, ah supplemental materials this came in Friday, um a letter from Mr. Lickteig, who was Mr. McGarry's attorney requesting that the Commission, I I should note note also that we received an email from um Mr. Lickteig late Friday or early this morning saying he was neither he nor his client were going to be appearing today, so that's why we're taking this up now instead of 11 o'clock. Uh but he's just asking that is voluntary surrender be accepted and that there be no additional punishment, um noted. So um."

13:06

By Commissioner Nicks: "If I if I remember correctly and I believe I do, uh, he refused to take a breathalyzer, um at the scene, um, which was one of the reasons he was, one of the reasons he was here um more so because of the drugs that he had on school grounds, if I remember correctly."

By Commissioner Sieck: "And the comment he used it to help him sleep but it had been in his glove compartment, he hadn't for all he knew it could have been there for several weeks or longer, so that calls into question that whole part of his testimony."



# EXHIBIT

2

SOURCE: [HTTP://WWW.MEDICALDAILY.COM/HAIR-FOLLICLE-DRUG-TESTS-CAN-LEAD-FALSE-POSITIVE-THANKS-SECONDHAND-TRACES-MARIJUANA-356660](http://www.MEDICALDAILY.COM/HAIR-FOLLICLE-DRUG-TESTS-CAN-LEAD-FALSE-POSITIVE-THANKS-SECONDHAND-TRACES-MARIJUANA-356660)

## Hair Follicle Drug Tests Can Lead To A False Positive, Thanks To Secondhand Traces Of Marijuana

Oct 9, 2015 04:34 PM By [Susan Scutti](#)

Hair strand drug tests detect the presence of drug metabolites in the follicle. While any discovery of metabolites in hair tests is believed to be undeniable proof of marijuana use, a [new study](#) from the Institute of Forensic Medicine in Freiburg, Germany finds that it's possible to get a false positive.

“Our studies show that [the main targets in a hair test] can be present in hair of non-consuming individuals because of transfer through cannabis consumers, via their hands, their sebum/sweat, or cannabis smoke,” wrote Dr. Volker Auwärter, a professor of forensic toxicology, and his colleagues. Worldwide, cannabis is preferred above all other illicit drugs, with an estimated 125 to 227 million users around the globe, the researchers noted. Nearly as popular are drug tests, which commonly focus on urine, sweat, saliva, or hair to detect the presence of this and other illegal substances.

Employee drug testing and child protection drug testing often rely on hair analysis, noted the Germany-based researchers in their study. Though sometimes hair tests are used in the United States, the [American Association for Clinical Chemistry](#) suggests that urine tests are the most frequently used drug screens.

In fact, for government employees in the U.S., urine tests are standard. Spokesperson for [Substance Abuse and Mental Health Services Administration](#) (SAMHSA) Bradford Stone, of the department of Health and Human Services, told *Medical Daily* that “the only method we have certified for use is urine-based.” Stone explained SAMHSA provides the guidelines for drug tests of federal employees, other government agency employees, and industry employees who work on government contracts.

And, based on published data from Quest Diagnostics, which provides diagnostic testing information services in the U.S. and internationally, private industries also appear to favor urine tests. [The Quest Diagnostics Drug Testing Index](#) estimated that the company performed more than 210 thousand hair drug tests, more than 800 thousand oral fluid

drug tests, and more than 6.6 million urine tests for the general U.S. workforce during 2014. Additionally, the company conducted more than 2.5 million federally mandated urine tests for safety sensitive workforce. This same year false positives may have occurred, at the very least, on 210 thousand drug test occasions. This figure, though, does not include child custody cases.

A false positive for an employee or a parent could have “a devastating impact on someone’s life,” Kris Krane, a managing partner at [4front Advisors](#) and former executive director of Students for Sensible Drug Policy, told *Medical Daily*. A positive test result can nullify a workers' compensation claim or even put death benefits at risk should a worker be killed on the job.

“These days urine tests are used mostly as a precursor to employment, random drug testing is less common,” Krane observed. However, in child custody cases, drug tests are “a common tactic,” he noted, explaining how a positive result could lead to court-supervised visits or no custody rights whatsoever, depending on a state's specific legal standard.

The problem with drug tests in general, said Krane, is they may not be effective at determining impairment given marijuana stays in your system longer than other drugs. Someone could have used months ago and it would show up on a hair test, he said.

Meanwhile, the website of the [National Institute on Drug Abuse](#) offers the viewpoint of employers. Compared with non-substance users, past research indicates substance-using employees are more likely to change jobs frequently, be late to or absent from work, be less productive, be involved in a workplace accident and potentially harm others, and even file a workers’ compensation claim.

No matter where someone stands on drug testing, the current study suggests a positive hair test result could be due to close contact with cannabis consumers.

"Practitioners who work with results of hair analysis should be aware of these limitations and the severe consequences false conclusions could entail," the authors concluded.

Source: Moosmann B, Roth N, Auwarter V. Finding cannabinoids in hair does not prove cannabis consumption. *Nature*. 2015.

# EXHIBIT

3

# SCIENTIFIC REPORTS

OPEN

## Finding cannabinoids in hair does not prove cannabis consumption

Bjoern Moosmann, Nadine Roth &amp; Volker Auwärter

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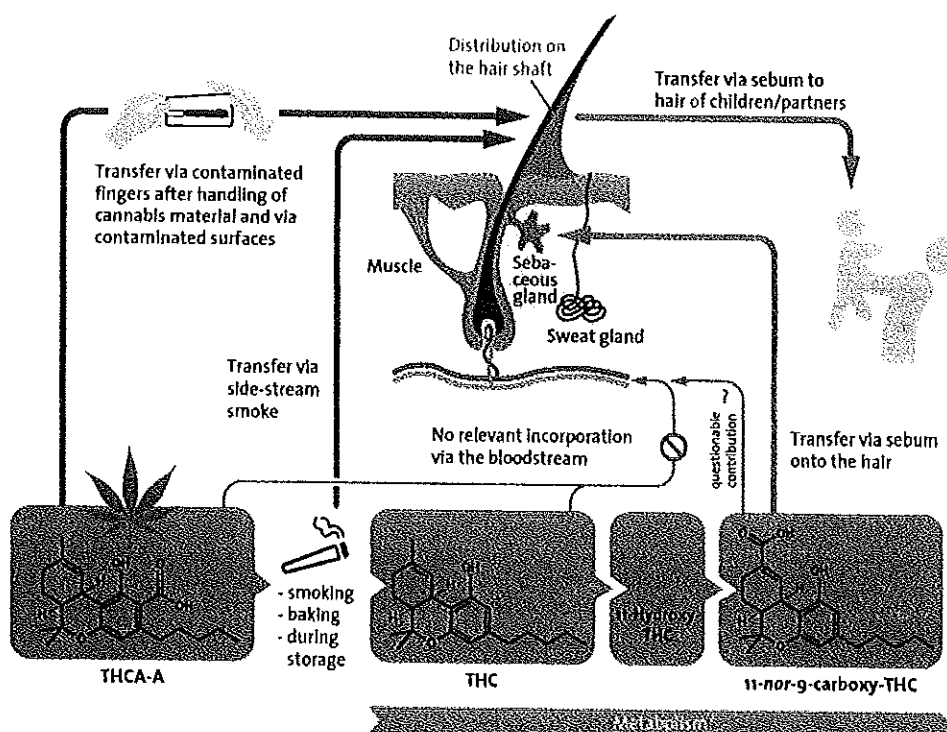
Hair analysis for cannabinoids is extensively applied in workplace drug testing and in child protection cases, although valid data on incorporation of the main analytical targets,  $\Delta^9$ -tetrahydrocannabinol (THC) and 11-*nor*-9-carboxy-THC (THC-COOH), into human hair is widely missing. Furthermore,  $\Delta^9$ -tetrahydrocannabinolic acid A (THCA-A), the biogenetic precursor of THC, is found in the hair of persons who solely handled cannabis material. In the light of the serious consequences of positive test results the mechanisms of drug incorporation into hair urgently need scientific evaluation. Here we show that neither THC nor THCA-A are incorporated into human hair in relevant amounts after systemic uptake. THC-COOH, which is considered an incontestable proof of THC uptake according to the current scientific doctrine, was found in hair, but was also present in older hair segments, which already grew before the oral THC intake and in sebum/sweat samples. Our studies show that all three cannabinoids can be present in hair of non-consuming individuals because of transfer through cannabis consumers, via their hands, their sebum/sweat, or cannabis smoke. This is of concern for e.g. child-custody cases as cannabinoid findings in a child's hair may be caused by close contact to cannabis consumers rather than by inhalation of side-stream smoke.

Among illicit drugs cannabis is still the drug showing the highest prevalence, with an estimated 125–227 million consumers worldwide<sup>1</sup>. In hair analysis, the two main targets for cannabinoid analysis are the psychoactive  $\Delta^9$ -tetrahydrocannabinol (THC) and its metabolite 11-*nor*-9-carboxy- $\Delta^9$ -tetrahydrocannabinol (THC-COOH)<sup>2</sup>. Typical models for incorporation of drugs into hair include passive diffusion from blood capillaries into matrix cells at the basement membrane of the hair follicle and diffusion from sweat or sebum into the completed hair shaft, but also the possibility of external contamination is an issue<sup>2,3</sup>. While presence of THC-COOH, which is only formed inside the body<sup>4</sup>, is considered a proof of ingestion/consumption according to the current scientific doctrine when detected in hair<sup>5–8</sup>, analysis for THC alone is still common laboratory practice, because THC-COOH hair concentrations are extremely low and afford the use of expensive instrumentation<sup>9,10</sup>. However, due to THC being present in cannabis smoke, there is a high probability of biased results caused by external contamination of the hair<sup>3,11</sup>, and the mechanism of incorporation for THC-COOH is still unknown.

Recently, in addition to THC, relatively high  $\Delta^9$ -tetrahydrocannabinolic acid A (THCA-A) concentrations were detected in forensic hair samples<sup>12,13</sup>. THCA-A is the non-psychoactive biosynthetic precursor of THC and the main cannabinoid in fresh cannabis plant material. When heated, e.g. during smoking or baking, THCA-A is decarboxylated yielding THC<sup>14</sup> (Fig. 1). As relevant incorporation through the bloodstream could not be verified in previous investigations, the major part of this cannabinoid seems to originate from handling of cannabis material and subsequent transfer to the hair<sup>15</sup>. Furthermore, the chemical instability of THCA-A entails the risk of artifactually elevating the THC concentration during the analytical process, potentially leading to false positive findings<sup>12,13</sup>.

In this article, two studies are described in order to elucidate the main routes of incorporation for THC, THC-COOH and THCA-A into human hair and to provide a valid basis for correct interpretation of hair analysis results.

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**Figure 1.** Potential incorporation pathways of cannabinoids into human hair. Incorporation of  $\Delta^9$ -tetrahydrocannabinolic acid A (THCA-A),  $\Delta^9$ -tetrahydrocannabinol (THC), and its metabolite 11-nor-9-carboxy-THC (THC-COOH) into human hair can occur in the hair bulb via the bloodstream, by diffusion from sweat or sebum into the hair shaft, or by external contamination (e.g. contaminated fingers or side-stream smoke). The main metabolic pathway of THC and the molecular structures of the respective analytes are also given.

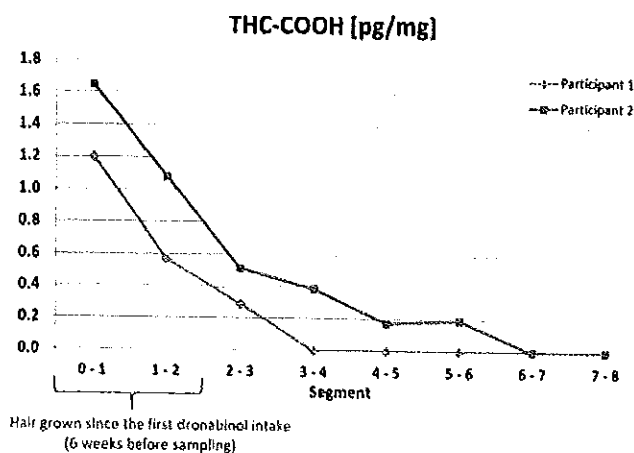
## Results

**Oral intake of THCA-A.** To definitely exclude a relevant incorporation of THCA-A into hair via blood, sebum or sweat, a volunteer ingested 50 mg THCA-A daily over a 30 day period ( $c_{max}$  of THCA-A in serum was 2,120 ng/ml<sup>16</sup>, oral bioavailability of THCA-A: approximately 41%<sup>17</sup>). Despite a relatively high dose of 50 mg THCA-A per day (a heavy cannabis user may take up doses of several hundred mg of total THC daily, and the proportion of THCA-A in cannabis smoke was found to be less than 1% by weight<sup>18</sup>), no THCA-A could be detected in any of the segmented hair samples obtained during the study. In accordance with the hair analysis results, no THCA-A could be detected in any of the sebum/sweat samples either.

**Oral intake of dronabinol.** In a second study, consisting of repeated oral intake of dronabinol (THC) by two volunteers over a 30 day period (2.5 mg, three times per day), the extent of THC incorporation via the bloodstream into hair was evaluated. No THC was detected at any time of sampling in all the head hair, beard hair or body hair samples (limit of detection: 1 pg/mg). From multiple serum samples taken within 8 hours (dosing interval) the estimated  $AUC_{0-24h}$  (THC) of the two participants ranged from 740–1,300  $\mu\text{g/L} \cdot \text{min}$  ( $n = 3$  for each participant). Maximum serum concentrations of THC-COOH were 18 ng/mL (participant 1) and 40 ng/mL (participant 2), respectively (see Supplementary Tables S3 and S4 online). Considering the individual head hair growth rates (1.3 cm per month for both participants), THC-COOH was also detected in segments correlating to a time period located up to 2.3–3.1 months before the start of the THC intake (Fig. 2: Participant 2 showed THC-COOH positive results up to the segment 5–6 cm collected six weeks after the first intake, for participant 1 the most distal positive segment was 2–3 cm corresponding to maximum 3–4 weeks before start of THC intake; for full data see Supplementary Table S1 online). Analysing sebum/sweat samples of both participants revealed THC-COOH amounts of 4.3 to 82 pg/cm<sup>2</sup> per day (Table 1). Analysis of hair samples from alternative sampling sites tended to show relatively high concentrations in beard, pubic and axillary hair (see Supplementary Table S2 online). In beard hair samples, THC-COOH could be detected up to 11 weeks after the last THC intake (Fig. 3).

## Discussion

The results strongly suggest that THCA-A is not incorporated into hair through the bloodstream or via sebum/sweat to a relevant extent. Although this was tested only in one individual, the daily dose



**Figure 2.** Distribution of THC-COOH along the hair shaft after dronabinol intake. 11-nor-9-carboxy- $\Delta^9$ -tetrahydrocannabinol (THC-COOH) concentrations determined in the segmented head hair samples of two study participants obtained two weeks after the last intake of dronabinol ( $3 \times 2.5$  mg daily for 30 days).

of THCA-A was at least an order of magnitude higher than expected in excessive cannabis smokers. Therefore, the THCA-A detected in forensic hair samples (concentration range in hair samples of cannabis consumers: 46–4,700 pg/mg<sup>13</sup>) can only be explained by external contamination via handling of cannabis material<sup>15</sup>.

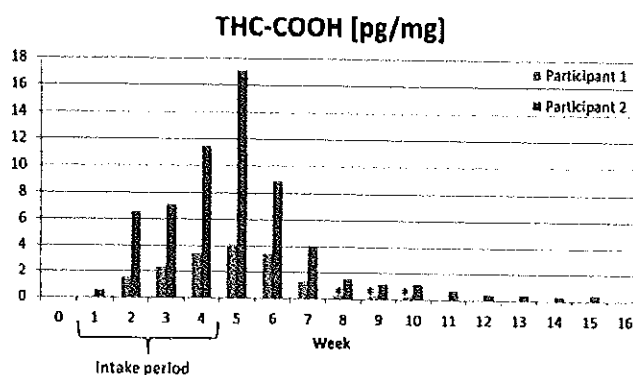
The incorporation rate of THC via the bloodstream into the hair seems to be negligible low as no THC could be detected in the hair samples of the participants after systemic dronabinol uptake. It follows from Fick's law that the amount of analyte incorporated into hair should be proportional to the area under the analyte serum concentration over time curve (AUC). Given that the THC AUC<sub>0–24h</sub> of the two participants was only less than five times lower than the AUC range found in the literature for occasional cannabis smokers after a single consumption (780–6,300  $\mu\text{g/L} \cdot \text{min}$ )<sup>19,20</sup>, it is obvious that also no relevant incorporation through the bloodstream into hair is expected to occur in cannabis users, and THC detected in forensic hair samples does originate from external sources. To reach THC concentrations of 50 pg/mg (cut-off recommended by the Society of Hair Testing<sup>21</sup>) through incorporation via the bloodstream would require consumption of extremely high amounts of THC, which would certainly be associated with a several-fold higher amount of THC incorporated through contamination routes (cannabis smoke exposition and/or transfer by contaminated fingers). Consequently, THC findings in hair cannot be regarded as a proof of cannabis consumption. At the same time, oral uptake of THC or cannabis products does not necessarily lead to positive THC hair findings, which can be of interest in abstinence control.

Furthermore, the detection of THC-COOH in hair segments did not correlate to the period of THC intake and the presence of THC-COOH in sebum/sweat implicates a relevant contribution to the THC-COOH findings in hair samples by diffusion of the analyte from sebum into the hair matrix. The marked variations in the THC-COOH concentrations between body regions may be explained by differences in the physiology (e.g. presence of apocrine sweat glands in the axillary and pubic region), sampling particularities (e.g. regular shaving of beard hair vs. sampling of hair strands) and a possible transfer of the analyte due to contamination of hair with urine (pubic region). The fact, that THC-COOH was detectable up to 11 weeks past the intake period in beard hair further underlines a relevant incorporation via secretion of sebum which shows a physiological time shift, or by diffusion from surrounding tissues<sup>2</sup>.

At first glance, differentiation of the route of THC-COOH incorporation into hair seems irrelevant as long as positive THC-COOH findings in hair require THC uptake by the individual under investigation. However, considering the presence of THC-COOH in sebum/sweat, a transfer to other persons' hair is possible. This is particularly true for young children or partners of cannabis consumers (close body contact, sleeping on the same pillow etc.). Comparing the maximum serum THC-COOH concentrations detected in persons massively exposed to cannabis smoke in a 'coffee shop' (0.5–1.7 ng/mL)<sup>22</sup> to the maximum serum concentrations determined in our study (18 and 40 ng/mL), it seems very unlikely that passive smoke exposition can lead to similar THC-COOH concentrations in hair as chronic active consumption does. However, THC-COOH can be detected in hair of young children (age: <2 years)<sup>23</sup> in concentrations similar to the concentrations detected in the hair after oral dronabinol intake. Therefore, it seems much more plausible that THC-COOH is transferred to the children's hair by close contact to the cannabis consumers in the family context rather than by systemic uptake after exposition to cannabis smoke.







**Figure 3.** THC-COOH concentration in beard hair after dronabinol intake. 11-nor-9-carboxy- $\Delta^9$ -tetrahydrocannabinol (THC-COOH) concentrations determined in the beard hair samples of two study participants before and after the intake of dronabinol ( $3 \times 2.5$  mg daily for 30 days). \*For participant 1 only one sample was obtained covering weeks 8–10.

## Methods

**Ethical approval.** The study protocol was approved by the Ethics Committee of the University of Freiburg, Germany (EK-Freiburg 98/14), and the Federal Opium Agency (BfArM, Bonn, Germany) granted a permit for the intake of dronabinol. The study was registered in a World Health Organization primary register (German Clinical Trials Register; DRKS00006148, registered: 8<sup>th</sup> May 2014), and was conducted at the Institute of Forensic Medicine Freiburg, Germany, in accordance with the Declaration of Helsinki Principles and subsequent amendments. Written informed consent was obtained from each participant. Volunteers were recruited from the personal environment of the authors and affirmed that they neither consumed cannabis nor were exposed to cannabis via peers or family members prior to and during the study.

**Oral intake of THCA-A.** One male volunteer orally ingested 50 mg THCA-A daily over a 30 day period. Hair samples (head, chest, pubic, axillary and leg hair) were collected prior to the intake period, and then on a weekly basis until three weeks after the last intake. The segmented hair samples (1 cm segments) were analysed for THCA-A applying a fully validated LC-MS/MS method<sup>24</sup>. See Supplementary Material for details.

**Oral intake of dronabinol.** Two male participants orally ingested 2.5 mg dronabinol (THC) three times daily over a 30 day period. Hair samples (head, beard and body hair) were collected prior to the intake period, and then on a regular basis until several weeks after the last intake. Apart from hair samples, combined sebum/sweat samples were collected using Sebutapes<sup>®</sup>. All hair samples were analysed for THC and THC-COOH after alkaline hydrolysis applying a fully validated LC-MS<sup>3</sup> method on a Shimadzu Nexera 2 UHPLC coupled to an ABSciex QTRAP 5500 linear ion-trap mass spectrometer. See Supplementary Material for details.

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### Author Contributions


V.A. and B.M. conceived and supervised the projects. B.M. and N.R. performed all experiments and analysed the data. All authors wrote the manuscript together and approved the final manuscript.

### Additional Information

Supplementary information accompanies this paper at <http://www.nature.com/srep>

Competing financial interests: The authors declare no competing financial interests.

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**BEFORE THE KANSAS STATE BOARD OF EDUCATION  
PROFESSIONAL PRACTICES COMMISSION**

In the Matter of  
the License  
of Gage McGarry

Case No. 15-PPC-52  
OAH No. 16ED0012

**RESPONSE TO BRIEF OF LICENSEE  
REGARDING INITIAL ORDER**

COMES NOW the Kansas State Department of Education (KSDE), by and through its attorney, Kelli M. Broers, and for its Response to Brief of Licensee Regarding Initial Order states:

**I. Introduction**

This case involves a licensed teacher, Gage McGarry, who was charged with DUI after having driven down a major Johnson County thoroughfare, Shawnee Mission Parkway, on a tire rim. A search of his car produced marijuana and a pipe in the glove compartment. Consequently, he was also charged with possession. The Professional Practices Commission (Commission), after hearing Mr. McGarry's testimony and reviewing all the evidence, ordered he submit results from two hair follicle tests. Mr. McGarry refused to take the first test. Mr. McGarry declined to appear before the Commission when given another opportunity and submitted a voluntary surrender of his license instead. The Commission recommended the Kansas State Board of Education (State Board) reject Mr. McGarry's voluntary surrender and revoke his licenses. Mr. McGarry now argues the Commission's recommendation is not supported by the facts and is arbitrary and capricious. KSDE disagrees. Mr. McGarry's licenses should be revoked.

