



UNITED STATES DEPARTMENT OF EDUCATION
OFFICE FOR CIVIL RIGHTS

October 22, 2020

Tobias D Wood
Associate Director, Career Technical Education
Postsecondary MOA Coordinator
Kansas Board of Regents
1000 SW Jackson St
Suite 520
Topeka, KS 66612

Dear Mr. Wood:

Thank you for submitting your state's MOA Plan to the Office for Civil Rights (OCR) by e-mail on June 29, 2020. Pursuant to the *Guidelines for Eliminating Discrimination and Denial of Services on the Basis of Race, Color, National Origin, Sex and Handicap in Vocational Education Programs* (34 C.F.R. Part 100, Appendix B), an MOA Plan sets out a state's compliance program to prevent, identify, and remedy race, color, national origin, sex, and disability discrimination in its subrecipients' CTE programs. As noted in OCR's February 2020 Memorandum of Procedures (MOP), this MOA plan should go into effect within one year of its submission.

As detailed in the attached rubrics, I have reviewed Kansas' MOA plan and carefully considered how the plan effectively meets the requirements of the MOA *Guidelines* and applicable Department regulations. Kansas' MOA plan is approved.

If OCR can be of any assistance to you at any time, please contact me by email at Bianca.Costello@ed.gov or by telephone at 202-453-5948 or OCR's MOA Attorney, Maria Litsakis by email at Maria.Litsakis@ed.gov or by telephone at 646-428-3768.

Sincerely yours,

Bianca Thomas Costello
Attorney, Program Legal Group
Office for Civil Rights

Enclosure

cc: Scott Smathers, Vice President for Workforce Development, KBOR
Wendy Coates, Secondary MOA Coordinator, KSDE
Connie Beene, Senior Director, Adult and Career Technical Education, KBOR

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The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.



2020 MOA Plan Review

State/Territory: Kansas **ESE/PSE/Both:** PSE **OCR Reviewer:** Bianca Thomas Costello **Date:** October 22, 2020

This rubric is for assessing if a state's MOA Plan provides the mandatory information required by the MOA *Guidelines* (*Guidelines* II.C). Under the MOA *Guidelines*, a state must adopt a compliance program to prevent, identify, and remedy race, color, national origin, sex, or disability discrimination in its subrecipients' CTE programs (*Guidelines* II.B). The MOA compliance program must include: collecting and analyzing civil rights related data (*Guidelines* II.B(1)), conducting compliance reviews (*Guidelines* II.B(2)), addressing findings of unlawful discrimination (*Guidelines* II.B(2)), providing technical assistance (*Guidelines* II.B(3)), and periodically reporting to OCR (*Guidelines* II.B(4)).

Civil Rights Data Collection & Analysis (MOA Guidelines Sec. II.B(1))				Yes	No	Other	Notes:
1.	Will collect and analyze civil rights data and information that subrecipients compile or submit? [<i>Guidelines</i> II.B(1)]	X			KS PSE's universe is divided into four rotating sub-universes: Central, Southeast, Northeast, and West. For each subrecipient in that year's selected region, KS PSE will review: CTE enrollment based on gender; race/ethnicity/national origin; disability; ELL status; economically disadvantaged; and participants in non-traditional (gender) occupations. KS PSE will also review data regarding the last on-site review, and subrecipient's timely/accurate reporting of Perkins V data. KS PSE will assign points to each subrecipient based on an assessment of the subrecipient's student enrollment disproportionality along of each above criteria, as well as data on last on-site review and Perkins reporting. If a selected subrecipient received an on-site review within the past five fiscal years, the subrecipient with the next highest score within the subset will be selected for an on-site review. If a subrecipient is selected for an on-site review and cannot be visited in the fiscal year for which it has been selected, it will be reviewed the following fiscal year. The subrecipient with the next highest score will be visited instead.		
2.	Describes the agency's procedures for collecting and analyzing civil rights data and information for MOA purposes? [<i>Guidelines</i> II.B(1), II.C]	X					
Comments: None.							
Conducting Compliance Reviews (MOA Guidelines Sec. II.B(2))				Yes	No	Other	Notes:
3.	Will conduct periodic compliance reviews to investigate if selected subrecipients engage in unlawful discrimination in any aspect of their CTE programs? [<i>Guidelines</i> II.B(2)]	X			KS PSE will conduct a minimum of 2 yearly MOA compliance reviews of subrecipients. KS PSE will provide subrecipients by letter and email: notification of the desk audit;		