## II. Facts

1. Mr. McGarry holds a professional teaching license and an initial school leadership license. He has been licensed in Kansas since 2012.
2. On June 27, 2015, Mr. McGarry was ticketed for DUI, Refusal of Preliminary Breath Test, Possession of Drug Paraphernalia, and Possession of Controlled Substances.
3. All of Mr. McGarry's charges were misdemeanors and he entered into a diversion agreement which, if he meets all the requirements, is scheduled to terminate on September 17, 2016.
4. Based on his entry into a diversion agreement after having been charged with a drug-related crime and the underlying misconduct, Dr. Scott Myers filed a Complaint seeking the suspension of Mr. McGarry's license until he completed diversion.
5. Mr. McGarry did not inform his employing district of his criminal behavior until months after the Complaint was filed. (See 1:30:00-1:31:00 of March 29, hearing video).
6. An evidentiary hearing was held before the Commission on March 29, 2016, where Mr. McGarry was allowed to present his case.
7. After testimony that Mr. McGarry had been a marijuana user for years, but had not used since June 2015, the Commission continued the hearing and ordered he return after he had successfully completed diversion. There were two conditions placed on Mr. McGarry. He must submit the results of a hair follicle test within 7 days of the March 29<sup>th</sup> hearing, *i.e.*, April 5<sup>th</sup>, and results from a second test taken thirty (30) days before he reappeared.
8. Mr. McGarry made no objection to the order.

9. Despite testifying he would submit hair follicle test results if ordered, Mr. McGarry failed to submit results of a hair follicle test by April 5, 2016. (1:29:00 of March 29, hearing video).
10. After numerous attempts to contact Mr. McGarry's attorney regarding the submission of his hair follicle results, KSDE finally received a response from Mr. McGarry's attorney on April 12, 2016. Mr. McGarry wished to submit a voluntary surrender of his license in lieu of taking the hair follicle test.
11. Additionally, contrary to the content of footnote 1 in Respondent's Brief, during the April 12 phone conversation between counsel, KSDE believed Mr. McGarry's attorney represented his client was concerned the submission of the voluntary surrender would impact his ability to complete the school year. (See KSDE follow-up e-mail, Exhibit 1.)
12. Mr. McGarry submitted a voluntary surrender but asked that no discipline be associated with the surrender. Exhibit 2.
13. The hearing in Mr. McGarry's case reconvened on April 25, 2016. Neither Mr. McGarry or his attorney attended.
14. After reviewing the evidence again, considering Mr. McGarry's refusal to submit to a hair follicle test, and reviewing Mr. McGarry's voluntary surrender, the Commission voted 7 – 0 to recommend to the State Board that Mr. McGarry's voluntary surrender not be accepted and his licenses be revoked.

### III. Argument

#### a. The Commission's Recommendation is Based Upon Substantial Competent Evidence

Mr. McGarry contends the Commission's recommendation is not based upon substantial competent evidence. He is wrong.

To withstand judicial scrutiny, a State Board action must be based upon substantial competent evidence. K.S.A. 77-621. "Substantial competent evidence is evidence which possesses both relevance and substance and which furnishes a substantial basis of fact from which the issues can reasonably be resolved." Wiles v. Am. Family Life Assur. Co. of Columbus, 302 Kan. 66, 73 (2015).

There are substantial facts supporting the Commission's recommendation. Mr. McGarry, while licensed as a teacher, was charged with DUI, Refusal of Preliminary Breath Test, Possession of Drug Paraphernalia, and Possession of Controlled Substances. He received diversion, which he will not complete until September 2016. He failed to report any of this to his employing district until after the complaint in this matter was filed. After a hearing before the Commission, he was ordered to submit to a hair follicle drug test, which he refused to take after having testified he would take the test. Mr. McGarry then tried to circumvent the disciplinary process by submitting a voluntary surrender but requesting that it not reflect any discipline for his conduct.

Mr. McGarry argues some of the Commission's other findings are based on circumstantial evidence or inferences, and therefore are improper. But both circumstantial evidence and inferences can be a foundation upon which substantial competent evidence is

built. See generally Jones v. Kansas State University, 279 Kan. 128 (2005). Additionally, Mr. McGarry's own sources verify the legitimacy of circumstantial evidence and inferences. "But a conviction for even the gravest offense may be sustained on circumstantial evidence. . . . [and in civil matters] such evidence need not rise to that degree of certainty that will exclude any and every other reasonable conclusion. It is sufficient that such evidence affords a basis for a reasonable inference by the court or jury of the occurrence of the fact in issue, although some other inference equally reasonable might be drawn from such evidence." 3 Barbara, Kansas Law and Practice: Lawyer's Guide to Kansas Evidence, § 1:16, p. 50 (5<sup>th</sup> ed. 2013), citing State v. Evans, 275 Kan. 95, 105 (2003) and Kuxhausen v. Tillman Partners, L.P., 291 Kan. 314, 241 (2010). Furthermore, the Guide provides, "if an inference drawn from the evidence is a reasonable one the jury has the right to make the inference." Id. at p. 49, citing State v. Sanders, 263 Kan. 317 (1997). It is also noteworthy that the very definition of evidence states "the means from which inferences may be drawn as a basis for proof. . . ." K.S.A. 60-401. To the extent Mr. McGarry argues circumstantial evidence and inferences cannot be a basis for substantial competent evidence, he is incorrect.

- 1. The Commission's inference that Mr. McGarry's refusal to take the hair follicle test meant he lied about the last time he used marijuana is reasonable and based upon substantial competent evidence.**

Mr. McGarry argues the Commission improperly inferred Mr. McGarry lied about the last time he used marijuana because he refused to take the hair follicle test. But Mr. McGarry fails to cite any legal authority for his contention that the Commission's inference is "unwarranted or improper." Instead, he offers a belated explanation regarding why he refused to take the hair follicle test—he was concerned about the length of time for which a hair follicle

test reveals ingestion of illegal substances and test reliability. He also notes he requested he be allowed to submit urine analysis results instead.

Mr. McGarry's position is disingenuous. Not once did he raise any concerns about the hair follicle test to the Commission. In fact, he testified he would take the test if ordered (1:29:00, March 29, hearing video). If he had concerns, he could have addressed the Commission at the March 29 hearing or filed a Motion to Reconsider afterwards. KSDE asks the State Board to disregard all Mr. McGarry's arguments regarding the validity of hair follicle tests. Those issues should have been raised with the Commission.

That being said, Mr. McGarry's "concerns" should be debunked, because he has presented the State Board with misleading information.

A. Mr. McGarry is mistaken regarding the length of time for which a hair follicle test will reveal the use of an illegal substance. According to numerous sources, hair follicle tests "lookback" approximately ninety (90) days, depending upon the rate of hair growth.<sup>1</sup> Mr. McGarry had short hair. The Commission is aware of the ninety-day lookback because it frequently discusses and orders individuals to submit hair follicle test results. In this case, it specifically ordered the test to determine the veracity of Mr. McGarry's testimony, *i.e.*, he had last used marijuana in June 2015.

B. Mr. McGarry attacks the reliability of hair follicle tests. In Kansas, hair follicle tests are not only considered reliable, but both the refusal to take a hair follicle test or a

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<sup>1</sup> <http://www.psychemedics.com/why-hair-over-urinalysis-testing/>; accessed on June 21, 2016; <https://www.accrediteddrugtesting.com/hair-follicle-drug-testing/hair-follicle-drug-testing-kansas/hair-follicle-drug-testing-topeka-ks/> accessed on June 20, 2016; and <https://www.omegalabs.net/hair-testing-service/hair-testing-faqs/other-services.cmsx> accessed on June 20, 2016.



positive test result can be used to create clear and convincing evidence in support of terminating parental rights. See In re J.A.F., 2015 WL 7192418 (Kan. Ct. App. 2015); In re A.F., 2014 WL 6676225 (Kan. Ct. App. 2014), review denied (Feb. 19, 2015); In re A.M., 2014 WL 6676181 (Kan. Ct. App. 2014); In re C.N., 2013 WL 6726129 (Kan. Ct. App. 2013) (All unpublished opinions are attached hereto as required by 2015 Kan. Ct. R. Annot. 7.04(g)(2)(C)). Until a Kansas court or the Kansas Legislature says otherwise, both the refusal to take a hair follicle test and positive test results are can be evidence.

C. Mr. McGarry testified he would be willing to submit hair follicle test results if so ordered (1:29:00 of March 29, hearing. But at the conclusion of the March 29 hearing, Mr. McGarry's attorney asked, "Are we permitted to have a urine analysis instead of a hair follicle?" (2:11:30, March 29, hearing video). That is the extent of his request. This is a good opportunity to point out that urine analysis tests only lookback days.<sup>2</sup> Urine analysis tests are ideal for evaluating whether someone has recently used drugs. The hair follicle test, as noted above, is used to determine whether someone has used over a period of months. A urine analysis test would not have served the Commission's goal of verifying Mr. McGarry's testimony.

When considering the circumstances, the Commission's inference that Mr. McGarry's refusal to take the hair follicle test meant he lied about the last time he used marijuana is reasonable.

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<sup>2</sup> <http://www.psychemedics.com/why-hair-over-urinalysis-testing/>; accessed on June 21, 2016.

**2. The Commission's inference that Mr. McGarry's testimony indicated he possessed marijuana and a pipe on school grounds is reasonable.**

Mr. McGarry next argues that the Commission improperly inferred Mr. McGarry had possessed marijuana and a pipe on school property. The relevant portion of testimony begins at 1:38:00 of the March 29 hearing video. Mr. McGarry first states he doesn't know how long the marijuana and pipe had been in his car, though, he believed it was the beginning of June 2015. (1:38:00 - 1:40:00, March 29, hearing video.) He then agreed it was possible the marijuana and pipe were in his car on school property during the school year. (1:41:00, March 29, hearing video.) He concluded the exchange by stating he didn't believe the marijuana and pipe were in his car during school time. (1:41:00 March 29, hearing video).

The Commission's inference that Mr. McGarry possessed marijuana and a pipe on school grounds is reasonable when one considers Mr. McGarry's equivocating on the issue, the date of his arrest in relation to the end of the school year, and his long-term drug use. Furthermore, it is a matter of credibility. The Commission decided it did not believe Mr. McGarry's testimony regarding how long the marijuana had been in his car.

**3. Miscellaneous Inference**

Mr. McGarry next notes that one of the Commission members inferred a breathalyzer was connected with the drug possession on school grounds. This isn't accurate. The Commission member notes there were two reasons Mr. McGarry appeared before the Commission: 1. He refused the breathalyzer; and 2. He possessed drugs in his car, which that Commission member believed he had on school grounds. (13:00, April 25, hearing video). As stated above, there is nothing unreasonable about that inference.

**b. Reasonable, Arbitrary and Capricious**

At the end of Section IV of Mr. McGarry's brief, he notes he believes the Commission's "actions were also arbitrary and unreasonable." Typically, arguments presented without discussion or citation are waived. For the State Board's information, agency action must not be "unreasonable, arbitrary or capricious." K.S.A. 77-621. The test for determining whether an agency action passes muster includes evaluating "whether that particular action should have been taken or is justified, such as [1] the reasonableness of the [agency's] exercise of discretion in reaching the determination, or [2] whether the agency's action was without foundation in fact." Kansas Dep't of Revenue v. Powell, 290 Kan. 564, 569 (2010).

Here, Mr. McGarry was a licensed teacher who entered a diversion agreement after having been charged with drug-related conduct. He also testified to years of marijuana use. And the Commission found it was likely the marijuana and pipe were on school grounds. The Commission, after hearing all the testimony, ordered Mr. McGarry to submit to a hair follicle test, which he refused to take. He then tried to circumvent the disciplinary process by voluntarily surrendering his license and asking that it not reflect additional punishment. (Exhibit 2). The Commission's recommendation that Mr. McGarry's license be revoked is reasonable and well-supported by the facts.

**c. Section V of Mr. McGarry's Brief**

The State Board should not consider Section V of Mr. McGarry's brief. As noted above, Mr. McGarry never objected to the order that he submit the results of a hair follicle test. He cannot raise the issue now. Additionally, Mr. McGarry has attached one scientific study that calls into question the validity of hair follicle testing. The second source simply reports on that

study. In Kansas, the refusal to take a hair follicle test and positive hair follicle test results are recognized as reliable evidence. For example, they can both be used to create clear and convincing evidence in support of terminating parental rights. See In re J.A.F., 2015 WL 7192418 (Kan. Ct. App. 2015); In re A.F., 2014 WL 6676225 (Kan. Ct. App. 2014), review denied (Feb. 19, 2015); In re A.M., 2014 WL 6676181 (Kan. Ct. App. 2014); In re C.N., 2013 WL 6726129 (Kan. Ct. App. 2013). Mr. McGarry's complaints regarding the reliability of hair follicle tests are without foundation in Kansas law.

#### IV. Conclusion

The Commission's recommendation that Mr. McGarry's voluntary surrender of his license should not be accepted and his licenses be revoked is supported by substantial competent evidence, is reasonable and neither arbitrary or capricious, and should be adopted by the State Board.

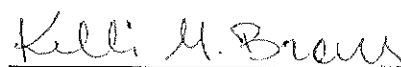
Respectfully submitted,

By: Kelli M. Broers  
Kelli M. Broers - #23906  
Kansas State Department of Education  
900 SW Jackson Street, Suite 102  
Topeka, Kansas 66612  
Phone: 785-296-3204  
Fax: 785-296-7933  
[kbroers@ksde.org](mailto:kbroers@ksde.org)

**CERTIFICATE OF SERVICE**

I hereby certify that on this 27<sup>th</sup> day of June, 2016, a true and correct copy of the above and foregoing was filed with the Secretary of the Kansas State Board of Education and sent via U.S. Mail to Ted Lickteig, Attorney for Respondent at:

Ted Lickteig  
Greystone Office Plaza, Ste. 112  
12760 W. 87<sup>th</sup> Street  
Lenexa, Kansas 66215



Kelli M. Broers  
Kelli M. Broers

**Kelli M. Broers**

---

**From:** Kelli M. Broers  
**Sent:** Tuesday, April 12, 2016 1:30 PM  
**To:** Ted Lickteig  
**Subject:** McGarry

Ted,

Based on our conversation today, can you have your client submit his voluntary surrender in time for the April 25<sup>th</sup> PPC meeting? Also, can you please confirm when his last day at school will be? We can get this in front of the State Board in May or June.

Thanks,

Kelli

**Kelli M. Broers**

Assistant General Counsel  
 Office of General Counsel

(785) 296-3204

(785) 296-7933 (fax)

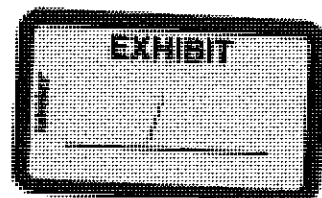
[kbroers@ksde.org](mailto:kbroers@ksde.org)

[www.ksde.org](http://www.ksde.org)

**Kansas State Department of Education**

LANDON STATE OFFICE BUILDING, 900 SW JACKSON STREET, SUITE 102, TOPEKA, KS 66612

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**LAW OFFICES OF THEODORE J. LICKTEIG**

---

Theodore J. Lickteig

Greystone Office Plaza, Suite 112  
12760 West 87<sup>th</sup> Street  
Lenexa, Kansas 66215-2878  
913-894-1090

April 20, 2016

Kelli M. Broers  
Attorney  
Kansas State Department of Education  
900 SW Jackson, Suite 102  
Topeka, Kansas 66612

Re: *In the Matter of the License of Gage McGarry*, No. 15-PPC-52, OAH No. 16  
ED 12.

Dear Ms. Broers:

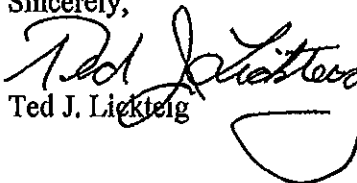
I have enclosed a statement of my client Gage McGarry to effect a voluntary  
surrender of his education licenses with the State of Kansas.

I have advised Mr. McGarry of the hearing time for this matter of April 25, 2016  
at 11 a.m. and of his right to appear at that hearing.

We request that the Kansas reporting system for this matter reflect only that Mr.  
McGarry has voluntarily surrendered his licenses. Likewise, we request that any  
reporting to any national reporting system or database be limited to reflect only that he  
has voluntarily surrendered his licenses.

Any reporting beyond the fact that Mr. McGarry has voluntarily surrendered his  
licenses will be viewed as an unwarranted additional punishment.

Sincerely,

  
Ted J. Lickteig

Xc: Gage McGarry

EXHIBIT

April 20, 2016

I, Gage McGarry, voluntarily surrender my teaching and administrative licenses in the State of Kansas.

Sincerely,



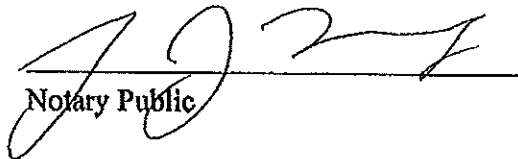
Gage McGarry  
7113 Aminda Dr.  
Shawnee, KS 66227

VERIFICATION

STATE OF Kansas  
COUNTY OF Johnson      ss:

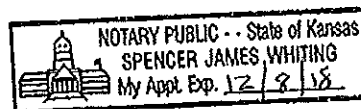
BE IT REMEMBERED that on this 20 day of April, 2016, before me, the undersigned, a notary public in and for the county and state aforesaid, came Gage McGarry, who is personally known to me to be the same person who executed the within instrument and such person duly acknowledged the execution of the same.

IN TESTIMONY WHEREOF, I have set my hand and affixed my official seal the day and year last above written.

  
Notary Public

My appointment expires:

December 8, 2018





2015 WL 7192418

360 P.3d 490 (Table)  
Unpublished Disposition

(Pursuant to Kansas Supreme Court Rule 7.04(f), unpublished opinions are not precedential and are not favored for citation. They may be cited for persuasive authority on a material issue not addressed by a published Kansas appellate court opinion.)  
Court of Appeals of Kansas.

In the Interest of J.A.F., H.O., J.O., and T.O.

Nos. 113,813, 113,814, 113,815, 113,816.

|  
Nov. 13, 2015.

Appeal from Jefferson District Court; Gary L. Nafziger, Judge.

**Attorneys and Law Firms**

John R. Kurth, of Kurth Law Office Incorporated, P.A., of Atchison, for appellant natural mother.

Bethany J. Lee, assistant county attorney, for appellee.

Before HILL, P.J., PIERRON and POWELL, JJ.

**MEMORANDUM OPINION**

PER CURIAM.

\*1 A.F., the natural mother of J.A.F., H.O., J.O., and T.O., appeals the district court's termination of her parental rights. She claims the district court's determination that she is unfit, that her unfitness is unlikely to change in the foreseeable future, and that termination is in the children's best interests was not supported by sufficient evidence. We disagree and affirm.

**FACTUAL AND PROCEDURAL HISTORY**

In April 2012, after Mother's boyfriend and the natural father of H.O. (born in 2008), J.O. (born in 2009), and T.O. (born in 2010), who were all under the age of 4, was alleged to have struck and strangled 13-year-old J.A.F., the State filed child in need of care (CINC) petitions on behalf of the four children. The district court appointed a guardian ad litem and placed the children in the custody of

Social and Rehabilitation Services (now the Department for Children and Families) but recommended placement with Mother.

In June 2012, the district court ordered immediate out-of-home placement for the children after learning that Mother had tested positive for methamphetamine in May. In August, Mother entered a no contest plea to the CINC petitions, and the district court adjudicated the children as CINCs. That October, the district court approved a reintegration plan that tasked Mother with: (1) acquiring safe and stable housing; (2) obtaining and maintaining legal income sufficient to support her family; (3) submitting to random urine analysis (UA) tests; (4) completing RADAC screening; (5) completing parenting classes; (6) participating in weekly mental health services; (7) looking for a new place for the family to live; and (8) abstaining from using any illegal drugs or incurring new legal charges. In June 2013, J.A.F.'s natural father relinquished his parental rights.

In June 2014, nearly 2 years after the children had been adjudicated as CINCs, the district court determined reintegration was no longer viable and found that adoption or a permanent guardianship was in the children's best interests, citing Mother's missed UA tests, lack of employment, and failure to acquire suitable housing. Mother was told, however, that the case plan could be changed back to reintegration if she was able to: (1) maintain stable, drug-free housing; (2) find legal employment; (3) speak with her attorney about termination and relinquishment; (4) maintain contact with the agency at least twice a month and informing it of any address or phone number changes; and (5) submit to random UA tests.

In October 2014, the State filed a motion to terminate Mother's parental rights, alleging Mother was unfit because of the use of intoxicating liquors or narcotics; the existence of physical, mental, or emotional abuse; and a lack of effort on Mother's part to adjust her circumstances, conduct, or condition to meet the children's needs. The State also alleged that the children had been in extended out-of-home placement because Mother had failed to maintain regular visitation, contact or communication with her case manager, failed to complete the tasks of the parenting plan, and failed to pay a reasonable portion of the cost of substitute physical care and maintenance based on ability to pay.

\*2 A termination hearing was held October 21, 2014. At the hearing, the natural father of H.O., J.O., and T.O. relinquished his parental rights, which the district court accepted. The hearing was then suspended until December 2, 2014. After listening to the evidence presented and reviewing the parties' documents, the district court found that Mother was unfit and that it was unlikely that her unfitness would change in the future. The district court specifically noted Mother's: (1) failure to adjust her circumstances so that she could provide for the four children; (2) failure to maintain consistent contact with her case managers; (3) missed and failed UA tests; (4) failure to acquire suitable housing and employment; (5) missed visits with the children; and (6) failure to complete reintegration tasks and rehabilitation treatment. The district court also determined that termination was in the children's best interests and terminated Mother's parental rights.

Mother timely appeals.