4. Describes the agency's procedures for conducting periodic compliance reviews of selected subrecipients? [<i>Guidelines</i> II.B(2), II.C]	X			notification of selection for on-site review; and notification of non-selection for on-site review for those selected for a desk audit. KS PSE will examine all issue areas set forth in the <i>Guidelines</i> . The on-site compliance review will be tailored to fit the needs identified in the desk audit. Each review will include: desk audit of policies, procedures, records, websites, and published documents; desk audit of surveys; and on-site review (interviews, facilities review). At the conclusion of the on-site review, an exit meeting will be held with administrators to discuss the review and explain in detail any findings to be corrected.
Comments: Kansas's MOA Plan states that it will review all 9 PSE issue areas identified in "Section B of the <i>Guidelines</i> ." Please note that the MOA issue areas are identified in Sections IV, V, VI, VII, and VIII of the MOA <i>Guidelines</i> . Kansas PSE may wish to internally operationalize what criteria it will use to determine when a subrecipient selected for a desk audit will and will not be selected for an on-site review.				
Unlawful Discrimination Findings (MOA <i>Guidelines</i> Sec. II.B(2))				
5. Upon finding unlawful discrimination, will notify the subrecipient of steps it must take to attain compliance and attempt to obtain voluntary compliance? [<i>Guidelines</i> II.B(2)]	X			At the conclusion of all on-site reviews, KS PSE will issue an LOF to the subrecipient, and when necessary, a request for the subrecipient's VCP. A VCP "shell" listing the required corrective actions will be included with the LOF. KS PSE will notify appropriate subrecipient personnel of the LOF, and subsequent closed findings and ultimately the closed file. If corrective action has not occurred, dates of implementation will be renegotiated, and TA will be provided. As renegotiated dates of implementation pass, attempts will be made to verify completion through review of documentation, photos, videos, or an on-site visit, as appropriate. If corrective action has not yet occurred by that point, incomplete corrective actions may be referred to OCR for assistance.
6. Describes possible procedures the agency might follow in attempting to obtain voluntary compliance from subrecipients (i.e., negotiating voluntary compliance plans and monitoring)? [<i>Guidelines</i> II.B(2), II.C]	X			At the conclusion of all on-site reviews, KS PSE will issue an LOF to the subrecipient, and when necessary, a request for the subrecipient's VCP. A VCP "shell" listing the required corrective actions will be included with the LOF. KS PSE will notify appropriate subrecipient personnel of the LOF, and subsequent closed findings and ultimately the closed file. If corrective action has not occurred, dates of implementation will be renegotiated, and TA will be provided. As renegotiated dates of implementation pass, attempts will be made to verify completion through review of documentation, photos, videos, or an on-site visit, as appropriate. If corrective action has not yet occurred by that point, incomplete corrective actions may be referred to OCR for assistance.
Comments: In order to create access for CTE students as soon as possible, Kansas PSE may wish to consider implementing a timeline by which it will issue LOFs, and negotiate and finalize VCPs. It is also unclear to OCR if reviews that do not include an on-site component will result in the issuance of an LOF. Please note that Kansas must have a procedure in place for notifying subrecipients of violation findings made during desk audits that do not proceed to an on-site review and ensure these findings are corrected.				
Technical Assistance (MOA <i>Guidelines</i> Sec. II.B(3))				
7. Will the agency provide technical assistance on request to subrecipients? [<i>Guidelines</i> II.B(3)]	X			KS PSE will provide TA to any new subrecipient Coordinators and Facilities Managers. A yearly conference regarding the