**DID CLEAR AND CONVINCING EVIDENCE  
SUPPORT THE DISTRICT COURT'S DECISION TO  
TERMINATE MOTHER'S PARENTAL RIGHTS?**

If a child is adjudicated a child in need of care, parental rights may be terminated “when the court finds by clear and convincing evidence that the parent is unfit by reason of conduct or condition which renders the parent unable to care properly for a child and the conduct or condition is unlikely to change in the foreseeable future.” K.S.A.2014 Supp. 38–2269(a). The Revised Kansas Code for Care of Children, K.S.A.2014 Supp. 38–2201 *et seq.*, lists a number of nonexclusive factors a district court must consider in determining a parent's unfitness. See K.S.A.2014 Supp. 38–2269(b) and (c). Any one of the factors may, but does not necessarily, establish grounds for terminating a parent's rights. K.S.A.2014 Supp. 38–2269(f). A district court is not limited only to the statutory factors in making a determination of unfitness. K.S.A.2014 Supp. 38–2269(b).

When reviewing a district court's findings on this point, our standard of review is clear: The district court's findings must be supported by clear and convincing evidence. K.S.A.2014 Supp. 38–2269(a). We determine whether such evidence could have convinced a rational

factfinder such facts were highly probable, *i.e.*, by clear and convincing evidence, when viewed in the light most favorable to the State. *In re B.D.-Y.*, 286 Kan. 686, 705, 187 P.3d 594 (2008). In making this determination, we do “not weigh conflicting evidence, pass on credibility of witnesses, or redetermine questions of fact.” 286 Kan. at 705.

*1. Mother's unfitness*

Mother argues that while the State presented some evidence of her lack of compliance with the reintegration plans, the evidence did not show a complete lack of compliance. She goes on to state that she more consistently complied with the case plan established in July 2014, as was evidenced by her last case manager's testimony that there had been more consistent contact and only a few missed UA tests. Mother also contends that she had acquired approved housing and had completed required and voluntary programs, and the only requirement she lacked was employment.

\*3 The State, however, presented evidence that Mother had no contact with her case managers in May 2013 or from March 2014 to July 2014, and had only limited contact in November 2014. The State also presented evidence showing that Mother had missed 14 UA tests in 2012, two in 2013, and two in 2014. The record indicates that Mother missed an additional 28 appointments between February 2013 and June 2013, for a total of 46 missed UA tests. Mother also did not submit any UA samples between March 2014 and July 2014 because she was not in contact with her case manager. Moreover, twice she tested positive for methamphetamine—once in August 2012 after a hair follicle test and again in September 2014. The September UA test came back negative after further testing, but Mother's delay in arriving for the additional testing may have caused the negative result.

The State further showed that Mother had inconsistent contact with the children. Visits were contingent on negative UA results, so every time Mother missed a UA test, she was not allowed to see the children. Several visits were also canceled because Mother failed to make the proper arrangements or confirm the visit. By December 2014, Mother had seen T.O. and J.O. only a handful of times since August 2013. She had seen J.A.F. even less because he refused to attend some of the visits, although they apparently remained in contact. The record also indicates Mother had not seen H.O. since August 2013

because it was recommended that H.O. not see Mother due to behavior issues.

Evidence was also presented that Mother had failed to acquire stable housing or employment. While Mother had an approved home, she was at risk of losing it at the time of the termination hearing because she was unemployed. If she did not find a job by December 31—essentially 4 weeks from the hearing—she would be responsible for paying the \$978 monthly rent, which she would not be able to pay without a job. Although she had applied to several places, Mother had no interviews scheduled. She had acquired three different jobs since June 2012 but remained at each one for only a few months at the most.

Our review of the record shows the State presented sufficient evidence that could have convinced a rational factfinder that the factors relied upon by the district court to find unfitness were highly probable. Therefore, the district court's determination that Mother was unfit was supported by clear and convincing evidence.

### 2. *Unfitness unlikely to change in the foreseeable future*

Mother also argues the district court's determination that her unfitness is unlikely to change in the foreseeable future was not supported by clear and convincing evidence. More specifically, she claims the 5 months between the July 2014 case plan and the termination hearing in December was an insufficient period of time for the district court to make its determination. She also points out her improvement since the enactment of that case plan.

\*4 Our next step is to determine whether clear and convincing evidence supported the district court's determination that a parent's behavior is unlikely to change in the foreseeable future. See K.S.A.2014 Supp. 38–2269(a). The term “‘foreseeable future’” is measured from the child's perspective and takes into account a child's perception of time. *In re S.D.*, 41 Kan.App.2d 780, 790, 204 P.3d 1182 (2009). This court has considered periods of time as short as 7 months to be the foreseeable future from a child's perspective. 41 Kan.App.2d at 790. A court may predict a parent's future unfitness based on his or her past history. *In re Price*, 7 Kan.App.2d 477, 483, 644 P.2d 467 (1982).

As mentioned, the district court's unfitness finding was based in part on Mother missing several UA tests and failing to acquire stable housing and employment. These

three tasks were in place in October 2012. They were also in place when the new case plan was established in June 2014. So, while Mother may claim she had only 5 months to comply with the July 2014 case plan, the district court's decision was based in part on tasks she had more than 2 years to complete.

The district court's decision was further buttressed by the fact that in the month before the termination hearing, Mother missed both scheduled visits and one UA test. In fact, Mother was out of contact with her case manager for most of the month. Based on these facts, we have no trouble concluding that the district court's determination that Mother's unfitness was unlikely to change in the foreseeable future was supported by clear and convincing evidence.

### 3. *Children's best interests*

Finally, Mother notes that the district court did not mention in its order that termination of her parental rights was in the best interests of the children, citing *In re K.R.*, 43 Kan.App.2d 891, 233 P.3d 746 (2010).

Because it hears the evidence directly, “the district court is in the best position to [determine] the best interests of the child,” and an appellate court cannot overturn the determination without finding an abuse of discretion. *In re K.P.*, 44 Kan.App.2d 316, 322, 235 P.3d 1255, *rev. denied* October 7, 2010. An abuse of discretion occurs when no reasonable person would agree with the district court or when the court bases its decision on an error of fact or an error of law. *Critchfield Physical Therapy v. The Taranto Group, Inc.*, 293 Kan. 285, 292, 263 P.3d 767 (2011). “In determining whether the district court has made a factual error, we review any additional factual findings made in the best-interests determination to see that substantial evidence supports them (recognizing that the preponderance-of-the-evidence standard applies in the district court).” *In re R.S.*, 50 Kan.App.2d 1105, 1116, 336 P.3d 903 (2014). In considering termination, “the court shall give primary consideration to the physical, mental and emotional health of the child.” K.S.A.2014 Supp. 38–2269(g)(1).

\*5 In *K.R.*, another panel of this court reversed the termination of the mother's parental rights, based in part on the district court's failure to consider the best interests of the children. 43 Kan.App.2d at 905. However, several factors distinguish *K.R.* from this case. In *K.R.* there

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were no allegations of addiction, no allegations of lack of interest in the children, and the children wanted to be with their mother. Here, there were allegations that Mother abused drugs, Mother's lack of contact with her case managers and several months without visits showed a lack of interest in the children, and the children did not appear to want to be with their mother. The record indicates that H.O. had a negative relationship with Mother such that visitation between Mother and H.O. was discouraged, J.O. and T.O. were attached to their placement, and J.A .F. wished to be adopted by his placement. Moreover, the district court's finding that termination was in the children's best interests was

interwoven with its findings about Mother's unfitness. See *In re C.A.G.-V.*, No. 113,334, 2015 WL 5224828, at \*4 (Kan.App.2015) (unpublished opinion). In light of the record, we must conclude that the district court did not abuse its discretion in terminating Mother's parental rights.

Affirmed.

**All Citations**

360 P.3d 490 (Table), 2015 WL 7192418

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## 338 P.3d 23 (Table)

## Unpublished Disposition

(Pursuant to Kansas Supreme Court Rule 7.04(f), unpublished opinions are not precedential and are not favored for citation. They may be cited for persuasive authority on a material issue not addressed by a published Kansas appellate court opinion.)  
Court of Appeals of Kansas.

In the Interests of A.F., A.G., and L.G.,  
Children Under the Age of 18 Years.

No. 111,731.

|

Nov. 21, 2014.

|

Review Denied February 19, 2015.

Appeal from Johnson District Court; Kathleen Sloan,  
Judge.

## Attorneys and Law Firms

Amy R. Mitchell, of Olathe, for appellant natural mother.

Shawn E. Minihan, assistant district attorney, Stephen M. Howe, district attorney, and Kathryn Barker, guardian ad litem, for appellee.

Before STANDRIDGE, P.J., LEBEN and POWELL, JJ.

## MEMORANDUM OPINION

POWELL, J.

\*1 K.G. (Mother) appeals termination of her parental rights to her three minor children, A.G., A.F., and L.G. The natural father of L.G., S.T., also appeals the termination of his parental rights, which we address in a separate opinion issued today. See *In re L.K.G.* (No. 111,710, this day decided). B.F., the natural father of A.G. and A.F., does not appeal. Mother claims there is insufficient evidence to support the district court's findings of unfitness and the district court abused its discretion when it found that the termination of her parental rights was in the children's best interests. We disagree and affirm.

## FACTUAL AND PROCEDURAL HISTORY

*History of Children in Custody*

In 2004, Mother and B.F. were the natural parents of three other minor children who are not parties to this appeal. Those children were adjudicated children in need of care, and Mother relinquished her rights to all three children in 2005. B.F. relinquished his rights to two of the children, and the court terminated his rights to the third child in January 2006. All three children were subsequently adopted.

Following the relinquishment of their parental rights, Mother and B.F. continued to have children together; A.G. was born in March 2007. In September 2008, Mother and S.T. became involved in a brief romantic relationship, which resulted in the birth of L.G. in July 2009. Sometime after, Mother and B.F. got back together and A.F. was born in August 2011.

In December 2009, B.F.'s mother passed away, and B.F. and Mother drove to Arkansas to deliver some of his mother's belongings to his sister. While in Arkansas, B.F. was pulled over; he got out of the vehicle and ran from the police, apparently because he knew he had a warrant issued for a parole violation. B.F. was arrested and sent back to prison; Mother was arrested for public intoxication. A.G. and L.G. were in the vehicle at the time of the stop and were taken into state custody in Arkansas. A.G. tested positive for THC; B.F. was possibly smoking marijuana in the car while driving. Mother, B.F., and S.T. were all given the opportunity to reintegrate with the children. While Mother moved to Arkansas and successfully completed the reintegration plan, B.F. was unable to reintegrate with A.G. due to his incarceration. S.T. also failed to reintegrate as he, too, was incarcerated at the end of the case plan in that matter.

*Current Case Involving A.G. and A.F.*

In October 2012, DCF social work specialist Betsy Wilson investigated allegations that A.G. and A.F. were without proper parental control. Wilson first contacted B.F. at the Olathe Detention Center because B.F. had been arrested and incarcerated due to involvement in an illegal drug transaction. A.F. was with him at the time of the transaction. Mother was also incarcerated at this time for an older case. Due to the incarceration of both parents,

there was no known caregiver for A.G. and A.F. A.F. was in police custody, and A.G. was with his paternal grandfather when the children were placed in DCF care. Wilson referred A.G. and A.F. for the filing of a child in need of care petition. A temporary custody hearing was held on October 16, 2012; both children were placed into DCF custody and referred to the out-of-home foster care contractor, KVC Behavioral Healthcare (KVC).

\*2 Case plan tasks were created to assist Mother and B.F. in addressing the needs of the children and the concerns in the petition. Case manager Megan Moser testified that the case plan tasks were created to reintegrate the children back into the home. On December 19, 2012, the district court found both A.G. and A.F. to be children in need of care and ordered 4-month reintegration plans for Mother and B.F.

#### *Current Case Involving L. G.*

At the time the case plans were ordered for A.G. and A.F., L.G. was not in State custody, nor was the State even aware of his existence. At one of the appointments involving A.G.'s and A.F.'s case, Mother brought L.G. along. The case manager testified she asked, "This is their cousin; right?" [Mother] said, 'Yes.' " The case manager had concerns that L.G. may not be a cousin and began to investigate. The case manager subsequently learned L.G. was Mother's child; the State also had not been aware of the 2010 Arkansas removal incident.

In March 2013, L.G. was placed in DCF custody due to a physical altercation between Mother and S.T. Deputy Brian Davis testified he was dispatched on a child abduction case, and Mother reported that she and S.T. got into an argument; S.T. became aggressive, grabbed Mother by her throat, and choked her. There were lacerations on Mother's face below her eye where S.T. bit her. Mother reported, "[S.T.] bit her so hard it felt like it hit the bone." L.G. was present when this altercation occurred. S.T. had taken L.G. and was subsequently arrested. A child in need of care petition for L.G. was filed, and DCF obtained an ex parte order for protective custody. DCF had information L.G. was living with a relative. However, when the case worker went to the home of the relative, she was unable to locate L.G. The police were contacted, and, after a difficult search, L.G. was finally located and taken into custody. DCF recommended out-of-home placement for L.G.

The cases involving the three children were combined, and when L.G. was brought into custody, Mother's case plan tasks were amended.

#### *Mother's Reintegration Plan*

As part of the reintegration plan, Mother was required to obtain and maintain stable housing, to notify the case manager of any changes of residence within 72 hours, and to provide proof of a reliable transportation plan. However, Mother continued to have negative encounters with law enforcement; Moser believed Mother had been in jail about three times since she began working on this case. When Mother was released from jail in December 2012, she stayed at Dove House, a shelter for battered women. Following her stay at Dove House, Mother did not have a stable residence, and she failed to notify the case manager of changes to her residence. Regarding the transportation plan, Mother did provide signatures of people who agreed to transport her. In the beginning, Mother was apparently able to obtain transportation, but, as time passed, there was inconsistency as Mother was arriving to appointments late. Mother failed to show consistency with her scheduled visits, showing up to visits 15 to 50 minutes late, or completely missing visits. Moser never felt comfortable extending Mother's visitation.

\*3 Mother was also asked to provide random urinalysis (UA) samples. There was some questionable timing surrounding Mother's submittal of UAs. On some occasions, Moser would ask Mother to submit a UA that day, and Mother would refuse. At other times, Mother said she could not submit a UA or she failed to come in until the following day. Moser arranged for KVC to pay for a hair follicle test, but Mother never completed this request. When Moser discussed police reports that indicated Mother's drug and alcohol usage, Mother would deny using and supply a different reason as to why the reports indicated otherwise. During Mother's incarceration, she attended AA and NA meetings. Moser testified, "[I]t was interesting to me that she refused to submit the hair follicle test and said she hasn't had an issue with drugs, yet she went to AA meetings in jail."

Mother did provide proof of her completion of a level 1 mental health evaluation, but she never provided proof of following the recommendations. She failed to see an individual therapist on a consistent basis in order to address mental health concerns. Mother provided proof she attended a minimum of three domestic violence

classes, but there were still concerns regarding Mother's understanding of the significance of this task. Moser testified,

“[T]he impression I got when I spoke with her is that she denied the significance of domestic violence. That concerns me how to—in order for someone to change, I believe you have to realize where you are, and so I could say there is concerns [*sic*] of her seeing the significance of domestic violence and what that looks like in the future.”

There were also concerns regarding the stability of Mother's income and her ability to meet the family budget. Her employment appeared to be sporadic at best. At one point, she worked approximately 6 days a month for her uncle's tree service; Mother was briefly employed by Sonic, worked at Casey's about a month prior to trial, and worked a temporary position with American Eagle about a week prior to trial.

On April 29, 2013, the district court refused to formally extend the reintegration plans.

#### *Condition of the Children*

A.G. was 4 years old and A.F. was 1 year old when they were placed into DCF custody. DCF had concerns regarding their condition as the children were dirty, although the grandfather said they had been playing in the mud. A.F. had a double ear infection, which required tubes, and it was determined that A.F. was lactose intolerant. The majority of A.G.'s teeth were decayed. According to A.G.'s foster father, “[A.G.] had two caps, one extraction, and then cavities had to be filled in all teeth minus the four front bottom teeth.” A.G. also had some difficulties breathing due to asthma, which the foster parents attempted to resolve with breathing treatments. A.G. had some behavioral problems, and his speech appeared to be delayed. A.G. had a “pretty bad habit of hitting himself.” This habit subsided after routines set in; A.G.'s speech turned around after his preschool worked with him. When L.G. went into care, he had delayed speech and he appeared to be more aggressive than most 3-year-old children. Both issues improved when L.G. moved in with his foster parents.

\*4 DCF also investigated an allegation involving the physical abuse of A.G. during a time A.G. was living with his natural parents. A special investigator with DCF met with A.G. and A.F. at the children's daycare. A.G. said he was wearing clothes when his dad spanked him on his backside. A.G. also said Mother slapped him. When asked about cigarettes, A.G. knew what they were because he said his dad smoked them and he was allowed to smoke them too. The special investigator testified,

“I asked him how does that happen or how is he allowed to. He then held up his hand as if to hold an imaginary cigarette and hold it to his mouth and acted like he would inhale. I asked him if any smoke went into his mouth, and he said yes. I asked him why would this—why was he allowed to do this. He told me that he was told he was a big boy and that he could do that.”

A.G. also reported that he had been locked in his bedroom and had been unable to get himself out. A.G. said he had been flicked in the head, but it was not clear that this was a form of punishment; it may have been a game. During the interview, A.F. was more interested in playing with toys than answering any questions; accordingly, the special investigator chose not to conduct an interview with him but observed him instead. The special investigator testified that through his observations, A.F. appeared to be a “healthy, normal, little young man” and noted both children were developmentally on track.

There were issues involving permanency and stability for the children. At the age of 5, A.G. had spent over 2 years of his life in State care. Moreover, there was uncertainty as to where A.G. lived during the rest of the time. A.F., at the age of 2, had spent approximately 13 months in custody. L.G., at the age of 4, had either been in custody or had not resided with his parents for 3 years or more.

After hearing testimony and reviewing notes, transcripts, and cases where the court took judicial notice, the district court found by clear and convincing evidence that Mother was unfit to properly care for A.G., A.F., and L.G. The district court also found that the conditions of Mother's unfitness were unlikely to change in the immediate or foreseeable future and concluded it was

in the best interests of all three children to terminate Mother's parental rights.

Mother timely appeals.

**DID THE DISTRICT COURT ERR BY  
FINDING MOTHER WAS UNFIT AND BY  
TERMINATING HER PARENTAL RIGHTS?**

Mother argues on appeal the district court's finding of unfitness was not supported by clear and convincing evidence and that the court erred by terminating her parental rights.

If a child is adjudicated a child in need of care, parental rights may be terminated "when the court finds by clear and convincing evidence that the parent is unfit by reason of conduct or condition which renders the parent unable to care properly for a child and the conduct or condition is unlikely to change in the foreseeable future." K.S.A.2013 Supp. 38-2269(a). K.S.A.2013 Supp. 38-2201 *et seq.*, the Revised Kansas Code for Care of Children, lists a number of nonexclusive factors the district court must consider in determining a parent's unfitness. See K.S.A.2013 Supp. 38-2269(b) and (c). Any one of the factors may, but does not necessarily, establish grounds for terminating a parent's rights. See K.S.A.2013 Supp. 38-2269(f). The district court is not limited only to the statutory factors in making a determination of unfitness. See K.S.A.2013 Supp. 38-2269(b).

\*5 When reviewing a district court's findings on this point, our standard of review is clear: The district court's findings must be supported by clear and convincing evidence. K.S.A.2013 Supp. 38-2269(a). We determine whether such evidence could have convinced a rational factfinder such facts were highly probable by clear and convincing evidence when viewed in the light most favorable to the State. *In re B.D.-Y.*, 286 Kan. 686, 705, 187 P.3d 594 (2008). In making this determination, we do not weigh conflicting evidence, pass on the credibility of witnesses, or redetermine questions of fact. 286 Kan. at 705.

In the present case, the district court found Mother unfit based on the following statutory factors:

- KVC made reasonable and appropriate efforts that failed to assist Mother in reintegrating with her children, satisfying K.S.A.2013 Supp. 38-2269(b)(7). These efforts included transportation of the children to visits; meeting the children's needs, such as painful dental procedures; offering to pay for Mother's hair follicle test; and providing general case management on a regular basis.
- There was a lack of effort on Mother's part to adjust her circumstances, conduct, and conditions in order to meet the needs of her children, satisfying K.S.A.2013 Supp. 38-2269(b)(8).
- Mother failed to maintain regular contact and communication with the children and KVC at various points in time, satisfying K.S.A.2013 Supp. 38-2269(c)(2).
- Mother failed to complete the tasks necessary to reintegrate with her children, satisfying K.S.A.2013 Supp. 38-2269(c)(3).

First, we must determine whether the district court's findings of unfitness were supported by clear and convincing evidence. Mother argues the evidence presented was not sufficient to convince a rational factfinder that she was unfit, meaning her parental rights should not be terminated. She contends that throughout the case she demonstrated significant progress in the tasks given to her and was becoming more stable and responsible.

As previously analyzed, the district court heard evidence regarding Mother's history with DCF, which involved her relinquishment of parental rights of three other children and her history involving A.G. and L.G. in the Arkansas matter. Mother failed to show up to meetings on time, and she missed several visits with her children. The children were exposed to physical abuse and domestic violence. Mother failed to obtain stable housing. She only provided a lease to the court a few days before the district court made its decision. Her employment history was not consistent, and she was unable to support her family. Mother was incarcerated while trying to reintegrate with her children, and she refused to complete a hair follicle test.



Based on the aforementioned facts, we conclude there was clear and convincing evidence to support the district court's determination that Mother was unfit by reason of conduct or condition which rendered her unfit to care properly for her children.

\*6 Our next step is to determine whether clear and convincing evidence supported the district court's determination that Mother's behavior was unlikely to change in the foreseeable future. See K.S.A.2013 Supp. 38-2269(a). The term "foreseeable future" is measured from the child's perspective and takes into account a child's perception of time. *In re S.D.*, 41 Kan.App.2d 780, 790, 204 P.3d 1182 (2009). We have considered periods of time as short as 7 months to be the foreseeable future from a child's perspective. 41 Kan.App.2d at 790. A court may predict a parent's future unfitness based on his or her past history. *In re Price*, 1 Kan.App.2d 477, 483, 644 P.2d 467 (1982).

Mother argues she demonstrated her ability to change when she successfully completed the reintegration plan in Arkansas and the district court ignored the progress she made in this case. She contends there was not clear and convincing evidence to support the court's conclusion that she was unfit and was not likely to change in the foreseeable future.

The district court heard testimony regarding the significant amount of time all three children had spent in state custody. Mother had considerable involvement with DCF. She was issued a formal reintegration plan, but she failed to complete several necessary tasks. The district court may predict Mother's future unfitness based on her history. There was clear and convincing evidence to support the district court's determination that Mother's behavior was unlikely to change in the foreseeable future. Our last consideration is whether the district court correctly determined that terminating Mother's parental rights was in the children's best interests. K.S.A.2013 Supp. 38-2269(g)(l) provides that even after a finding of unfitness, the district court must determine whether the termination of parental rights is in the best interests of the child.

Because it hears the evidence directly, the district court is in the best position to determine the best interests of

the child, and an appellate court cannot overturn this determination without finding an abuse of discretion. *In re K.P.*, 44 Kan.App.2d 316, 322, 235 P.3d 1255, rev. denied 291 Kan. 911 (2010). An abuse of discretion occurs when no reasonable person would agree with the district court, or when the court bases its decision on an error of fact or an error of law. See *Critchfield Physical Therapy v. The Taranto Group, Inc.*, 293 Kan. 285, 292, 263 P.3d 767 (2011). In determining whether the district court has made a factual error, we review any additional factual findings made in the best-interests determination to see that substantial evidence supports them (recognizing that the preponderance-of-the-evidence standard applies in the district court). *In re R.S.*, 50 Kan App.2d —, —, — P.3d — (2014) (No. 111,027 filed October 24, 2014).

On appeal, Mother incorrectly contends the district court gave no consideration to the physical, mental, or emotional needs of the children. The district court addressed the children's needs were not being met including some rather difficult and probably painful dental procedures to A.G. whose teeth were in complete disrepair. Additionally, the district court found the children deserved permanency, which could not be provided by Mother. Mother fails to support her argument that the court abused its discretion by failing to consider an alternative to termination because there was no credible evidence to support the termination of Mother's parental rights. Therefore, the district court could fairly conclude it was in the children's best interests to terminate Mother's parental rights.

\*7 Ultimately, the evidence provided at the termination hearing demonstrated that Mother could not adequately provide for the needs of her children in the future. As such, the district court's decision to find Mother unfit was supported by clear and convincing evidence, and the court did not abuse its discretion by terminating her parental rights.

Affirmed.

All Citations

338 P.3d 23 (Table), 2014 WL 6676225

## 338 P.3d 23 (Table)

## Unpublished Disposition

(Pursuant to Kansas Supreme Court Rule 7.04(f), unpublished opinions are not precedential and are not favored for citation. They may be cited for persuasive authority on a material issue not addressed by a published Kansas appellate court opinion.)

Court of Appeals of Kansas.

In the Interest of A.M., A  
Child Under 18 Years of Age.

No. 111,113.

|

Nov. 21, 2014.

Appeal from Sedgwick District Court; Harold E. Flaigle,  
Judge.

**Attorneys and Law Firms**

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Anita Settle Kemp, of Wichita, for appellant natural  
mother.

Roger B. McDaniel, of Kansas Department for Children  
and Families, of El Dorado, for appellee.

Before STANDRIDGE, P.J., LEBEN and POWELL, JJ.

**MEMORANDUM OPINION**

POWELL, J.

\*1 A.M.M. (Mother) and C.L.M. (Father) appeal from the district court's order terminating their parental rights to their daughter, A .M. The parents argue the district court abused its discretion by its suggestion and subsequent order permitting the State to reopen its case to present additional evidence to support the termination of their parental rights. Father also claims there was insufficient evidence presented to support the district court's termination findings. We disagree and affirm.

**FACTUAL AND PROCEDURAL HISTORY**

Mother and Father have two daughters. The older daughter, K.M., was removed from the parents' custody in February 2012 in a private child-in-need-of-care (CINC) proceeding in Marion County, Kansas. Father and K.M. were living with Father's mother (Grandmother), and Mother was living in Oklahoma. Grandmother filed a private CINC petition because she was providing K.M.'s care most of the time; she reported Father was irresponsible and did not parent K.M. and Father was reluctant to take K.M. for medical treatment. That case is not part of this appeal. This appeal involves the second daughter, A.M.

In August 2012, Mother gave birth to A.M. in Sedgwick County, Kansas; DNA testing later confirmed C.L.M. as A.M.'s father. The Department for Children and Families (DCF) received an intake about the family based upon the hospital staff's concerns. Mother had an extensive history of mental health issues, and the nurses were concerned about the lack of running water in the family's home and Mother's reports of domestic violence.

The DCF investigation revealed concerns about Mother's willingness or ability to take care of A.M. The social worker interviewed Mother twice while she was in the hospital. Mother told the social worker she had been sexually abused as a child and Father had been in foster care between the ages 12 to 18. Mother admitted to smoking marijuana several times while she was pregnant and reported Father smoked marijuana regularly. Mother had been taking medications for 6 months for schizoaffective disorder and had characteristics of schizophrenia and bipolar disorder but considered herself currently stable. Mother refused the social worker's offer of a substance abuse evaluation but agreed to services from DCCCA Family Preservation (DCCCA).

Mother also told the social worker that Father had forced her to have sex and had once cut the tires of her car when she threatened to leave him. Although he had never hit her, she did not feel safe going home with him. She also admitted she had been violent toward Father when she had not been taking her medication. Mother agreed that she and A.M. would go to a domestic violence shelter when they were released from the hospital. Two days after leaving the hospital, Mother's views apparently changed; she denied any domestic violence between Father and her and told the social worker that after talking to Father she

was anxious to get back with him. She also reported that Father agreed to participate in DCCCA services.

\*2 At the social worker's request, Father purchased additional infant supplies and restored running water to the house. Although he previously had refused DCCCA services with K.M., Father agreed to accept those services now. Father confirmed that Mother had been violent toward him in the past but things were much better after Mother started taking medication. Father denied sexually abusing anyone, but he admitted that he was removed from his home when he was 11 because he and his 6-year-old brother were sexually "experimenting."

Two DCCCA workers were assigned to work with the family. During the initial meeting after Mother and A.M. returned to the home, Father spent considerable time discussing how unfair it was that K.M. had been taken away from them and he and Mother should not be required to comply with court orders. During a second meeting, Mother was warned against breastfeeding A.M. in the parents' bed at night because of the risk that A.M. might be smothered. Although the parents agreed, the situation occurred repeatedly. Social workers also learned from Mother's physician that she should not be breastfeeding A.M. while taking psychotropic medication. However, the parents continued to insist on the breastfeeding of A.M.

In subsequent visits, things did not fare better. DCCCA staff asked both parents to undergo mental health assessments, and they asked Father to complete a drug and alcohol assessment. Mother missed a healthy babies class, and neither parent had enrolled in domestic violence classes. Moreover, Mother had not yet scheduled A.M. for her 2-month vaccinations. Notwithstanding DCCCA's requests, Mother continued to breastfeed A.M. while taking her medication.

By December 10, 2012, neither parent had signed up for domestic violence classes, and Father had not yet scheduled mental health or drug and alcohol assessments. Mother continued her history of stopping her medication and was still experiencing hallucinations. Although Mother was beginning to attend her mental health treatments more regularly, the therapist found Mother's progress to be minimal. Mother continued to breastfeed against doctors' advice, the parents had made little

progress in completing assessments or classes that had been ordered, and Mother again wanted to leave Father.

In light of the parents' history and concerns of ongoing issues, DCF requested that a CINC petition be filed and A.M. be removed from the family home and placed in DCF protective custody. On December 13, 2012, the court issued an ex parte order of protective custody placing A.M. in DCF custody, ordering her removal from the home, and ordering supervised visitation for Mother and Father; the CINC petition was filed on December 17, 2012. As part of its January 7, 2013, Order of Temporary Custody, the district court directed both parents to complete anger management classes, domestic violence classes, hair follicle testing, age-appropriate parenting classes, random urinalysis testing, and substance abuse evaluations. In addition, the court ordered Mother to undergo individual therapy and complete a psychological examination and ordered Father to undergo a clinical interview and assessment as well. A month later, A.M. was adjudicated a CINC as to Mother and by default as to Father because Father did not appear for the adjudication hearing.

\*3 In the months that followed, the parents' compliance with court orders was inconsistent. In June 2013, the State filed a motion to terminate both parents' rights. The State alleged Mother was unfit for a number of reasons, including her history of mental illness, the parents' history of domestic violence, and her failure to adjust her circumstances to meet the needs of her child. The State alleged Father was unfit because of mental illness, his history of drug use and failure to complete UA and hair follicle testing, and his failure to focus on the needs of A.M.

An evidentiary hearing was held on September 3, 2013. The witnesses included a substance abuse counselor, a psychologist, two visitation workers, and two permanency employees. The substance abuse counselor testified that she evaluated Father in April 2013. Father reported to the counselor that he experimented with alcohol and marijuana when he was 17 but quit using both (other than social drinking) when he was 18. Father did not report current usage of substances; however, he did say he last used marijuana 3 months before the evaluation. Based upon Father's self-reported information, the counselor stated Father did not meet the criteria for substance abuse treatment.

Father completed the court-ordered clinical assessment; however, Father refused to allow the psychologist to release her report until the case manager repeatedly insisted. The psychologist testified that Father denied or minimized the allegations included in the CINC petition. Father claimed he did not have any mental health issues. Father insisted he had repeatedly undergone periodic psychological assessments while in foster care as a teenager, and he claimed he had above-average intelligence. Other than Mother, Father had little social support because he had severed most of his ties with his own family. Father also denied any responsibility for the removal of his children from the home, believing he was a victim of the situation and nothing he did was responsible for the child's removal. He believed he and Mother were perfect parents.

Ultimately, the psychologist diagnosed Father with narcissistic personality disorder with paranoid features, meaning Father had a pervasive pattern of grandiosity and need for adoration; typically, such a person lacks empathy for others. The paranoid feature was based on Father's thought processes that Grandmother and the State were plotting against him. The psychologist did not recommend therapy for Father but only because research showed that persons not motivated to change did not do well in therapy.

The visitation supervisors both testified Father did not seem to want to spend time with A.M. during the visitations. Mother always interacted with A.M. during the visitation and brought age-appropriate toys. Mother also fed A.M. and changed her diaper. When Father did interact with A.M., he cuddled her, kissed her, and hugged her, but this was not often. Although Father would play with A.M. occasionally, in most visits, Father only briefly engaged with A.M. and usually sat and watched Mother and A.M. together. When the supervisor reminded Father that he was missing his opportunity to interact with A.M., he seemed to prefer arguing about the case and spent most of his time repeating to the social worker how the removal of K.M. and A.M. was unfair and how they were victims of the system. Mother also asked Father to stop arguing, to spend time with the child, and to help her. On several occasions, their arguments would distract both of them from watching A.M. Occasionally, Father would be on the phone during the visitation.

\*4 The visitation supervisors noted other problems. The parents were regularly late to visitations by at least 10 minutes and occasionally failed to bring supplies because they spent the money on something else, *i.e.*, energy drinks for Father. Father also missed three visits; he called Mother during one of these visits and argued with her on the phone. The social workers never saw much of a bond between Father and A.M. Mother was always excited and interacted with the child, and A.M. bonded with her. However, Mother would become easily frustrated if the child got into something or was not being still during a diaper change. Father repeatedly reported that his family was perfect and demanded new caseworkers and attorney to work with them.

Visits continued to be supervised because of Father's ongoing anger, repeated difficulty in calming him down, and his consistent failure to submit hair follicle or UA samples to confirm he was not using drugs. At the end of May or early June 2013, workers saw some improvement; both parents attended most of the visits and both interacted appropriately with A.M. Unfortunately, this improvement lasted only for couple of weeks; thereafter, the parents relapsed into their prior bad behavior.

The parents were not consistent with complying with the court's orders. For example, Mother provided documentation regarding her monthly disability benefits, and Father reported that he worked nearly every day and long hours for a cable communications company. However, Father never provided any pay stubs to show he was gainfully employed. Mother completed anger management classes and domestic violence classes, but Father did not believe he should be required to take anger management or domestic violence classes. Of the seven hair follicle tests requested of each, Mother completed only one test and Father completed only one test; the results of both tests were negative. Of the nine requested urinalysis tests, Mother completed two and Father complete one; the results of those tests were also negative. Both parents did complete psychological evaluations, substance abuse evaluations, and parenting classes.

Mother's mental health was an ongoing concern as well. Mother had completed some individual therapy but missed several appointments and was not able to schedule any additional appointments because she was late on her payments. The case manager did not receive

any documentation from Mother's doctors about her medication status, although Mother provided verbal updates. Mother admitted that if she was not on her medication, she could be very violent. Mother had been hospitalized three times during her life for mental health issues, once as recently as 2012. During her May 2013 psychological assessment, mother reported that her relationship with Father was not good; he was verbally abusive, and she only stayed with Father because she could not take care of the girls by herself. Mother minimized any responsibility on her part for her children's removal from the home. The psychologist noted that Mother had stopped taking one of her medications, Lithium, without telling her medication manager.

\*5 Case workers testified that A.M. was happy in her foster home and had bonded with both Grandmother and K.M. One case manager testified that she did not believe reintegration was possible because both parents would need nearly constant in-home services and regular check-ins, both parents needed to go to therapy together to improve their communication, and Father needed parenting skills in the event Mother failed to take her medication.

Ultimately, termination was recommended for a variety of factors, including lack of documentation that Mother was taking her medication on a regular basis; Father's failure to complete domestic violence classes; the parents' lack of individual therapy; no proof Father was employed or how much money he made; and Father's inability to see anything from the child's perspective or put A.M. first.

Following the testimony, the district court took the matter under advisement. When it reconvened on October 4, 2013, the court found the parents were unfit due to mental or emotional illness, reasonable efforts had been made to rehabilitate the family and those efforts had been unsuccessful, and the parents had failed to adjust their circumstances or conduct to meet the needs of the child. The court also found, based upon the entire record, the parents had had ample opportunity to change.

However, the court indicated it was not prepared to terminate the parents' rights at the time because it found no trial testimony that termination of parental rights would be in the best interests of A.M. If such evidence had been presented, the court would have granted the motion to terminate. The court then offered the State

the opportunity to review the record and point out the evidence supporting its claim that termination was in the best interests of the child. The judge stated: "In the absence of that, I think you'll need to ... re-open the case by Motion to Present Additional Evidence...." The court scheduled the matter for a hearing later that month.

At the October 29, 2013, hearing, the State informed the court it was prepared to recall one of its witnesses to testify about the best interests of the child. Both the court and the parties were concerned about whether the prior findings established only present unfitness. The court ultimately stated it believed the State had presented sufficient evidence regarding both present and future unfitness. Mother wanted a separate hearing to address the issue because the State did not advise her that it would be proffering additional evidence at this hearing. Father opposed giving the State another chance to reopen its case when it had a full opportunity to present evidence at the initial hearing. Father's counsel conceded, however, that the State could file a new motion to terminate and, in the meantime, reintegration efforts could continue.

The court allowed the State to proceed. The State recalled Dan Beeson, the most recent case manager. Beeson testified it was in A.M.'s best interests for her parents' rights to be terminated in order for her to have permanency. He testified that Grandmother, who had been caring for the child, could adopt her. Beeson testified that Mother had a good relationship with Grandmother and could still maintain a relationship with A.M. Beeson testified that, based upon his observations, A.M. had a limited bond with Mother and no bond with Father due to his ongoing lack of interaction with her. He did not see the parents' unfitness likely to change in the future because of each parent's mental health issues.

\*6 After a short recess, the court reconvened. After reviewing the documents and information from all the hearings, the court noted that Mother's mental condition was controlled by medication. However, she reported she stayed with Father only because she could not take care of the children by herself. Due to Father's belief he did not need treatment for his mental condition, his condition was unlikely to change. Because of Mother's inability to raise A.M. and Father's lack of interest in the actual day-to-day raising of the child, the court found clear and convincing evidence established the parents were unfit, such unfitness

was unlikely to change in the foreseeable future, and it was in A.M.'s best interests to terminate their rights.

Both parents timely appeal from the initial journal entry.

**DID THE DISTRICT COURT ABUSE  
ITS DISCRETION IN PERMITTING  
THE STATE TO REOPEN ITS CASE?**

On appeal, both Mother and Father challenge the district court's actions in "inviting" and then permitting the State to reopen the record to present additional testimony regarding the best interests of A.M. Specifically, Mother alleges the court went beyond the legal framework and abused its discretion in permitting the State to reopen its case when it had ample opportunity to present all of its evidence in the initial hearing.

Father argues that based on the court's initial bench ruling—the parents were presently unfit—the court should have denied the State's motion to terminate. Father notes the court found no evidence pertaining to the best interests of the child and was silent as to whether the parents could change in the foreseeable future, two of the necessary elements required to be proved by the State. Father argues on appeal that the district court erred in (1) not permitting more evidence on whether the parents would likely change in the foreseeable future; and (2) allowing the State to present additional evidence on the best interests of the child. While he argued the State failed to carry its burden of proof, significantly, Father conceded before the district court that even if the court denied the State's request to reopen the case, the State could immediately refile another motion to terminate and repeat the process. Neither party requested the opportunity to put on additional evidence about future fitness or best interests.

We find no error here. First, it appears that the district court mistakenly believed that someone must specifically testify that it is in the best interests of the child to terminate parental rights: "I am not prepared to terminate the rights at this time ... because in my review of the record, I could not find testimony ... that termination of parental rights is in the best interest of this child." While the district court must make that finding based upon the evidence presented, there is no requirement that testimony specifically address it. The court can make

its own conclusions based upon the evidence presented regarding parental fitness and other circumstances.

\*7 Second, even if some further testimony on best interests was needed, a trial court has broad discretion to determine whether a party may reopen its case to offer additional evidence. See *State v. Brown*, 295 Kan. 181, 204–05, 284 P.3d 977 (2012); *McDaniel v. Jones*, 235 Kan. 93, 114, 679 P.2d 682 (1984). A judicial action constitutes an abuse of discretion only if the action (1) is arbitrary, fanciful, or unreasonable; (2) is based on an error of law; or (3) is based on an error of fact. *Northern Natural Gas Co. v. ONEOK Field Services Co.*, 296 Kan. 906, 935, 296 P.3d 1106 (2013). We find no abuse of discretion here.

At the outset, we note the Revised Kansas Code for Care of Children, K.S.A.2013 Supp. 38–2201 *et seq.* (the Code) neither explicitly provides for nor bars the district court from reopening a case for additional evidence. K.S.A.2013 Supp. 38–2267(a) requires the court set a hearing on a motion to terminate parental rights promptly after such a motion is filed, and the court may continue the proceeding only if it is in the best interests of the child. In addition, the Code must be liberally construed to carry out the policies of the State which include making the ongoing "physical, mental and emotional needs of the child decisive considerations in proceedings" and to "dispose of all proceedings under this code without unnecessary delay." K.S.A.2013 Supp. 38–2201(b)(3), (4).

Reopening a case may be permitted even if the case has been submitted to the factfinder for consideration. *State v. Norton*, 292 Kan. 437, 440, 254 P.3d 1264 (2011). In general, when permitting a party to reopen a case, our Supreme Court set forth the factors the district court must consider as part of its decision:

" 'In exercising its discretion, the court must consider the timeliness of the motion, the character of the testimony, and the effect of the granting of the motion. The party moving to reopen should provide a reasonable explanation for failure to present the evidence in its case-in-chief. The evidence proffered should be relevant, admissible, technically adequate, and helpful to the jury in ascertaining the guilt or innocence of the accused.

The belated receipt of such testimony should not “imbue the evidence with distorted importance, prejudice the opposing party's case, or preclude an adversary from having an adequate opportunity to meet the additional evidence offered.” [Citation omitted.] “*State v. Murdock*, 286 Kan. 661, 672–73, 187 P.3d 1267 (2008).

Under these factors, the parents have failed to establish any abuse of discretion. While admittedly the State failed to explain why it neglected to explicitly ask its witnesses about A.M.'s best interests, there was considerable testimony presented during the original hearing which would allow a reasonable inference it was in A.M.'s best interests to terminate her parents' rights. This included the testimony of the case managers that both parents suffered from significant mental illnesses that were not being adequately addressed by either of them and that A.M. had bonded with Grandmother and K.M., whereas her bonding with Mother was minimal and with Father essentially nonexistent.

\*8 Moreover, there is no dispute that this “new” evidence was relevant, admissible, and helpful to resolve the legal issues. The testimony included explicit statements of best interests by coalescing evidence from the initial hearing. Additionally, neither parent requested, after the evidence was presented, an opportunity to present additional evidence to respond to the best interests issue. While Mother did request a continuance before the new evidence to prepare for an additional evidentiary hearing, neither parent argues on appeal what additional evidence they could have presented to counter that belatedly presented by the State.

In light of the Code's directive for prompt adjudications, considering issues in light of “child time,” and the district court's duty to safeguard the best interests of A.M., it would be contrary to our state's policies to require the State to refile and relitigate the case. See K.S.A.2013 Supp. 38–2201(b). This would only serve to keep A.M., who had been placed apart from her parents for all but 4 months of her life, in limbo for additional time.

The district court did not abuse its discretion in allowing the State to reopen its case under the circumstances.

#### WERE THE DISTRICT COURT'S FINDINGS SUPPORTED BY CLEAR AND CONVINCING EVIDENCE?

Father contends there was not clear and convincing evidence to support the termination of his parental rights. Mother's argument focuses solely on the district court's decision to permit the State to reopen its case. Mother argues there was insufficient evidence of a clear and convincing nature to justify the termination of her parental rights to A.M. because the State failed to present evidence at the initial hearing that Mother's “present unfitness” was unlikely to change in the foreseeable future or that it was in A.M.'s best interests for her rights to be terminated. Mother apparently does not contest the court's original finding that she was currently unfit as a parent.

We have already found the district court did not abuse its discretion in permitting the State to present new evidence. Because Mother essentially fails to argue the merits of the question, we could reject her arguments for that reason alone. *Friedman v. Kansas State Bd. of Healing Arts*, 296 Kan. 636, 645, 294 P.3d 287 (2013) (point raised incidentally in brief and not argued therein is deemed abandoned). In considering the parents' claims of a lack of evidence to support termination of their rights on the merits, a careful review of their briefs establishes each parents' claims of fitness were based on the theory that each parent made up for the shortcomings of the other; thus, as a couple, their rights should not have been terminated. We disagree.