<p>8. Describes procedures for providing technical assistance? [<i>Guidelines</i> II.B(3), II.C]</p>	X			<p>desk audit process will be required for those subrecipients in the targeted region. Additional TA will be offered leading up to and following the on-site review, and further assistance may be requested as the LOF and the VCP are discussed and finalized. KS PSE will also survey subrecipients to determine the best way to deliver TA.</p>	
<p>Comments: None.</p>					
<p>Reporting to OCR (MOA <i>Guidelines</i> Sec. II.B(4); optional in the MOA Plan)</p>		Yes	No	Other	Notes:
<p>9. Will periodically report its MOA activities and findings to OCR? [<i>Guidelines</i> II.B(4); optional in the MOA Plan]</p>			X	<p>The MOA plan does not address reporting to OCR.</p>	
<p>Comments: Although not addressed in the MOA plan, OCR expects Kansas will continue submitting its biennial reports to OCR in even-numbered years.</p>					



2020 MOA Plan Review

State/Territory: Kansas

ESE/PSE/Both: ESE

OCR Reviewer: Bianca Thomas Costello

Date: October 22, 2020

This rubric is for assessing if a state's MOA Plan provides the mandatory information required by the MOA *Guidelines* (*Guidelines* II.C). Under the MOA *Guidelines*, a state must adopt a compliance program to prevent, identify, and remedy race, color, national origin, sex, or disability discrimination in its subrecipients' CTE programs (*Guidelines* II.B). The MOA compliance program must include: collecting and analyzing civil rights related data (*Guidelines* II.B(1)), conducting compliance reviews (*Guidelines* II.B(2)), addressing findings of unlawful discrimination (*Guidelines* II.B(2)), providing technical assistance (*Guidelines* II.B(3)), and periodically reporting to OCR (*Guidelines* II.B(4)).

Civil Rights Data Collection & Analysis (MOA Guidelines Sec. II.B(1))		Yes	No	Other	Notes:
1. Will collect and analyze civil rights data and information that subrecipients compile or submit? [<i>Guidelines</i> II.B(1)]	X				KS ESE will conduct data review of its 5 regions. For each subrecipient, KS ESE will review its enrollment data: CTE enrollment based on gender; race/ethnicity/national origin; disability; ELL status; economically disadvantaged; and participants in non-traditional (gender) occupations. KS ESE will also review data regarding the last on-site review, and subrecipient's timely/accurate reporting of Perkins V data. KS ESE will assign points to each subrecipient based on an assessment of the subrecipient's student enrollment disproportionality for each above criterion, as well as data on last on-site review and Perkins reporting. The subrecipient with the highest score within each one of the regional subsets will be selected for an on-site review and one additional subrecipient will be selected based on the next highest score. If a selected subrecipient cannot be visited for some reason, the next-ranking subrecipient will be visited instead.
2. Describes the agency's procedures for collecting and analyzing civil rights data and information for MOA purposes? [<i>Guidelines</i> II.B(1), II.C]	X				
Comments: None.					
Conducting Compliance Reviews (MOA Guidelines Sec. II.B(2))		Yes	No	Other	Notes:
3. Will conduct periodic compliance reviews to investigate if selected subrecipients engage in unlawful discrimination in any aspect of their CTE programs? [<i>Guidelines</i> II.B(2)]	X				KS ESE will conduct 6 comprehensive MOA compliance reviews per year, each beginning with the desk audit. While KS ESE will examine all issue areas set forth the <i>Guidelines</i> ,