Once a child has been adjudicated a CINC, “the court may terminate parental rights or appoint a permanent custodian when the court finds by clear and convincing evidence that the parent is unfit by reason of conduct or condition which renders the parent unable to care properly for a child and the conduct or condition is unlikely to change in the foreseeable future.” K.S.A.2013 Supp. 38–2269(a). In making such a determination, the court, among other things, is to consider:

\*9 “(1) Emotional illness, mental illness, mental deficiency or physical disability of the parent, of such duration or nature as to render the parent unable to care

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for the ongoing physical, mental and emotional needs of the child;

(2) conduct toward a child of a physically, emotionally or sexually cruel or abusive nature;

(3) the use of intoxicating liquors or narcotic or dangerous drugs of such duration or nature as to render the parent unable to care for the ongoing physical, mental or emotional needs of the child;

(4) physical, mental or emotional abuse or neglect or sexual abuse of a child;

(5) conviction of a felony and imprisonment;

(6) unexplained injury or death of another child or stepchild of the parent or any child in the care of the parent at the time of injury or death;

(7) failure of reasonable efforts made by appropriate public or private agencies to rehabilitate the family;

(8) lack of effort on the part of the parent to adjust the parent's circumstances, conduct or conditions to meet the needs of the child; and

(9) whether the child has been in extended out of home placement as a result of actions or inactions attributable to the parent and one or more of the factors listed in subsection (c) apply." K.S.A.2013 Supp. 38-2269(b).

If the child is not in the physical custody of a parent, as was the case here, the court is also to consider:

"(1) Failure to assure care of the child in the parental home when able to do so;

(2) failure to maintain regular visitation, contact or communication with the child or with the custodian of the child;

(3) failure to carry out a reasonable plan approved by the court directed toward the integration of the child into a parental home; and

(4) failure to pay a reasonable portion of the cost of substitute physical care and maintenance based on ability to pay." K.S.A.2013 Supp. 38-2269(c).

Importantly, Kansas law provides that the existence of any one of the factors listed in K.S.A.2013 Supp. 38-2269(b) and (c) may, but does not necessarily, establish

grounds for termination of parental rights. K.S.A.2013 Supp. 38-2269(f).

When reviewing a district court's findings on this point, our standard of review is clear: The district court's findings must be supported by clear and convincing evidence. K.S.A.2013 Supp. 38-2269(a). We determine whether such evidence could have convinced a rational factfinder such facts were highly probable by clear and convincing evidence when viewed in the light most favorable to the State. *In re B.D.-Y.*, 286 Kan. 686, 705, 187 P.3d 594 (2008). In making this determination, we do not weigh conflicting evidence, pass on the credibility of witnesses, or redetermine questions of fact. 286 Kan. at 705.

As the district court articulated, there was ample evidence from the initial hearing to find Mother was unfit and her condition was unlikely to change in the foreseeable future. Mother had an ongoing mental health condition that, she admitted, could make her violent if she was not taking medication. While her visitations went well and she clearly loved her daughter, Mother reported in her June 2013 evaluation she had stopped taking one of her prescriptions without advising her physician. Moreover, while she had completed various classes, Mother failed to keep up with her medication management program or mental health therapy. Mother also admitted she wanted to leave Father but only stayed because she knew she could not care for the child on her own. Based upon Father's reactions to her requests for help with A.M. during visitations, the record supports the conclusion that Mother likely would not receive significant support from Father in the actual day-to-day care for the child.

\*10 Father contends he held steady employment, promptly completed the drug and clinical assessments, and complied with most of the court's orders. He further contends the caseworkers' primary concerns were with Mother's mental health and his attitude led to him being treated unfairly. He contends the only reason he was considered unfit was because the case workers did not like his rudeness and intensity. Father also contends he was making progress and was not given enough time to adjust his circumstances.

But despite Father's claim of steady employment, the record contains no documentation to establish he was, in fact, steadily employed. When A.M. was born, the family home had no running water. The parents appeared



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at visitations on a variety of occasions without supplies, saying they could not afford them.

Father emphasized his drug assessment found him to be a low risk for drug dependence and his clinical assessment did not recommend any therapy. However, the drug assessment was based only upon Father's self-reported use of drugs and alcohol. Contrary to Father's statements to the evaluator, Mother reported Father regularly used marijuana. Though the UA and hair follicle tests Father submitted to were negative, Father failed to provide UA or hair follicle samples on the majority of the occasions requested.

As for his clinical assessment, Father completed that assessment without a referral from the caseworkers but initially refused to allow it to be released to the court. The assessment, once finally obtained, revealed a narcissistic personality disorder with paranoid features diagnosis. The only reason the clinician did not recommend therapy was simply because Father did not believe he had any problems or needed to change and, consequently, therapy would have been of little benefit. We also note that contrary to Father's assertions, the record does not reveal any evidence that Father ever attended any therapy sessions.

Finally, while it is true that Father's rudeness would not be a basis for termination, it was a symptom of his personality disorder and reflected on his ability to parent. During much of the case, Father's focus was typically on himself, and he besieged caseworkers during the once a week hourly visitations with A.M. with complaints about the unfairness he felt rather than making any effort to bond with his daughter. While Father apparently believed Mother should be the primary caretaker, his unwillingness to engage with his daughter not only prevented bonding but also was sufficient to establish he would not likely be able to care for A.M. if Mother became incapacitated.

We conclude the record supports the district courts' unfitness findings and that such unfitness was unlikely to change in the foreseeable future.

**WAS TERMINATION OF MOTHER'S  
AND FATHER'S PARENTAL  
RIGHTS IN A.M.'S BEST INTERESTS?**

As the decision to terminate a parent's rights is a discretionary one once unfitness has been established, we review the district court's decision to terminate the parents' rights under an abuse of discretion standard, meaning we may reverse only if no reasonable person would agree with the district court. *In re R.S.*, 50 Kan.App.2d —, 2014 WL 5408429 (No. 111,027, filed October 24, 2014), Slip op. at 14.

\*11 We find the State presented sufficient evidence it was in A.M.'s best interests to terminate her parents' rights. A.M. had been in out-of-home placement for 10 months of her young 14-month life. Although Mother made great strides in attempting to bond with A.M., that did not make up for the shortcomings in ensuring her mental health and medication management remained stable. Mother's ongoing ambivalence about remaining with Father was significant in light of her own belief she could not cope without his presence. Father's actions repeatedly reflected his narcissistic tendencies and his inability to focus, other than for short periods, on his child. Moreover, A.M. had bonded with her caretaker, Grandmother, who was also caring for her sister.

The district court did not err in terminating the parents' rights, and we affirm its judgment.

STANDRIDGE, J., concurring: I concur in the result.

**All Citations**

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 Court of Appeals of Kansas.

In the Interest of C.N., a Child  
 under Eighteen (18) Years of Age.

No. 109,695.

|

Dec. 13, 2013.

Appeal from Sedgwick District Court; Harold E. Flaigle, Judge.

#### Attorneys and Law Firms

Michael E. Lazzo, of Wichita, for appellant natural father.

Beth Lange, of Kansas Department for Children and Families, for appellee.

Before Standridge, P.J., GREEN and LEBEN, JJ.

#### MEMORANDUM OPINION

#### PER CURIAM.

\*1 J.N. (Father), the natural father of C.N., appeals from the district court's decision to terminate his parental rights. Specifically, Father argues the State failed to establish by clear and convincing evidence that his decision to continue using drugs was conduct or a condition that renders him unable to properly care for his child. After hearing from Father and several of the State's witnesses, the district court terminated Father's parental rights. The court found Father was unfit under K.S.A.2012 Supp. 38–2269(b)(3) (Father's excessive use of intoxicating liquors or narcotic or dangerous drugs is of such duration or nature as to render him unable to care for the ongoing physical, mental, or emotional needs of the child), under K.S.A.2012 Supp. 38–2269(b)(7) (failure of reasonable efforts made by appropriate public or private agencies to rehabilitate the family), and under K.S.A.2012 Supp. 38–2269(b)(8) (lack of effort on the part of Father to adjust his

circumstances, conduct, or conditions to meet the needs of the child). The court further found the condition was unlikely to change in the foreseeable future. After making these determinations, the court considered the physical, mental, and emotional health of the child and found it was in C.N.'s best interests for the court to terminate Father's parental rights. See K . S.A.2012 Supp. 38–2269(g)(1).

When this court reviews a district court's decision terminating parental rights, we consider “whether, after review of all the evidence, viewed in the light most favorable to the State, [we are] convinced that a rational factfinder could have found it highly probable, *i.e.*, by clear and convincing evidence, that the parent's rights should be terminated and such termination was in the child's best interests.” *In re S.D.*, 41 Kan.App.2d 780, 785, 204 P.3d 1182 (2009). “[C]lear and convincing evidence” is evidence that is sufficient to establish “that the truth of the facts asserted is ‘highly probable.’” *In re B.D.-Y.*, 286 Kan. 686, 696, 187 P.3d 594 (2008).. In making this determination, the panel does not reweigh the evidence, pass on the credibility of witnesses, or redetermine questions of fact. 286 Kan. at 705.

In this case, the State filed a child in need of care (CINC) petition and application for an ex parte temporary custody order for C.N. on April 9, 2012. The CINC petition was filed after law enforcement conducted a traffic stop and observed C.L. (Mother) hug her 5-year-old son C.N. and slip something into the pocket of his shorts. After discovering a bag of methamphetamine in C.N.'s pocket, the officers arrested Mother and placed C.N. into protective custody. When placed in protective custody, C.N. reported to authorities that he knew about “pipes” and “weed” and talked about Father using them and about seeing them around the family home.

At the time Mother was arrested, Mother and Father had been separated for 3 years. Although the couple had no formal custody arrangement, Father saw C.N. on weekends. Father appeared at the temporary custody hearing held on April 10, 2012, but the court declined to grant temporary custody of C.N. to Father based on evidence that Father failed to protect C.N. from exposure to Mother's drug use and that Father admitted to a history of his own methamphetamine use. In addition, a drug test taken by Father on the day of the temporary custody hearing later came back positive for the use of methamphetamine. To assist the court in subsequently

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determining whether reunification with Father would be a viable alternative, Father was ordered by the court to complete a clinical assessment, a substance abuse evaluation, and parenting classes. Father also was ordered to take several hair follicle tests and a series of random urinalysis screens to test for ongoing drug use.

\*2 In May 2012, the district court adjudicated C.N. a child in need of care. In November 2012, the State filed a Motion for Review and Termination of parental rights alleging that both parents were unfit. In support of the motion, the State cited to Mother's and Father's long histories of extensive drug abuse and their lack of effort to overcome the barriers that were preventing them from meeting C.N.'s needs. Although 8 months had passed since the court ordered Father to take periodic hair follicle tests, Father had failed to take one, let alone the several ordered, by the time the State filed its motion in November.

The court scheduled the case for a review and termination hearing on February 8, 2013, but the hearing was continued because the Kansas Department for Children and Families failed to provide a witness list. Notwithstanding this continuance, the district court ordered the parents to submit to urinalysis testing on that day, with a hair follicle test to follow within 7 days. Father tested positive for methamphetamine on February 8 and his hair follicle test conducted 7 days later also came back positive for methamphetamine.

The termination hearing was held on March 1, 2013. Although Mother decided to relinquish her rights, Father elected to proceed with a contested hearing in order to defend against the allegations set forth in the State's petition. At the hearing, Father testified he had four biological children: C.N. and three other children that lived with their mother in California. Beyond the fact that the three other children lived in California, Father provided no further testimony about them.

Father testified that he completed outpatient drug treatment in August 2012 and an inpatient drug treatment program in September 2012. Father readily conceded, however, that he had failed to stay clean despite completing the programs and further admitted he had been using drugs throughout the course of the entire case. And, although Father claimed he could not recall when he used methamphetamine last, he was forced to acknowledge that he last used methamphetamine within

the last 3 weeks after being reminded that he tested positive immediately following the February 8, 2013, hearing.

Father also testified that he had been employed by Spirit Aero Systems for the past 8 years but his employer was unaware of his drug problem and his employment was at risk if he continued using illegal drugs. Father later testified that his vehicle had been repossessed and he had to rely on others for transportation, including his wife, who did not have a valid driver's license.

Amanda McKinney, a permanency specialist with Youthville, testified that she had concerns about Father's continued drug use and basic parenting skills. McKinney said Father initially failed to sign releases regarding his drug treatment, which caused her to later question Father's honesty regarding his drug use. To that end, McKinney pointed to Father's poor prognosis upon his release from inpatient treatment at Valley Hope based on his failure to develop the coping skills necessary to avoid relapsing back into drug use. McKinney then testified about Father's failure to inform Youthville of his arrest in September 2012 while this case was pending, which violated the court's order requiring him to notify the agency of any arrests. In sum, McKinney testified that in her opinion it would be in C.N.'s best interests to have Father's parental rights terminated.

\*3 Lacey Muller, a permanency support worker for Youthville, also testified. Muller was assigned to supervise visitation between Father and C.N. Father had periods of supervised visitation where Muller was present for the entire visit as well as periods of monitored visitation where she would simply check in at some point during the visit. Father and Mother also combined some of their visits so that they shared a 2-hour visit with C.N. together. Visits typically were 1 hour per parent per week. Muller testified that from the very beginning of the case she set out a timeline and a series of goals and expectations in working towards reintegration and that it was very clear what needed to happen in order for Father to regain custody of his son.

Muller testified that during visits Father spent large amounts of his time either talking or texting on his phone. On a couple of visits, Muller said Father spent as much as 45 minutes of the allotted time on the phone. On one particular visit, Father lost his phone and spent about

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25 minutes running from his house to his car looking for it. She further testified that early on during the case, Father would fall asleep for a portion of the visits and during one visit, C.N. actually woke Father up just to get Father to pay attention to him. Muller addressed the sleeping issue with Father directly, reminding him that he only saw his son 1 to 2 hours per week so he should make better use of their time together. In addition, Muller asked Father who would supervise the child if he were sleeping and his wife was not there. Muller testified that Father appeared to be unconcerned about the issues she raised. Muller remarked to Father that C.N. often did not follow direction and needed close supervision, especially since Father lived near a very busy street. Again, Father seemed unconcerned. Muller believed Father was not putting forth any of the effort necessary to begin moving toward reunification with his son; specifically, Father had never seriously committed to maintaining his sobriety or providing a stable and permanent home for his son. Father appeared willing to let his wife put forth the effort necessary to achieve reunification and then life would go back to the way it was before. Muller testified that Father simply was not an involved parent and in her opinion it was in C.N.'s best interests that Father's parental rights be terminated.

Erin Cavanaugh, an outpatient therapist at FCS Counseling, conducted a clinical assessment of Father pursuant to the court's order. Cavanaugh testified Father exhibited unusual behavior both prior to and during his assessment. Before the assessment, Father was sleeping in the lobby and had to be physically awakened for the evaluation. During the evaluation, Father appeared very agitated and exhibited other behaviors consistent with someone who has issues with drugs. Cavanaugh said her main concern with Father was his long history of involvement with drugs and alcohol, in conjunction with the fact that he minimized, and did not seem to understand the importance of, his drug use in relation to the CINC case. In discussing the reason C.N. came into custody, Father told Cavanaugh that he believed it more likely that the police planted the drugs on his child so that they could make an arrest rather than Mother slipping the drugs into the child's pocket to avoid an arrest.

\*4 Upon review of all the evidence, viewed in the light most favorable to the State, we find clear and convincing evidence supports the district court's determination that Father was unfit under K.S.A.2012 Supp. 38-2269(b)(3)

(Father's excessive use of intoxicating liquors or narcotic or dangerous drugs was of such duration or nature as to render him unable to care for the ongoing physical, mental, or emotional needs of the child), K.S.A.2012 Supp. 38-2269(b)(7) (failure of reasonable efforts made by appropriate public or private agencies to rehabilitate Father), and K.S.A.2012 Supp. 38-2269(b)(8) (lack of effort on the part of Father to adjust his circumstances, conduct, or conditions to meet the needs of the child). The court further found the condition was unlikely to change in the foreseeable future. After making these determinations, the court considered the physical, mental, and emotional health of the child and found it was in C.N.'s best interests for the court to terminate Father's parental rights. See K.S.A.2012 Supp.38-2269(g)(1).

Notably, Father does not appear to challenge the district court's finding that his conduct or condition was unlikely to change in the foreseeable future. But even if he did, we find clear and convincing evidence to support the court's finding in this regard as well. By the time this case made it to the termination hearing in March 2013, C.N. had been out of the home for 11 months. At the hearing, Father admitted he had used methamphetamine within the last 30 days. In his testimony, Father testified that he might need additional inpatient treatment in order to overcome his long-term drug addiction and 3 months of sobriety might be enough time to prove he could stay drug free. But in the 11 months preceding the termination hearing, Father already had inpatient and outpatient treatment and plenty of time to prove that he could stay drug free. Father does not suggest that the time schedule associated with his reintegration plan was unreasonable. And Father presented no testimony or other evidence at the hearing to explain what has changed in his life to inspire him to seriously commit to maintaining sobriety when he failed to be committed to doing so in the past. In fact, his argument on appeal is just the opposite: that his decision to continue using drugs does not render him unable to properly care for his child. We also are mindful that providing a new time schedule for reintegration in circumstances such as the one presented here may fail to properly take into account that cases such as these are to be considered in "child time" and not "adult time." See *In re S.D.*, 41 Kan.App.2d 780, 790, 204 P.3d 1182 (2009) (" 'foreseeable future' is to be considered 'from the child's perspective, not the parents', as time perception of a child differs from that of an adult' ").

2013 WL 6726129

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And finally, although Father does not appear to challenge the district court's conclusion that it would be in C.N.'s best interests to terminate Father's parental rights, we find the testimony given by McKinney, Muller, and Cavanaugh is clear and convincing evidence to support the conclusion.

\*5 Affirmed.

All Citations

314 P.3d 900 (Table), 2013 WL 6726129

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End of Document

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## BEFORE THE KANSAS STATE BOARD OF EDUCATION

In the Matter of the License of  
GAGE McGARRY

Case No. 15-PPC-52  
OAH No. 15ED0012

**REPLY BRIEF OF LICENSEE**  
**REGARDING INITIAL ORDER**

The licensee, Gage McGarry, by and through counsel, Theodore J. Lickteig, submits the following reply brief regarding the Initial Order of the Professional Practices Commission dated May 11, 2016.

**I. Response to “Facts” Section.**

The following is the licensee’s response to the parts of the “Facts” section that he contests.

1. In Paragraph 10, the KSDE states that after numerous attempts to contact undersigned counsel about Mr. McGarry submitting results of a hair follicle test, the KSDE finally received a response from undersigned counsel on April 12, 2016.

Undersigned counsel’s records are that:

- A) Counsel for KSDE e-mailed to undersigned counsel on April 5, 2016 about having the testing facility e-mail or fax the test results to KSDE offices;
- B) Counsel for KSDE e-mailed the administrative law judge on April 8, 2016 asking about where the test facility should submit the test result and noting that KSDE had not yet received a result; and
- C) Counsel for KSDE e-mailed undersigned counsel on April 12, 2016, after previously leaving voice mails on April 8 and 11, 2016, about test results.

Undersigned counsel responded by e-mail on April 12, 2016 by saying that he

had been out-of-state, had just returned the day before and would call counsel for KSDE in a few minutes;

D) Counsel for the parties had a phone conversation on April 12, 2016, about the matter.

2. In Paragraph 11, KSDE states that its version of the phone conversation is supported by an e-mail attached as Exhibit 1. The licensee denies that the e-mail supports the position of the KSDE on the point in question.

## II. Response to "Argument" Section.

### 1. Substantial Competent Evidence.

The KSDE states that circumstantial evidence and inferences can be used as the foundation upon which substantial competent evidence is built. (Br. at 4, 5) The licensee does not dispute that statement. What he does maintain is that the Commission did not have adequate foundation for facts to use to establish circumstances from which inferences could be reasonably drawn.

### 2. Mr. McGarry's Credibility on Last Use.

The KSDE contends that Mr. McGarry's objection to the hair follicle test is "belated" and asks the Board to disregard his objection to the hair follicle test. (Br. at 5) Kansas law only requires that an issue be raised before the "agency." K.S.A. 77-617. The Commission is not a separate agency from the Board. There is nothing belated about the timing of the issue.

The KSDE also complains that Mr. McGarry could have filed a motion for reconsideration with the Commission. (Br. at 6) However, the KSDE cites no legal

authority for that statement. K.S.A. 77-612(c) only requires such a motion when a statute makes it a prerequisite for review.

The KSDE offers various websites that contain material that support the conclusion that hair follicle testing only recovers a positive result for a ninety-day period before the test. (Br. at 6) These materials do not offer conclusive proof; they only put the matter at issue. Moreover, even if the KSDE's scientific sources are correct, a hair follicle test would only reach back to early 2016. Mr. McGarry's last admitted use was in June of 2015. That leaves a gap of about seven months that would go unverified. Presumably, the Commission could still have disbelieved Mr. McGarry based on the unverified time gap.

The KSDE cites multiple parental rights cases in Kansas in which the Kansas Court of Appeals has relied upon hair follicle tests to reach conclusions about those rights. (Br. at 7) The first response to the observation is that none of the parents in those cases raised an issue over the adequacy or accuracy of the hair follicle test. As a result, none of the opinions offer a ruling about adequacy or accuracy. Mr. McGarry has raised that issue. Second, all of the opinions are unpublished, which means, as the headnote material states, the opinions are not precedential and are not favored for citation.

### 3. Unreasonable, Arbitrary and Capricious.


The KSDE argues that Mr. McGarry has waived an argument that the Commission's order was unreasonable, arbitrary or capricious. (Br. at 9) Mr. McGarry did cite that standard of review with the other applicable standard of review on page 2 of his opening brief and proceeded to argue both. He is at a loss to understand how that argument was "presented without discussion or citation."



4. Inclusion of Scientific Exhibits.

The KDSE notes the exhibits to the licensee's opening brief, but asks the Board to disregard them. (Br. at 9) Curiously, the KDSE offers no counter-study or reference that calls into question the comments and conclusions in the exhibits. Counsel's bare assertion that the exhibits lack quality is an opinion of counsel. Opinions of counsel are no substitute for evidence.