4. Describes the agency's procedures for conducting periodic compliance reviews of selected subrecipients? [<i>Guidelines</i> II.B(2), II.C]	X			the on-site compliance review will be tailored to fit the needs identified in the desk audit. Each review will include: review of documentation/data; interviews/surveys; and site review of facilities accessibility. At the conclusion of the on-site review, an exit meeting will be held with administrators to discuss the review and explain in detail any findings to be corrected.
Comments: Kansas's MOA Plan states that it will review all 8 ESE issue areas identified in "Section B of the <i>Guidelines</i> ." Please note that the MOA issue areas are identified in Sections IV, V, VI, VII, and VIII of the MOA <i>Guidelines</i> .				
Unlawful Discrimination Findings (MOA <i>Guidelines</i> Sec. II.B(2))				
5. Upon finding unlawful discrimination, will notify the subrecipient of steps it must take to attain compliance and attempt to obtain voluntary compliance? [<i>Guidelines</i> II.B(2)]	X			The conclusion of all reviews will include KS ESE issuing a formal LOF to the subrecipient, and when necessary, a request for the subrecipient's VCP. Once a subrecipient has satisfactorily completed all corrections on the VCP and has provided sufficient documentation, a closed file letter will be sent to the subrecipient.
6. Describes possible procedures the agency might follow in attempting to obtain voluntary compliance from subrecipients (i.e., negotiating voluntary compliance plans and monitoring)? [<i>Guidelines</i> II.B(2), II.C]	X			The conclusion of all reviews will include KS ESE issuing a formal LOF to the subrecipient, and when necessary, a request for the subrecipient's VCP. Once a subrecipient has satisfactorily completed all corrections on the VCP and has provided sufficient documentation, a closed file letter will be sent to the subrecipient.
Comments: In order to create access for CTE students as soon as possible, Kansas ESE may wish to consider implementing a timeline by which it will issue LOFs, and negotiate and finalize needed VCPs.				
Technical Assistance (MOA <i>Guidelines</i> Sec. II.B(3))				
7. Will the agency provide technical assistance on request to subrecipients? [<i>Guidelines</i> II.B(3)]	X			KS ESE will provide TA to subrecipients: concerning the needs of students in special populations; that is targeted based on data in an annual probation report; and before and after the on-site review.
8. Describes procedures for providing technical assistance? [<i>Guidelines</i> II.B(3), II.C]	X			KS ESE will provide TA to subrecipients: concerning the needs of students in special populations; that is targeted based on data in an annual probation report; and before and after the on-site review.
Comments: None.				
Reporting to OCR (MOA <i>Guidelines</i> Sec. II.B(4); optional in the MOA Plan)				
9. Will periodically report its MOA activities and findings to OCR? [<i>Guidelines</i> II.B(4); optional in the MOA Plan]			X	The MOA plan does not address reporting to OCR.
Comments: Although not addressed in the MOA plan, OCR expects Kansas will continue submitting its biennial reports to OCR in even-numbered years.				

Overall Comments: Kansas' MOA plan addresses the state's MOA compliance program with respect to civil rights data analysis, compliance reviews, unlawful discrimination findings, and technical assistance. The plan provides the mandatory information the MOA *Guidelines* require. OCR commends Kansas on its detailed selection criteria and proposal to provide both proactive and reactive TA to subrecipients. Kansas's MOA plan provides somewhat limited detail regarding some aspects of its MOA program. OCR encourages your state to consider internally operationalizing the following items that were not specifically addressed in the MOA Plan: (1) what criteria it will use to

determine if a postsecondary onsite review will or will not occur after a desk audit; (2) the length of time the state will take to provide LOFs to subrecipients and the length of time subrecipients will have to submit a VCP to Kansas; and (3) how subrecipients will be notified of violation findings made during postsecondary desk audits that do not proceed to an on-site review. Additionally, under the *MOA Guidelines*, each state has an obligation to report its MOA activities and findings to OCR biennially. It is not required for your state to describe this process in the MOA plan, but please be mindful of this biennial obligation. OCR expects Kansas will continue submitting its biennial reports to OCR by December 31st in even-numbered years.

Kansas' 2020 MOA Plan is approved.