Respectfully submitted,

  
 Theodore J. Lickteig  
 Kan. Bar No. 12977  
 Law Offices of Theodore J. Lickteig  
 12760 W. 87<sup>th</sup> Street, Suite 112  
 Lenexa, Kansas 66215-2878  
 913-894-1090  
[tjllawoffice@planetkc.com](mailto:tjllawoffice@planetkc.com)  
*Attorney for Licensee*

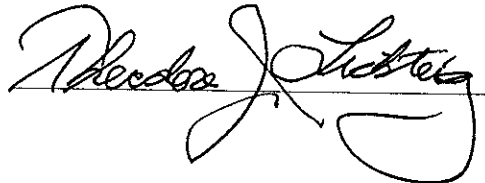
CERTIFICATE OF SERVICE

I, Theodore J. Lickteig, hereby certify that I hand-delivered the above and foregoing on this 11<sup>th</sup> day of July, 2016 to:

Gwen Kramer  
 Secretary, Professional Practices Commission  
 Kansas State Department of Education  
 900 S.W. Jackson Street  
 Topeka, Kansas 66612-1182

And mailed a copy of the above and foregoing first-class postage prepaid on the same date to:

Kelli Broers  
 Assistant General Counsel  
 Kansas State Department of Education  
 900 S.W. Jackson Street, Suite 102  
 Topeka, Kansas 66612







## Kansas State Department of Education

---

Landon State Office Building  
900 SW Jackson Street, Suite 307  
Topeka, Kansas 66612-1212

(785) 296-3201  
(785) 296-6659 - fax

[www.ksde.org](http://www.ksde.org)

**To:** Commissioner Randy Watson

**From:** Beth Fultz, Scott Smith

**Subject:** Receive History, Government, Social Studies assessment performance levels and cut scores

**Date:** 7/29/2016

**Board Goals:** Provide a flexible and efficient delivery system to meet our students' varied and changing needs

At their August meeting, the Kansas State Board of Education will receive the performance levels and cut score recommendations for the new Kansas State Assessments in History, Government, Social Studies (HGSS). The cut scores were developed during a standards-setting meeting occurring May 24-25, which brought together 36 teachers from across the state. Staff from the Center for Educational Testing and Evaluation (CETE) ran the standard-setting and they will explain the process used to determine cut scores for the four performance levels.



**Item Title:**

Act on payment of NASBE Membership Dues for 2017

**Board Goals:**

Board Matters

**Recommended Motion:**

It is moved that the Kansas State Board of Education approve payment of calendar year 2017 dues for membership in the National Association of State Boards of Education and the National Council of State Education Attorneys.

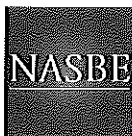
**Explanation of Situation Requiring Action:**

The National Association of State Boards of Education (NASBE), founded in 1958, is the only national membership organization whose members are solely from the state boards of education. NASBE works to

- Strengthen state leadership in educational policymaking,
- Promote excellence in the education of all students,
- Advocate equality of access to educational opportunity, and
- Ensure continued citizen support for public education.

Among the member benefits are education research and analysis, state board development, discounted registration and governance opportunities. Kansas State Board of Education Chairman Jim McNiece currently serves as the NASBE president. NASBE’s affiliate organization is the National Council of State Education Attorneys (NCOSEA).

|                            |          |
|----------------------------|----------|
| 2017 NASBE Membership Dues | \$24,855 |
| 2017 NCOSEA Dues           | \$ 130   |
| Total                      | \$24,985 |



# INVOICE

National Association of State Boards  
of Education  
333 John Carlyle Street  
Suite 530  
Alexandria, Virginia 22314  
(703) 684-4000  
FED ID# 46-0282694

KANSAS STATE BD OF EDUCATION  
Attn: Peggy Hill  
900 SW Jackson Street, #600  
TOPEKA, KS 66612

Invoice Number: 17024A-IN

Invoice Date: 7/1/2016

Customer Number 00-KANSAS

Customer P.O.:

Ship VIA:

Terms: DUE UPON RECEIPT

| Item    | Description          | UM   | Quantity | Price      | Amount    |
|---------|----------------------|------|----------|------------|-----------|
| 2017    | 2017 MEMBERSHIP DUES | EACH | 1.000    | 24,855.000 | 24,855.00 |
| 2017-NC | 2017 NCOSEA DUES     | EACH | 1.000    | 130.000    | 130.00    |

Add \$2,500 to Professional Development Funds  
 Add \$5,000 to Professional Development Funds

|                |                         |
|----------------|-------------------------|
| Net Invoice:   | <u>24,985.00</u>        |
| Freight:       | <u>0.00</u>             |
| Invoice Total: | <u><u>24,985.00</u></u> |

**Item Title:**

Act to appoint delegate to the NASBE Annual Conference

**Board Goals:**

Board Matters

**Recommended Motion:**

It is moved that the Kansas State Board of Education appoint a member delegate to the annual conference of the National Association of State Boards of Education.

**Explanation of Situation Requiring Action:**

The annual conference of the National Association of State Boards of Education (NASBE) will be Oct. 19- 22, 2016 in Kansas City, Missouri. This year's theme is "State Leadership for Student Success." Topics will include state accountability design and assessments under the Every Student Succeeds Act, early childhood education and more. The organization will also conduct its annual business meeting and officer elections. Each state may have a representative at the delegate assembly to vote on NASBE policy changes, bylaw changes as well as officer positions.







## Kansas State Department of Education

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900 SW Jackson Street, Suite 307  
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(785) 296-3201  
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[www.ksde.org](http://www.ksde.org)

**To:** Commissioner Randy Watson  
**From:** Gwen Kramer, Wendy Fritz  
**Subject:** Personnel Report  
**Date:** 7/22/2016  
**Board Goals:** Governmental Responsibility

|  | July      | Aug | Sept | Oct | Nov | Dec | Jan | Feb | Mar | Apr | May | June |
|--|-----------|-----|------|-----|-----|-----|-----|-----|-----|-----|-----|------|
| <b>Total New Hires</b>                       | <b>0</b>  |     |      |     |     |     |     |     |     |     |     |      |
| Classified                                   | 0         |     |      |     |     |     |     |     |     |     |     |      |
| Unclassified Special Project                 | 0         |     |      |     |     |     |     |     |     |     |     |      |
| Unclassified Regular (leadership)            | 0         |     |      |     |     |     |     |     |     |     |     |      |
| <b>Total Separations</b>                     | <b>2</b>  |     |      |     |     |     |     |     |     |     |     |      |
| Classified                                   | 0         |     |      |     |     |     |     |     |     |     |     |      |
| Unclassified Special Project                 | 2         |     |      |     |     |     |     |     |     |     |     |      |
| Unclassified Regular (leadership)            | 0         |     |      |     |     |     |     |     |     |     |     |      |
| <b>Recruiting (data on 1st day of month)</b> | <b>10</b> |     |      |     |     |     |     |     |     |     |     |      |
| Classified                                   | 0         |     |      |     |     |     |     |     |     |     |     |      |
| Unclassified Special Project                 | 9         |     |      |     |     |     |     |     |     |     |     |      |
| Unclassified Regular (leadership)            | 1         |     |      |     |     |     |     |     |     |     |     |      |

\*Excludes classified temporaries and agency reallocations, promotions, demotions, and transfers. Includes employees terminating to go to a different state agency (which are **not** included in annual turnover rate calculations).





**KANSAS SCHOOLS FOR THE DEAF AND THE BLIND**

STATEWIDE RESOURCES ON DEAFNESS AND BLINDNESS

[www.KSSDB.org](http://www.KSSDB.org)

**KANSAS STATE SCHOOL FOR THE DEAF**  
450 EAST PARK ST. · OLATHE, KS 66061-5497  
PHONE: 913-791-0573 FAX: 913-791-0577

**KANSAS STATE SCHOOL FOR THE BLIND**  
1100 STATE AVE. · KANSAS CITY, KS 66102-4411  
PHONE: 913-281-3308 FAX: 913-281-3104

---

**To:** Commissioner Randy Watson  
**From:** Madeleine Burkindine  
**Subject:** KSSB & KSSD Fourth Quarter Reports (FY 2016)  
**Date:** 7/25/2016  
**Board Goals:** Governmental Responsibility

The Fourth Quarter Reports (FY 2016) have been prepared for the Kansas State School for the Blind and the Kansas State School for the Deaf. Both documents are attached for the State Board of Education's review.



*EQUAL EMPLOYMENT/EDUCATION OPPORTUNITY SCHOOLS*





FY 2016

# Kansas State School for the Blind 4<sup>th</sup> Quarterly Report



April 1 – June 30, 2016

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## **MISSION**

*KSSB is a catalyst and leader in the development of exemplary programs and practices in vision services in Kansas. We build local capacity throughout the state via strategic partnerships to ensure learners with visual impairments are able to assume responsible roles in society and lead fulfilling lives.*

## **REVISIT OF STRATEGIC PLAN**

Two years ago, we conducted a strategic planning session and agreed on the following goals. We have made progress on each of these goals, which aligns with our vision.

### **GOALS:**

#### ***RAISE VISIBILITY AND PROFILE OF OUR AGENCY***

- Expanded community connections through local KCK Chamber of Commerce events. KSSB hosted a Chamber coffee in early June, and businesses with the chamber have opened their doors to allow our students' work experiences
- KCK Chamber conducted a "ribbon cutting" ceremony with Mayor Holland to announce the beginning of a yearlong anniversary celebration, our 150th
- Local businesses sponsored our Braille Challenge event in February and helped award medals on the day of the event
- Fox 4 News KC visited campus for a morning segment on the day of our student prom and again for the ribbon cutting (local TV news)
- Hired two (2) field services staff to serve the state regionally: one in Wichita (last year) to serve south-central Kansas and one in Topeka (this year) to serve the northeast

#### ***REORGANIZE OUR SCHOOL TO MODEL UNIQUE AND EXEMPLARY PRACTICES***

- Hosted KCK Head Start program on campus last two years
- Expanded community-based and competency-based experiences for students with multiple disabilities
- Integrated Expanded Core Curriculum for the Blind and Visually Impaired (ECC) standards in all activities
- Ensured that our ESY summer program is ECC-focused
- Offered Orientation and Mobility programs on campus and in business areas of K.C. for rural students
- Increased internships and practicum experiences on campus for vision professionals (COMS/TVIs/Intervenors)
- Used video, web conferencing, social media, and cloud-based applications to extend our influence and connect with vision professionals across our state

***EXPAND VI SERVICES AND REACH ACROSS THE ENTIRE STATE***

- Partnering with New Teacher and KSDE to provide national mentorship program for TVIs
- Joined Infinitic Consortium; adding resources and content related to Visual Impairments
- Increasing virtual training and consultation (webcasts, etc.)
- Increased regional Professional Development for TVIs and COMS and parents
- Expanded Low Vision Clinics

***EXPAND AND GROW THE BRAILLE CHALLENGE***

- Invited media to cover the event (print, broadcast, internet)
- Increased fundraising events through community partnerships (via KS Blind All-Stars Foundation)
- Utilizing web and social media to increase awareness

**DEAFBLIND PROJECT**

Submitted Annual Performance Report to Office of Special Education Programs for year three activities. Student census has approximately 130 students reported as Deafblind. Hired new Project Director, Marites Altuna.

**EVENTS/PROGRAMS**

**CAMPUS ACTIVITIES**

|              |   |
|--------------|---|
| March 9      | Annual State Board of Education Visit       |
| March 11     | Literacy Inservice "The Right to Write"     |
| March 24     | Beeper Egg Hunt                             |
| April 4, 6-8 | Self Determination Professional Development |
| April 19     | Jazz Concert                                |
| April 21     | Spring Concert                              |
| April 22     | Prom  |
| May 12       | Honors & Awards Ceremony                    |
| May 19       | Graduation                                  |

**BRaille CHALLENGE**

The state of Kansas sent six students to the national competition in Los Angeles in June. These six students were among the top competitors for their age group from all over the United States and Canada. The Braille Institute has approved a second location for the Kansas Braille Challenge for 2017 (Wichita and Kansas City). The Braille Challenge fund raising committee is meeting on a regular basis to get this next year's goals met.



## **SUMMER PROGRAMS/ESY**

The Kansas State School for the Blind has completed another great Extended School Year summer experience. This year 55 students participated in our ESY programs. Forty-one were in our K-SEE program (students aged 5-15) and 14 students were part of our four-week Vocational program. Twenty-seven students stayed in our dormitory and participated in our 'extended day' program. We had 15 teachers and 23 assistants who worked for us during ESY. We also had four volunteers who are enrolled in higher education training programs to become vision professionals (either Teachers of the Visually Impaired or Certified Orientation and Mobility Specialists).

Our vocational students were placed with local employers and learned real-world job skills that will build their work portfolios. Although these were entry-level positions, students developed social skills, customer service skills, money skills, and they learned how to adjust to different workplace "cultures" and the "unwritten rules" of each workplace. Students were paid \$10 per day (by KSSB) and learned that with work comes both rewards and responsibilities.

K-SEE students had mostly campus-based activities and rotated daily through Technology, Daily Living Skills, Recreation and Leisure classes. Classroom teachers planned theme-based units and braille skills were embedded throughout these activities. Field trips and campus visits by special presenters and guests augmented the learning experiences.

## **FIELD SERVICES**

The KSSB Field Services Department provided collaborative consultation/coaching services to the following LEAs and Part C agencies during the 2015-2016 school year. LEAs/Agencies in *red italics* are those added since the last list which was provided in the FY16 second quarter report.

|                        |  |                                   |
|------------------------|--|-----------------------------------|
| Atchison               | <i>Junction City</i>                     | <i>Ozawkie</i>                    |
| Auburn Washburn        | <i>Kansas City</i>                       | Salina                            |
| <i>Basehor-Linwood</i> | Kaw Valley                               | Seaman                            |
| Blue Valley            | Keystone                                 | <i>Shawnee Heights</i>            |
| Brown County Coop      | Lake Mary                                | Shawnee Mission                   |
| Clay Center            | Lawrence                                 | South Central Kansas Coop         |
| Coffey County          | Liberal                                  | <i>Southwest Kansas Area Coop</i> |
| <i>De Soto</i>         | Manhattan                                | Spring Hill                       |
| Douglas Tiny K         | Mulvane                                  | TARC                              |
| East Central Coop      | Nemaha Central                           | Three Lakes Coop                  |
| Garden City            | North Central Kansas Coop                | Topeka                            |
| Gardner Edgerton       | <i>NE Kansas Infant-Toddler Services</i> | Wamego                            |
| Geary County           | Oakley                                   | <i>Wichita</i>                    |
| <i>Goddard</i>         | Olathe                                   | Winfield                          |
| <i>Hays</i>            | Ottawa                                   | Wyandotte County                  |

During the fourth quarter, three regional professional group meetings were held in Wichita, Kansas City, and Topeka. These meetings continued to provide vision professionals throughout the state the opportunity to collaborate and participate in professional development activities while giving them the opportunity to seek technical assistance and support from the KSSB Field Services Department.

#### **PREPARATION FOR BACK TO SCHOOL**

There will be four regional Back to School workshops for regular education teachers, special education teachers, related services personnel, administrators, teachers of the visually impaired, and other participants who will be working with a student with a visual impairment. These workshops, entitled “Designing and Modifying for the Regular Education Teacher and Role of the Paraprofessional” will be held during the first week of August when districts have scheduled professional development days for their staff. The locations for the workshops will be Garden City, Hays, and Topeka (two days).

#### **REGIONAL FIELD SERVICES SPECIALISTS**

As we continue to prepare and move towards our Future Scope for Field Services, the goal of placing regional specialists (five years or more as a Certified Teacher of the Visually Impaired and Certified Orientation and Mobility Specialist) is a high priority for KSSB. We have recently hired two regional Field Services Specialists—Debbie Moody, who is in the Wichita area and Nancy Mann, who represents KSSB in the northeast part of Kansas. During the upcoming year, we would like to advertise for a specialist to represent KSSB in western Kansas.

**KANSAS INSTRUCTIONAL RESOURCE CENTER (KIRC)**

***USD STUDENTS SERVED WITH KIRC MATERIALS SUPPORT (BY KSBE DISTRICT)***

| <b>Region</b> | <b>1<sup>st</sup> Quarter</b> | <b>2<sup>nd</sup> Quarter</b> | <b>3<sup>rd</sup> Quarter</b> | <b>4<sup>th</sup> Quarter</b> |
|---------------|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| I             | 95                            | 94                            | 100                           | 98                            |
| II            | 110                           | 108                           | 108                           | 108                           |
| III           | 77                            | 79                            | 79                            | 77                            |
| IV            | 137                           | 129                           | 124                           | 124                           |
| V             | 127                           | 120                           | 116                           | 116                           |
| VI            | 102                           | 112                           | 104                           | 102                           |
| VII           | 108                           | 117                           | 107                           | 104                           |
| VIII          | 128                           | 148                           | 147                           | 146                           |
| IX            | 107                           | 106                           | 109                           | 106                           |
| X             | 99                            | 104                           | 107                           | 99                            |
| KIRC          | 19                            | 20                            | 20                            | 20                            |
| <b>TOTAL</b>  | <b>1,109</b>                  | <b>1,137</b>                  | <b>1,101</b>                  | <b>1,100</b>                  |

***VALUE OF NEW MATERIALS PURCHASED FOR USDs WITH FEDERAL QUOTA FUNDS (BY KSBE DISTRICT)***

| <b>Region</b> | <b>1<sup>st</sup> Quarter</b> | <b>2<sup>nd</sup> Quarter</b> | <b>3<sup>rd</sup> Quarter</b> | <b>4<sup>th</sup> Quarter</b> |
|---------------|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| I             | \$ 7,479                      | \$ 9,526                      | \$ 1,510                      | \$ 1,067                      |
| II            | \$ 9,469                      | \$ 11,662                     | \$ 7,252                      | \$ 11,689                     |
| III           | \$ 1,384                      | \$ 6,024                      | \$ 2,995                      | \$ 50                         |
| IV            | \$ 3,620                      | \$ 16,330                     | \$ 16,028                     | \$ 8,425                      |
| V             | \$ 4,307                      | \$ 5,854                      | \$ 7,294                      | \$ 3,689                      |
| VI            | \$ 5,981                      | \$ 11,708                     | \$ 10,226                     | \$ 2,976                      |
| VII           | \$ 7,645                      | \$ 11,559                     | \$ 10,653                     | \$ 2,770                      |
| VIII          | \$ 11,853                     | \$ 2,857                      | \$ 11,513                     | \$ 399                        |
| IX            | \$ 2,350                      | \$ 6,737                      | \$ 5,174                      | \$ 1,429                      |
| X             | \$ 8,054                      | \$ 7,430                      | \$ 7,766                      | \$ 5,734                      |
| KIRC          | \$ 28,723                     | \$ 17,224                     | \$ 3,897                      | \$ 16,635                     |
| KSSB          | \$ 9,044                      | \$ 1,824                      | \$ 2,448                      | \$ 7,080                      |
| <b>TOTAL</b>  | <b>\$ 99,909</b>              | <b>\$ 108,736</b>             | <b>\$ 86,757</b>              | <b>\$ 56,671</b>              |

| <b>Materials/Services Provided</b>                        | <b>1<sup>st</sup> Quarter</b> | <b>2<sup>nd</sup> Quarter</b> | <b>3<sup>rd</sup> Quarter</b> | <b>4<sup>th</sup> Quarter</b> |
|---|-------------------------------|-------------------------------|-------------------------------|-------------------------------|
| Number of Materials in Circulation to USDs                | 15,250                        | 15,632                        | 15,095                        | 14,715                        |
| Number of Braille Pages Transcribed/Embossed for Students | 2,756                         | 3,833                         | 3,795                         | 2,310                         |

***STATEWIDE TEACHER TRAINING FOR THE USDs***

**4<sup>th</sup> Quarter Activities:**

On April 28, in Topeka, the KIRC grant presented Learning Media Assessment training with M. Kay Holbrook for TVIs and COMS.

***STATEWIDE COLLABORATIONS FOR IMPROVED SERVICES***

**KIRC Coordinator – 4<sup>th</sup> Quarter Activities:**

- Collaborated with the Delores R. Benjamin Transcribing Group to keep providing Braille textbooks and educational materials to Kansas' blind students enrolled in public school programs.
- Continued to serve on the statewide Talking Books Library Advisory Committee.
- As a TASN member, attended the TASN meeting on May 4<sup>th</sup> networking and learning about upcoming changes to the work of KSDE's TASN projects for the next five-year grant cycle.
- Met with KSDE/TASN staff regarding plan evaluation.

**KANLOVKIDS LOW VISION CLINICS**

| <b>LOW VISION CLINICS</b> | <b><i>Students Evaluated</i></b> | <b><i>Number of Clinics</i></b> | <b><i>Clinic Sites</i></b>   | <b><i>Number of Adults (parents, teachers, other service providers) in attendance</i></b> |
|---------------------------|----------------------------------|---------------------------------|--|---|
| <b><i>Quarter 1</i></b>   | 11                               | 3                               | Hays (1)<br>Kansas City (1)<br>Ozawkie (1)   | 39  |
| <b><i>Quarter 2</i></b>   | 59                               | 13                              | Dodge City (1)<br>Girard (1)<br>Junction City (1)<br>Kansas City (4)<br>Lawrence (1)<br>Olathe (1)<br>Overland Park (1)<br>Topeka (2)<br>Wichita (1) | 206   |
| <b><i>Quarter 3</i></b>   | 51                               | 15                              | Abilene (1)<br>Kansas City (5)<br>Manhattan (1)<br>Overland Park (1)<br>Russell (1)<br>Salina (2)<br>Topeka (2)<br>Wichita (2)                       | 180   |
| <b><i>Quarter 4</i></b>   | 31                               | 13                              | Hays (1)<br>Kansas City (3)<br>Lawrence (2)<br>Pittsburg (1)<br>Salina (2)<br>Shawnee Mission (1)<br>Topeka (1)<br>Wichita (2)                       | 92  |

**2015-2016 TASN - PERSONNEL DEVELOPMENT GRANT**

***UNIVERSITY OF NEBRASKA LINCOLN – CURRENT TVI STUDENTS***

|  |   |                             |
|--|---|-----------------------------|
| Completed TVI Endorsement – <b><i>Spring 2016</i></b>                                | 2 | Lawrence<br>Overland Park   |
| On track to complete TVI program and earn endorsement –<br><b><i>Summer 2016</i></b> | 1 | Centralia                   |
| On track to complete TVI Program and earn endorsement –<br><b><i>Spring 2017</i></b> | 3 | Lyndon<br>Ozawkie<br>Topeka |
| On track to complete TVI Program and earn endorsement –<br><b><i>Spring 2018</i></b> | 2 | Goddard<br>Wichita          |
| On track to complete TVI Program and earn endorsement – <b><i>Fall 2018</i></b>      | 2 | Topeka<br>Garden City       |

***TEXAS TECH UNIVERSITY – TVI AND COMS STUDENTS***

|   |   |                    |
|---|---|--------------------|
| Completed COMS Program and Certification – <b><i>Fall 2015</i></b>              | 1 | Garden City        |
| Completed TVI Endorsement – <b><i>Spring 2016</i></b>                           | 1 | Wichita            |
| On track to complete COMS Program and Certification – <b><i>Summer 2016</i></b> | 1 | Winfield           |
| On track to complete TVI Program and earn endorsement – <b><i>Fall 2017</i></b> | 1 | Overland Park      |
| On track to complete COMS Program and Certification – <b><i>Fall 2017</i></b>   | 2 | Ozawkie<br>Wichita |
| On track to complete COMS Program and Certification – <b><i>Fall 2016</i></b>   | 1 | Ensign             |
| On track to complete COMS Program and Certification <b><i>Fall 2018</i></b>     | 1 | Olathe             |

***MISSOURI STATE UNIVERSITY – TVI STUDENTS***

|  |   |             |
|--|---|-------------|
| On track to complete TVI Program and earn endorsement –<br><b><i>Spring 2017</i></b> | 1 | Wichita     |
| On track to complete TVI program and earn endorsement – <b><i>Fall 2017</i></b>      | 1 | Kansas City |

***TOTAL FOR STUDENTS ENROLLED IN UNL, TTU AND MSU***

|      |             |                                |
|------|-------------|--------------------------------|
| TVIs | 14 Students | UNL – 10<br>TTU – 2<br>MSU - 2 |
| COMS | 6 Students  | TTU - 6                        |

**BUDGET/REVENUE & EXPENDITURES BY FUND**

|                               | FY 2016<br>Budget/Revenue | Expenditures<br>To Date 6/30/16 | Balance        |
|-------------------------------|---------------------------|---------------------------------|----------------|
| <b>State Appropriation</b>    | <b>5,304,018</b>          | <b>5,304,018</b>                | <b>0</b>       |
| <b>Federal Aid:</b>           |                           |                                 |                |
| School Lunch                  | 55,044                    | 43,474                          | 11,570         |
| Special Education             | 678,072                   | 498,845                         | 179,227        |
| Other                         | 20,950                    | 2,208                           | 18,742         |
| <b>Subtotal – Federal Aid</b> | <b>754,066</b>            | <b>544,527</b>                  | <b>209,539</b> |
| Fees                          | 424,285                   | 410,578                         | 13,707         |
| Miscellaneous                 |                           |                                 |                |
| Building                      | 1,050,774                 | 849,541                         | 201,233        |
| Other                         |                           |                                 |                |
| <b>TOTAL</b>                  | <b>7,533,143</b>          | <b>7,108,664</b>                | <b>424,479</b> |

**BUDGET EXPENDITURES BY OBJECT**

|                        | FY2016<br>Budget/Revenue | Expenditures<br>To Date 6/30/16 | Balance        |
|------------------------|--------------------------|---------------------------------|----------------|
| Salaries & Wages       | 5,045,041                | 4,983,105                       | 61,936         |
| Contractual Services * | 937,693                  | 847,225                         | 90,468         |
| Commodities **         | 224,230                  | 175,530                         | 48,700         |
| Capital Outlay         | 75,098                   | 55,955                          | 19,143         |
| Other ***              | 201,008                  | 191,780                         | 9,228          |
| Debt Service           | 44,128                   | 44,128                          | 0              |
| Capital Improvements   | 1,005,945                | 810,941                         | 195,004        |
| <b>TOTAL</b>           | <b>7,533,143</b>         | <b>7,108,664</b>                | <b>424,479</b> |

\* **Contractual Services** - includes communications, postage, printing, travel, utilities, professional services, repairs, rentals, Accessible Arts, etc.

\*\* **Commodities** - includes gasoline, paper, office supplies, food, educational materials, etc.

\*\*\* **Other** - includes scholarships/tuition paid by federal grants; voluntary retirement incentive





FY 2016

# KANSAS STATE SCHOOL FOR THE DEAF 4<sup>th</sup> QUARTERLY REPORT



April 1 – June 30, 2016

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# **KANSAS STATE SCHOOL FOR THE DEAF**

## **Vision, Mission, and Goals**

### **VISION**

A school, a community, a society in which hearing acuity is incidental, barriers are minimized, human potential is maximized and people are judged by their contributions and their character.

### **MISSION**

To ensure that all students achieve their full potential in a language-rich environment.

### **ACCREDITATION**

KSD was awarded full accreditation through CEASD (Conference of Educational Administrators of Schools and Programs for the Deaf). We have completed a school-wide self-study, identified strengths and weaknesses, and developed actions plans for improvement. We hosted a site visit from the CEASD Accreditation team February 9-12, 2014.

## **LITERACY SCHOOL IMPROVEMENT PLAN**

**2013 – 2018**

### **Goal:**

All of our students will improve their expressive and receptive vocabulary.

## **CURRICULUM & ASSESSMENTS**

During the fourth quarter, we continued to work with TASN on MTSS Reading. We had three meetings with consultants from TASN as they are working with us to screen our students in Reading and Language and to help develop appropriate interventions.

Students completed their state assessment testing during the fourth quarter. This year the state math and ELA Listening subtests assessments had American Sign Language (ASL) options. Our students appreciated having both the option to read the questions in English and to view them in ASL. KSD appreciates the effort put in by the State Board of Education and CETE to make this accommodation happen.

## **BILINGUAL DEPARTMENT**

KSD saw an influx of new students (7) this quarter. All of these students receive ASL tutoring and some of them will also enter ASL Immersion classes. Currently, the bilingual department serves 51 students, which is about 40% of the KSD population.

We exited our first three students from our ASL Immersion class as their expressive ASL skills, as measured through the Kendall Conversational Proficiency Levels assessment, reached Level 4, which is the level where language use starts moving from social to academic functions. This was an especially significant achievement for one student, in particular, who was using an iPad application to express himself before taking ASL Immersion classes and now primarily uses ASL.

KSD was thrilled to have many student winners in several state and national competitions.

- *Statewide Optimist International Oratorical Competition*  
2 winners of \$2,500 scholarships
- *Sorenson Communications ASL Literature Competition*  
1<sup>st</sup> place in 2 out of 3 age groups
- *Gallaudet University National ASL Literature Competition*  
1 – 1<sup>st</sup> place in ASL Poetry  
1 – 1<sup>st</sup> place in the writing competition  
3 – honorable mentions in ASL Storytelling

KSD students are also excelling in art. The National Youth De'VIA art competition saw almost 500 entries this year. KSD students claimed 20 out of 60 possible awards in that competition!

## **TECHNOLOGY**

- 33 desktop computers have been ordered and will be deployed this fall.
- 95 new Chromebooks will be distributed to students in 3<sup>rd</sup> through 12<sup>th</sup> grades in August. Elementary teachers will introduce and teach 21<sup>st</sup> century learning skills.
- 9 laptops have been ordered for portable presentation carts, conference rooms and outreach staff.
- The new bed check routine will be fully implemented this fall (2016). This project consists of a system that overnight staff will use to check that students are in bed during the nights and a means of documenting those checks.

## **TRANSITION SERVICES/DUAL PLACEMENT**

The Transition Coordinator and Career Specialist continue to work collaboratively with a primary goal of re-establishing our business partnerships and expanding the available options for our high school students to gain work/internship experience.

The Transition Into Post Secondary (TIPS) program offered at JCCC continues to be a beneficial program for our students. Two seniors took the course this spring. One of the students stated the program “has taught me that I can be successful in college.” We will have three KSTAR students participating in the program during the fall 2016 semester.

With a new VR counselor and continued support from the VR coordinators, Vocational Rehabilitation services for our students were much improved this year. Our students were able to meet with the VR counselor four times over the school year and attend their three-day evaluations at the VR office in Lenexa.

Ten students graduated from KSD in May. Of those students, four will return to KSD to participate in the KSTAR Program (KSD Student Transition & Academic Readiness), four will join the workforce, and two will attend college.

The Dual Placement Coordinator met with the Olathe district coordinator in June to enroll 14 KSD students who will be attending classes throughout the Olathe School District in the fall. One KSD student will also attend classes in the Shawnee Mission School District.

## **CONFERENCES/WORKSHOPS**

### ***TOD TRAINING***

Six Teachers of the Deaf (TODs) participated in a week long TOD-Professional Development Experience (TOD-PDE) course at the Kansas School for the Deaf in June. The TOD-PDE is a comprehensive professional development program that was conceptualized and developed by Kansas School for the Deaf faculty in collaboration with the Deaf Education faculty at the University of Tulsa.

Research from VL2 (Visual Language 2) at Gallaudet has contributed significantly to our field's current understanding of how deaf and hard of hearing (D/HH) children learn. This Professional Development Experience project is funded by a State Personnel Development Grant from the State of Kansas Department of Education, which was awarded to the Kansas School for the Deaf. The purpose of the project is to expand the knowledge and skills of current and aspiring teachers of students who are D/HH in Kansas so that they feel confident in using research-based practices for effective instruction and learning.

Projected Outcomes for the TOD Professional Development Experience are for participants to:

- Comprehend bilingual theories in deaf education within the context of historical practices and current research pertaining to the education of students who are D/HH.
- Increase knowledge of current brain research and findings relevant to the language and cognitive development of students who are D/HH.
- Become familiar with current federal and state law/policies related to deaf education and the potential impact of these on students, families, and educational systems.
- Acquire an understanding of the diversity of students who are DHH and how to address individual learning needs, including the needs of students with additional disabilities and learning challenges.
- Learn new evidence-based practices to incorporate into classrooms for D/HH students.
- Increase effectiveness in working with families.

### ***FAMILY FUN & FACTS (FFF)***

KSD held Family Fun & Facts (FFF) in June 10 - 12. The theme was "Setting High Expectations". Twelve families attended the event, learning Tools for Success both at home and at school. A panel of successful adults who are D/HH talked about their career paths and their success and challenges.

### ***ASL IMMERSION CAMP***

We hosted our first Family ASL Immersion Camp in June. This was a 3-day, 2-night camp to teach families how easy it is to communicate with their deaf and hard of hearing children using ASL, even if they don't know how to sign. There were nine families, including 35 people.

### ***ASL CURRICULUM WORKSHOP***

KSD hosted a national workshop in June to develop an ASL curriculum to be taught as a first language in schools for the deaf.

### ***CEASD CONFERENCE***

The Conference of Educators of American Schools for the DEAF (CEASD) convened in Kansas City and KSD provided the superintendents and other administrators with site visits. We received many compliments on our school, artwork, and hospitality. Following that conference was the National Outreach Convention. KSD provided staff interpreters for both conferences and everyone was impressed with the quality of interpretation.

## **INSTRUCTIONAL SERVICES**

### ***ESY***

June 13 – July 1 brought 84 students to KSD for our 2016 Extended School Year Program (ESY). The theme was Interstellar Space and students ranging from early childhood through high school came to learn about planets, stars, space, and rocket science. During the three weeks, students enjoyed many learning activities including fieldtrips to Science City and the Powell Observatory. On June 30<sup>th</sup>, everyone participated in an experiential space station activity which included watching a demonstration of a rocket launch, seeing how a solar rover works, watching a video about life in a space station, and tasting some of the foods astronauts eat while in space.

### ***EARLY CHILDHOOD CENTER***

In May, six students from the Early Childhood Center were promoted to Kindergarten for the 2016-2017 school year. We are expecting approximately 13 students in Early Childhood when school starts in August (including two peer models and one new student).

A new brochure listing indicators of Kansas Early Learning Standards and expected levels of academic work will be ready to distribute to parents when school starts. This information, along with a new report card, will provide parents with important information about their child's education and present levels of academic achievement and socioemotional functioning.

### ***ELEMENTARY DEPARTMENT***

#### ***New Language Arts & Math Classes***

As we prepared for the 2016-2017 academic year, we found the need to have a new language arts class and a new math class for 3rd – 6th grade students who have average IQs but reading and writing and/or math skills at the Kindergarten – 1st grade level. Reasons for their academic gaps include a late start in language acquisition and conversational skill acquisition, and/or learning difficulties. The class design will use a high-interest and low-level language experience approach to work with these students to develop their printed English and math abilities.

#### ***School Improvement***

The elementary department has identified and agreed on ASL and English vocabulary development, with a special focus on semantics for more complete vocabulary knowledge and use, as their goal for the new school improvement cycle. Work on the elementary school improvement plan, with strategies for meeting that goal, will commence in the fall.

### ***SECONDARY DEPARTMENT***

#### ***Deaf and Hard of Hearing Day at the Capitol***

On Wednesday, March 2, 2016 we took our high school government classes to Topeka, Kansas for the "Deaf and Hard of Hearing Day at the Capitol" event. We felt it important to have our Deaf students at the event to represent our school and the Deaf community of Kansas. Prior to our visit, the students sent email to their representatives informing them that we would be there

that day and requesting a meeting, if possible. The students either met with or left a message at each office that day thanking the legislators for their continued support of our school and of the Deaf Community of Kansas at large. Our students were also invited to take a group picture with Senator Julia Lynn, sponsor of Senate Bill 323.

### ***School Improvement***

The secondary department will begin developing their new school improvement plan during the fall of 2016. Last spring, staff looked at existing data and selected the development of soft skills (time-management, problem solving, working with others, adaptability, solving conflicts) as the area to improve. This fall, the department will select one or two soft skills to focus on and develop a plan with a goal and strategies for meeting that goal and improving those skills. The plan will be implemented by the whole department, and data will continue to be collected to determine the success of the plan.

### ***KSD Students to Join Olathe North Alternative Work Experience Class***

Four life skills students, accompanied by a KSD teacher, will attend Olathe North this fall to join the Alternative Work Experience (A.W.E.) class and work with the hearing students. This will be the first time for such a collaboration.

## **ATHLETICS/STUDENT BODY COUNCIL**

### ***OLATHE LEADERSHIP CLASS OF 2016 COMMUNITY SERVICE PROJECT***

KSD was very excited to have been adopted by the Olathe Leadership Class of 2016 for their community service project. On May 6<sup>th</sup>, we had a ribbon-cutting and ground breaking ceremony with Olathe Mayor Michael Copeland as the featured guest speaker. The ribbon cutting recognized several upgrades to our athletic program, including a new football storage building, blocking sled, video monitors, ice machine and new uniforms. We are extremely grateful to the Leadership Olathe Class of 2016 as well as the numerous individuals, companies, and organizations who donated money, products, and services to support the project at KSD.

### ***GREAT PLAINS SCHOOLS FOR THE DEAF (GPSD) TRACK & FIELD MEET***

KSD hosted the GPSD Track and Field Championship in April. The Schools for the Deaf from Iowa, Minnesota, Missouri, New Mexico, Oklahoma, and Wisconsin participated in the competition. The KSD boys' team took 2<sup>nd</sup> place.

### ***PROM***

The Nexus Church sponsored our high school prom. The theme was "The Night of the Neon Lights". They provided the use of their facilities, a disc jockey, decorations, refreshments, and photography. They also collected prom dresses and suits for some of our students and offered hair styling, nail polishing, and make-up services for our girls. The students really enjoyed this special event.



**OUTREACH**

**AUDIOLOGY**

**Auditory Training Unit (ATU)** - An ATU is a wireless assistive listening device commonly referred to as an FM system. Students who are deaf/hard of hearing may utilize this device in the classroom to improve the signal-to-noise ratio. It picks up the teacher’s voice through a microphone and transmits it to the student wearing a receiver.

**AUDITORY TRAINING UNIT SERVICE REPORT**

| <b>4<sup>th</sup> QUARTER</b>    | <b><u>ATU Inservices</u></b> | <b><u>ATU Calls</u></b> | <b><u>ATU Emails</u></b> | <b><u>Comp Evals</u></b> | <b><u>IEPs Attended</u></b> | <b><u>*HA/CI Checks/Repairs</u></b> | <b><u>Other Contacts</u></b> |
|----------------------------------|------------------------------|-------------------------|--------------------------|--------------------------|-----------------------------|-------------------------------------|------------------------------|
| <b>April</b>                     | Turner                       | --                      | 306                      | 2                        | --                          | 5                                   | 4                            |
| <b>May</b>                       | Emporia<br>Keystone          | --                      | 239                      | 2                        | 2                           | 7                                   | 5                            |
| <b>June</b>                      |                              | --                      | 24                       | --                       | --                          | --                                  | --                           |
| <b>4<sup>th</sup> Qtr Totals</b> |                              | <b>0</b>                | <b>569</b>               | <b>4</b>                 | <b>2</b>                    | <b>12</b>                           | <b>9</b>                     |

\* Hearing Aid/Cochlear Implant

**AUDITORY TRAINING UNIT (ATU) LEASE PROGRAM**

|  |              |
|--|--------------|
| <b><i>Current Number of Receivers Leased</i></b> | 265          |
| <b><i>Current ATUs Billed</i></b>                | \$ 84,682.32 |
| <b><i>Current Collected</i></b>                  | \$ 83,084.11 |

**BIRTH – THREE DIRECT SERVICES – 4<sup>TH</sup> QUARTER**

Services were provided to 37 families in the following networks:

- Cloud Republic Infant-Toddler Services OCK
- Geary County Infant-Toddler Services USD #475, Geary County Schools
- Johnson County Infant-Toddler Services
- Keystone Learning Services
- Lakemary Infant-Toddler Network
- Leavenworth County Infant-Toddler Network
- Northeast Kansas Infant-Toddler Network
- Northwest Kansas Educational Service Center
- Pottawatomie/Wabaunsee Infant-Toddler Network
- Salina Infant Child Development/Salina Regional Health Center
- Shawnee County infant Toddler Services TARC
- Southeast Kansas Education Service Center, USD #609
- TLEC Infant-Toddler Network
- Wyandotte County Infant-Toddler Services

**OTHER OUTREACH SERVICES OVERVIEW**

| <b>Service</b>  | <b>Quarter 4</b> |
|---|------------------|
| Consultations/Observations/Evaluations  | 5                |
| Participants in workshops, trainings, professional developments                       | 150              |
| Families participating in Families Sign Kansas  | 13               |
| Future teachers of the deaf enrolled in the State Personnel Development Grant Program | 5                |
| Number enrolled in ASL classes offered at KSD   | 22               |

**BUDGET/REVENUE & EXPENDITURES BY FUND**

|                               | <i>FY 2016<br/>Budget/Revenue</i> | <i>Expenditures<br/>To Date 6/30/16</i> | <i>Balance</i> |
|-------------------------------|-----------------------------------|---|----------------|
| State Appropriation           | 8,682,239                         | 8,682,239                               | 0              |
| Federal Aid:                  |                                   |   |                |
| School Lunch & Breakfast      | 40,129                            | 40,129                                  | 0              |
| Special Education – Regular   | 288,936                           | 191,331                                 | 97,605         |
| Other                         | 16,486                            | 16,486                                  | 0              |
| <b>Subtotal – Federal Aid</b> | <b>345,551</b>                    | <b>247,946</b>                          | <b>97,605</b>  |
| Fees/Tuition                  | 552,030                           | 451,959                                 | 100,071        |
| Miscellaneous                 | 2,490                             | 0                                       | 2,490          |
| Building                      | 1,154,927                         | 806,790                                 | 348,137        |
| <b>TOTAL</b>                  | <b>10,737,237</b>                 | <b>10,188,934</b>                       | <b>548,303</b> |

**BUDGET EXPENDITURES BY OBJECT**

|                        | <i>FY2016<br/>Budget/Revenue</i> | <i>Expenditures<br/>To Date 6/30/16</i> | <i>Balance</i> |
|------------------------|----------------------------------|---|----------------|
| Salaries & Wages       | 7,793,104                        | 7,741,205                               | 51,899         |
| Contractual Services * | 890,771                          | 795,902                                 | 94,869         |
| Commodities **         | 397,975                          | 347,709                                 | 50,266         |
| Capital Outlay         | 465,600                          | 462,468                                 | 3,132          |
| Debt Service           | 93,272                           | 93,272                                  | 0              |
| Other                  | 19,956                           | 19,956                                  | 0              |
| Capital Improvements   | 1,076,559                        | 728,422                                 | 348,137        |
| <b>TOTAL</b>           | <b>10,737,237</b>                | <b>10,188,934</b>                       | <b>548,303</b> |

\* **Contractual Services** - includes communications, postage, printing, rent, travel, utilities, professional services

\*\* **Commodities** - includes gasoline, paper, office supplies, food, educational materials, etc.



## REQUEST AND RECOMMENDATION FOR BOARD ACTION

Agenda Number: 17 c.

**Staff Initiating:**

John Martello

**Superintendent:**

Madeleine Burkindine

**Commissioner:**

Randy Watson

**Meeting Date: 8/9/2016**

---

### **Item Title:**

Act on Resolution to adopt Regional Multi-Hazard Mitigation Plan for Kansas State School for the Blind and Kansas State School for the Deaf

### **Board Goals:**

Governmental Responsibility

### **Recommended Motion:**

It is moved that the Kansas State Board of Education act to approve the Regional Multi-Hazard Mitigation Plan set forth in the Resolution submitted by the Kansas State School for the Blind and Kansas State School for the Deaf.

### **Explanation of Situation Requiring Action:**

The Kansas State School for the Blind and Kansas State School for the Deaf need to have a Regional Multi-Hazard Mitigation Plan. The plan must be in place and a Resolution approved by the State Board of Education in order for KSSB and KSSD to qualify for State and Federal Emergency Management Agency (FEMA) funding in the event such hazards were to occur.

The Resolution authorizing the Regional Multi-Hazard Mitigation Plan is required to apply for funding of mitigation projects under FEMA grant programs. KSSB/KSSD Deputy Superintendent John Martello has submitted the Resolution to the Board for approval.



## **Resolution of The Kansas State Board of Education**

### **Adopting the Regional Multi-Hazard Mitigation Plan**

**Whereas**, the Kansas State School for the Blind and the Kansas State School for the Deaf both recognize the threat that natural hazards pose to people and property within our community; and

**Whereas**, undertaking hazard mitigation actions will reduce the potential for harm to people and property from future hazard occurrences; and

**Whereas**, the U.S. Congress passed the Disaster Mitigation Act of 2000 (“Disaster Mitigation Act”) emphasizing the need for pre-disaster mitigation of potential hazards; and

**Whereas**, the Disaster Mitigation Act made available hazard mitigation grants to state and local governments; and

**Whereas**, an adopted Multi-Hazard Mitigation Plan is required as a condition of future funding for mitigation projects under multiple FEMA pre- and post-disaster mitigation grant programs; and

**Whereas**, the Kansas State School for the Blind and the Kansas State School for the Deaf fully participated in the FEMA prescribed mitigation planning process to prepare this Multi-Hazard Mitigation Plan; and

**Whereas**, the Kansas Division of Emergency Management and the Federal Emergency Management Agency Region VII officials have reviewed the “Regional Multi-Hazard Mitigation Plan,” and approved it contingent upon this official adoption of the participating governing body; and

**Whereas**, the Kansas State School for the Blind and the Kansas State School for the Deaf both desire to comply with the requirements of the Disaster Mitigation Act and to augment its emergency planning efforts by formally adopting the Regional Multi-Hazard Mitigation Plan; and

**Whereas**, adoption by the governing body for the Kansas State School for the Blind and the Kansas State School for the Deaf demonstrates the jurisdictions’ commitment to fulfilling the mitigation goals and objectives outlined in this Multi-Hazard Mitigation Plan.

**Whereas**, adoption of this legitimizes the plan and authorizes responsible agencies to carry out their responsibilities under the plan;

**Now, therefore, be it resolved,** that the Kansas State School for the Blind and the Kansas State School for the Deaf both adopt the “Regional Multi-Hazard Mitigation Plan” as an official plan; and

**Be it further resolved,** the Kansas State School for the Blind and the Kansas State School for the Deaf will submit this Adoption Resolution to the Kansas Division of Emergency Management and Federal Emergency Management Agency Region VII officials to enable the plan’s final approval.

Approved by the Kansas State Board of Education,

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By: Jim McNiece, Board Chair

Dated: August \_\_\_\_, 2016



## REQUEST AND RECOMMENDATION FOR BOARD ACTION

Agenda Number: 17 d.

**Staff Initiating:**

Susan Helbert

**Director:**

Scott Myers

**Commissioner:**

Randy Watson

**Meeting Date:** 8/9/2016

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### **Item Title:**

Act on recommendations for Visiting Scholar Licenses

### **Board Goals:**

Provide an effective educator in every classroom

### **Recommended Motion:**

It is moved that the Kansas State Board of Education accept the recommendations of Randy Watson, Commissioner of Education, regarding Visiting Scholar licenses.

### **Explanation of Situation Requiring Action:**

#### **Blue Valley USD 229 and Anne Rabe**

Blue Valley USD 229 requests that Anne Rabe be granted a Visiting Scholar license valid for the 2016-17 school year. Ms. Rabe will be assigned as a full-time high school Latin teacher, teaching five periods per day.

Anne Rabe earned a Bachelor of Arts degree from KU (2002) in Anthropology including 15 semester credits in Latin and additional credits in the Classics. She earned a master of Arts in Classics from KU in 2007. In addition to the classics coursework that was her major, she completed 15 credits of graduate coursework in professional education. She continued her education and earned a Doctor of Philosophy (2015) in Classics (Greek and Latin).

As a graduate student at KU, Ms. Rabe served as a graduate teaching assistant from 2004-2007, for 1st through 4th semester Latin courses, also earning a .5 credit hour of teaching practicum each semester for this work. She was awarded KU's Outstanding Graduate Teaching Assistant Award in 2006. At Brown University she continued as a teaching assistant 2009-12 for three classics courses and was a Teaching Fellow 2011-14 as the sole instructor for 1st, 1st/2nd, and 4th semester Latin and 3rd semester Greek courses. Other professional related experience includes translations into Latin, and earning a certificate in reflective teaching from Sheridan Center for Teaching and Learning at Brown University. Ms. Rabe's resume also indicates she was an adjunct instructor in Classics at William Jewell College, 2008 and completed a two-week substitute experience at Lawrence High school in 2007 in the Advanced Placement Latin classroom.

Anne Rabe's educational background including two advanced degrees in the Classics, her varied professional experiences teaching Classics in post-secondary settings, and other related professional experiences will allow her to provide a unique educational experience to Latin students in the Blue Valley school district. She meets the criteria of significant experiences and advanced degrees in the subject. I recommend that the request of a Visiting Scholar license valid for the 2016-17 school year for Anne Rabe be approved, based on meeting two of the established criteria.

(continued)

### **Kansas Schools for the Deaf and Blind (KSSDB) and Anthony Brucato**

The KSSDB requests that Anthony Brucato be granted a Visiting Scholar license valid for the 2016-17 school year. Mr. Brucato will serve as a full-time school counselor, providing counseling services to students at the Kansas State School for the Deaf.

Anthony Brucato earned a Bachelor of Science degree in Psychology from the Rochester Institute of Technology (2002). A Master of Science degree in School Counseling was earned from Canisius College (2008). His graduate degree program was a dual major in school counseling and mental health counseling. Canisius College has verified he completed its approved program for school counselor as part of his graduate degree program. In addition, he completed course requirements and an internship for Mental Health Counseling. Both programs are recognized by the national specialty organization, the Council for Accreditation and Related Educational Programs (CACREP). Mr. Brucato completed school counseling internships in two public high schools with a portion also completed at St. Mary's School for the Deaf in Buffalo, NY. The mental health counseling internship was completed at Deaf Wellness Center and at St. Mary's.

Mr. Brucato is in the process of obtaining a NY credential for school counselor. He worked as a per-diem mental health counselor for two years at Summit Educational Resources in Buffalo, NY. At his current job in Maine, he works with therapists and psychiatrists as a case manager at Maine Behavioral Healthcare. He serves deaf clients who have mental health needs and limited providers. Mr. Brucato is fluent in American Sign Language (ASL).

Anthony Brucato's educational background of an advanced degree in counseling that met requirements for school counselor and mental health counselor, his professional experiences as a mental health counselor working with hearing impaired clients, and his fluency in ASL provide a unique opportunity to provide counseling services to the students at the Kansas School for the Deaf. He meets the criteria of significant experiences and an advanced degree in counseling. I recommend that the request of a Visiting Scholar license valid for the 2016-17 school year for Anthony Brucato be approved, based on meeting two of the established criteria.

### **Southeast Kansas Education Service Center and Khalil Mekkaoui**

The Southeast Kansas Education Service Center at Greenbush requests that Khalil Mekkaoui be granted the renewal of a Visiting Scholar license valid for the 2016-17 school year. Mr. Mekkaoui will continue to provide instruction in the Arabic language as part of the Greenbush Strategic Language Project utilizing the Greenbush Interactive Distance Learning Network. He will teach Arabic I, II, III and IV. Mr. Mekkaoui demonstrated his success as a teacher during the past nine school years. He has participated in professional development activities each year. Mr. Mekkaoui continues to provide a unique educational opportunity for the study of Arabic language and culture to a growing number of students. I recommend that the request for renewal of a Visiting Scholar license valid for the 2016-17 school year for Khalil Mekkaoui be approved, based on continuing to meet two of the three established criteria and completion of appropriate professional learning during his teaching as a Visiting Scholar.

## REQUEST AND RECOMMENDATION FOR BOARD ACTION

Agenda Number: 17 e.

**Staff Initiating:**

Scott Myers

**Director:**

Scott Myers

**Commissioner:**

Randy Watson

**Meeting Date:** 8/9/2016

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### **Item Title:**

Act to approve local in-service education plans

### **Board Goals:**

Provide a flexible and efficient delivery system to meet our students' varied and changing needs

### **Recommended Motion:**

It is moved that the Kansas State Board of Education act to approve the in-service education plans for USD 271 Stockton and USD 350 St. John-Hudson.

### **Explanation of Situation Requiring Action:**

In provisions of K.S.A. 72-9604, the State Board is charged with setting standards and criteria by which LEAs will establish and maintain an in-service education program for their licensed personnel. Additionally, the state education budget provides state funds, when available, to be used to reimburse portions of the LEAs' in-service activities. Finally, LEAs must have approved by the State Board of Education a five-year in-service plan that includes appropriate activities for which reimbursement is available.

Specifically, S.B.R. 91-1-216(a)(b) stipulates that LEAs must develop and implement an in-service plan that includes the following: 1) establishment of a professional development council; 2) an assessment of in-service needs; 3) identification of goals and objectives; 4) identification of activities; and 5) evaluative criteria.

Over the years, almost all of the guidelines and report formats for the Kansas In-service Program have been merged into the Quality Performance Accreditation system. As a result, school districts have focused their in-service resources on the targets established by their respective buildings as identified through the school improvement process.

In compliance with S.B.R. 91-1-216(c) and S.B.R. 91-1-217(b)(3), the above education agencies have submitted their proposed five-year in-service education plans. State department staff members have reviewed the plans using the State Board of Education approved criteria, and recommend approval of the plans.



## REQUEST AND RECOMMENDATION FOR BOARD ACTION

Agenda Number: 17 f.

**Staff Initiating:**

Doug Boline

**Director:**

Colleen Riley

**Commissioner:**

Randy Watson

**Meeting Date: 8/9/2016**

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**Item Title:**

Act on Education Flexibility Partnership (Ed-Flex) Waiver

**Board Goals:**

Provide a flexible and efficient delivery system to meet our students' varied and changing needs

**Recommended Motion:**

It is moved that the Kansas State Board of Education approve the one year Education Flexibility Partnership (Ed-Flex) waiver requests for USD 207 Fort Leavenworth and USD 475 Geary County Schools to allow them to exceed the 15 percent Title I carryover limitation of once every three years.

**Explanation of Situation Requiring Action:**

Kansas has the authority under the Education Flexibility Partnership Act of 1999, as amended by the Elementary and Secondary Education Act (ESEA), to waive certain federal requirements. The districts listed below are seeking an Ed-Flex waiver of Title I Part A Section 1127(b) of ESEA which prevents them from exceeding the 15 percent Title I carryover of funds limitation more than once every three years.

These districts are seeking a waiver in order to carry over more than 15 percent of the 2015-2016 Title I allocation into 2016-2017:

USD 207 Fort Leavenworth

USD 475 Geary County Schools



## REQUEST AND RECOMMENDATION FOR BOARD ACTION

Agenda Number: 17 g.

**Staff Initiating:**

Dale Dennis

**Deputy Commissioner:**

Dale Dennis

**Commissioner:**

Randy Watson

**Meeting Date: 8/09/2016**

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### **Item Title:**

Request from USD 284, Chase County schools, Chase County, to hold a bond election

### **Board Goals:**

Governmental Responsibility

### **Recommended Motion:**

It is moved that the Kansas State Board of Education issue an Order authorizing USD 284, Chase County schools, Chase County, to hold an election on the question of issuing bonds in excess of the district's general bond debt limitation.

### **Explanation of Situation Requiring Action:**

Under KSA 75-2315 et seq., a school district may request that the State Board of Education authorize the district to hold an election on the question of issuing bonds in an amount which would cause the district's bonded indebtedness to exceed the district's general bond debt limitation. USD 284, Chase County schools, Chase County, has made such a request. If approved, the district could hold an election on the question of whether additional bonds be issued. If the voters approve such action, the district could issue the bonds.

USD 284 plans to use the bond proceeds to pay the costs to: (1) remodel, renovate and complete other improvements to the District's elementary and junior/senior high school facilities by converting the elementary school's existing gym and library into classrooms; (2) construct a new multi-purpose addition to the west side of the elementary school facility to, among things, serve as a FEMA compliant storm shelter; (3) construct a new combination weight room and FEMA compliant storm shelter addition to the north side of the junior/senior high school facility; (4) construct a new spectator gym addition on the south side of the junior/senior high school facility; and (5) paint, repair, replace, or install as required, walls and trim, flooring, ceilings, energy efficient lighting, and heating, ventilation, and air conditioning systems in both the elementary and junior/senior high school facilities.

Based upon the following criteria, staff recommends that this bond application be approved.

1. The vote to submit the bond application by the local board of education was unanimous.
2. The community was involved in the process of the building proposal.
3. All required forms were properly filed with us, along with an appropriate notice for the election.
4. The district outlined the needs for the building project by responding to all questions required by the State Board of Education.
5. An outside consultant was utilized in determining the school district needs.
6. The age of the existing building(s) appears to justify a bond election.
7. The application indicates that the building(s) are in need of major repairs in order to provide the necessary student programs.

## Summary of Appeal to State Board of Education to Allow Local Vote on Exceeding Debt Limit

|  |                      |
|--|----------------------|
| <b>Unified School District 284, Chase County</b> | <b>County: Chase</b> |
|--|----------------------|

|  |                     |
|--|---------------------|
| 1. Current equalized assessed tangible valuation * | <u>\$47,524,999</u> |
| 2. Percentage of bond debt limit                   | <u>14%</u>          |
| 3. Amount of bond debt limit                       | <u>\$6,653,499</u>  |
| 4. State Aid Percentage                            | <u>0%</u>           |

\* Includes assessed valuation of motor vehicle

|  |                     | Percent of Equalized Assessed<br>Valuation - Current Year |
|--|---------------------|---|
| 5. Amount of bond indebtedness at present time                         | <u>\$85,000</u>     | <u>0.2</u>  |
| 6. Amount of bond indebtedness requested                               | <u>\$12,000,000</u> | <u>25.2</u>   |
| 7. Total amount of bond indebtedness if request approved (Lines 5 + 6) | <u>\$12,085,000</u> | <u>25.4</u>   |
| 8. Estimated amount of bond indebtedness authorized without approval   | <u>\$6,653,499</u>  | <u>14.0</u>   |
| 9. Amount of bond indebtedness above bond debt limit requested         | <u>\$5,431,501</u>  | <u>11.4</u>   |

### Forms Requested

- |  |   |
|--|---|
| <input checked="" type="checkbox"/> 5-210-118 General Information<br><input type="checkbox"/> 5-210-106 Resolution<br><input type="checkbox"/> 5-210-108 Publication Notice<br><input checked="" type="checkbox"/> 5-210-110 Application<br><input checked="" type="checkbox"/> 5-210-114 Equalized Assessed Valuation | <input checked="" type="checkbox"/> Schematic floor plan of the proposed facilities<br><input checked="" type="checkbox"/> Map of the school district showing present facilities<br><input checked="" type="checkbox"/> Small map of the school district showing the adjoining school districts<br><input checked="" type="checkbox"/> Map of the school district showing proposed facilities |
|--|---|

July 13, 2016  
Date

July 13, 2016  
Date

Craig Neuenswander  
Director, School Finance

Dale M. Dennis  
Deputy Commissioner



## REQUEST AND RECOMMENDATION FOR BOARD ACTION

Agenda Number: 17 h.

**Staff Initiating:**

Doug Boline

**Director:**

Colleen Riley

**Commissioner:**

Randy Watson

**Meeting Date: 8/9/2016**

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### **Item Title:**

Act on recommendation for funding Migrant Family Literacy Grant.

### **Board Goals:**

Provide a flexible and efficient delivery system to meet our students' varied and changing needs

### **Recommended Motion:**

It is moved that the Kansas State Board of Education approve the recommendation for funding of the Migrant Family Literacy Grant.

### **Explanation of Situation Requiring Action:**

The Special Education, Early Childhood and Title Services team has set aside \$510,000 of the Title I, Part C Federal funds to be allocated in 2016-2017 for the continuation of the Migrant Family Literacy programs in Kansas.

Migrant Family Literacy is an integrated, family-centered education program that incorporates adult education, early childhood education, parenting education, and interactive literacy activities to help parents and their children become partners in education. The purpose of this program is to improve the educational opportunities of the nation's migrant children and adults by integrating early childhood and adult education for parents into a unified program.

The following Migrant Family Literacy grant request was reviewed by committee and recommended for approval:

USD 102 Cimarron \$78,000



**REQUEST AND RECOMMENDATION FOR BOARD ACTION**

Agenda Number: 17 i.

**Staff Initiating:**

**Director:**

**Commissioner:**

**Meeting Date: 8/9/2016**

Tate Toedman

Colleen Riley

Randy Watson

**Item Title:**

Act on recommendations for funding the McKinney-Vento Homeless Grants

**Board Goals:**

Provide a flexible and efficient delivery system to meet our students' varied and changing needs

**Recommended Motion:**

It is moved that the Kansas State Board of Education approve the recommendations for funding the 2016-2017 McKinney-Vento Children and Youth Homeless grants.

**Explanation of Situation Requiring Action:**

The Kansas State Department of Education received \$432,753 for the 2016-2017 federal education for McKinney-Vento Homeless Children and Youth Program. The grants are continuation grants from federal formula funds from the United States Department of Education. The purpose of the Education of Homeless Children and Youth Program is to ensure that all homeless children and youth have equal access to the same free, appropriate education - including public preschool education - provided to other children. The grant program will provide direct services to homeless children and youth that enable homeless students to enroll in, and achieve success in school. Services will be provided through programs on school grounds or at other facilities and shall, to the extent practical, be provided through existing programs and mechanisms that integrate homeless children and youth with non-homeless children and youth. Services provided shall not replace the regular academic program and shall be designed to expand upon or improve services provided as part of the schools' regular academic program.

The following school districts and amounts have been recommended for approval:

|                         |                  |
|-------------------------|------------------|
| USD 202 Turner          | \$ 10,000        |
| USD 233 Olathe          | \$ 38,500        |
| USD 259 Wichita         | \$142,000        |
| USD 261 Haysville       | \$ 24,000        |
| USD 383 Manhattan-Ogden | \$ 25,500        |
| USD 457 Garden City     | \$ 22,000        |
| USD 475 Geary County    | \$ 23,000        |
| USD 500 Kansas City     | \$102,000        |
| USD 501 Topeka          | \$ 45,753        |
| <b>Total</b>            | <b>\$432,753</b> |



**REQUEST AND RECOMMENDATION FOR BOARD ACTION**

Agenda Number: 17 j. (1)

**Staff Initiating:**

**Director:**

**Commissioner:**

**Meeting Date: 8/9/2016**

Madeleine Burkindine

Madeleine Burkindine

Randy Watson

**Item Title:**

Authorize contracts for out-of-state tuition for students attending KSSB

**Board Goals:**

Governmental Responsibility

**Recommended Motion:**

It is moved that the Kansas State Board of Education authorize contracts for out-of-state tuition for the 2016-2017 school year for students attending the Kansas State School for the Blind (KSSB).

**Explanation of Situation Requiring Action:**

In order to prepare for the 2016-2017 school year, it is requested that the Kansas State Board of Education authorize the Superintendent of the Kansas State School for the Blind (KSSB) to enter into contracts for out-of-state tuition with the school districts listed below. KSSB has entered into contracts with the Hardin-Central and Liberty School Districts for the past several years - they are grandfathered in at lower rates.

**KSSB WILL RECEIVE TUITION PAYMENTS FROM:**

Hardin-Central School District, Hardin, Missouri - 1 Day Student (2 days/week) - \$10,640

Liberty School District, Liberty, Missouri - 1 Day Student - \$20,000

Lawson School District, Lawson, Missouri - 1 Day Student - \$40,000



## REQUEST AND RECOMMENDATION FOR BOARD ACTION

Agenda Number: 17 j. (2)

**Staff Initiating:**

Madeleine Burkindine

**Director:**

Madeleine Burkindine

**Commissioner:**

Randy Watson

**Meeting Date: 8/9/2016**

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**Item Title:**

Authorize contracts for out-of-state tuition for students attending KSSD

**Board Goals:**

Governmental Responsibility

**Recommended Motion:**

It is moved that the Kansas State Board of Education authorize contracts for out-of-state tuition for the 2016-2017 school year for students attending Kansas State School for the Deaf (KSSD).

**Explanation of Situation Requiring Action:**

In order to prepare for the 2016-2017 school year, it is requested that the Kansas State Board of Education authorize the Superintendent of the Kansas State School for the Deaf (KSSD) to enter into a contract for out-of-state tuition with the school district listed below. KSSD has entered into this contract for the past several years.

**KSSD WILL RECEIVE TUITION PAYMENTS FROM:**

Center School District, Kansas City, Missouri for two (2) students for the 2016-2017 regular school year. Both students will attend both the Day and Extended Day Programs at a cost of \$18,480 per student. Total cost for the two (2) students is \$36,960. Additional related services listed on the IEPs (currently none) would be provided at a cost of \$60/hour.







Janet Waugh  
*District 1*

Steve Roberts  
*District 2*

John W. Bacon  
*District 3*

Carolyn L. Wims-Campbell  
*District 4*

Sally Cauble  
*District 5*

Deena Horst  
*District 6*

Kenneth Willard  
*District 7*

Kathy Busch  
*District 8*

Jim Porter  
*District 9*

Jim McNiece  
*District 10*

Great students. Great teachers. Great leaders. Great citizens.

**Agenda Number: 18**  
**Meeting Date: 8/9/2016**

**To:** Kansas State Board of Education  
**From:** Peggy Hill  
**Subject:** Monthly Board Reports & Requests for Future Agenda Items

These updates will include:

1. Committee Reports
2. Board Attorney's Report
3. Individual Board Member Reports and Requests for Future Agenda Items
4. Chairman's Report



**Agenda Number: 19**  
**Meeting Date: 8/9/2016**

**To:** Board Members  
**From:** Peggy Hill  
**Subject:** Board Member Travel

Travel requests submitted prior to the meeting, and any announced changes, will be considered for approval by the Board.

Upcoming deadlines for reporting salary/payroll information to the Board office are:

| Pay Period Begins | Pay Period Ends | Deadline to Report | Pay Date   |
|-------------------|-----------------|--------------------|------------|
| 07/17/2016        | 07/30/2016      | 07/28/2016         | 08/12/2016 |
| 07/31/2016        | 08/13/2016      | 08/11/2016         | 08/26/2016 |
| 08/14/2016        | 08/27/2016      | 08/25/2016         | 09/09/2016 |