

SCHOOL BOARD

STATUTORY REFERENCE GUIDE

DECEMBER 2024

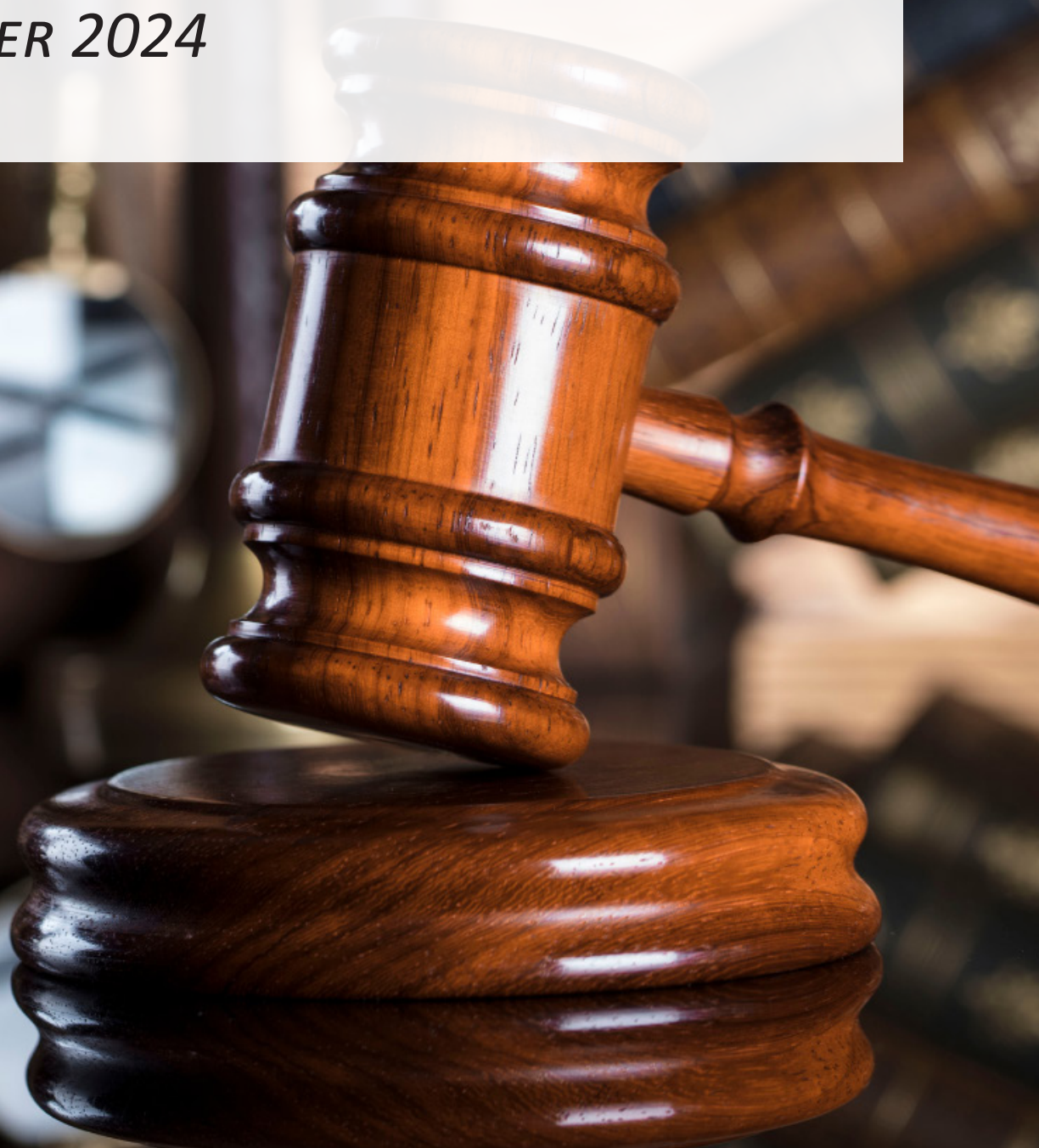


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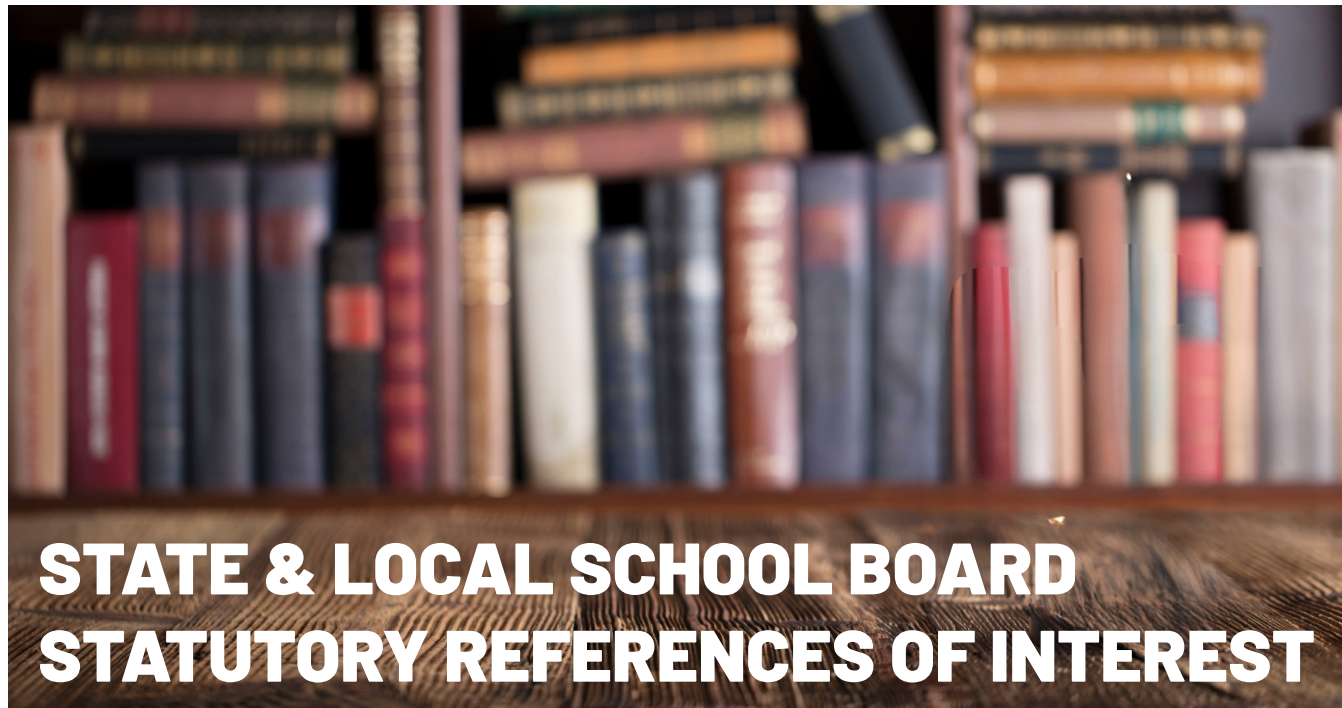
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Chapter 72 of the Kansas Statute Annotated can be viewed online at the Kansas Legislative website available here:



Or visit:
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THE EDUCATION ARTICLE

The basis for all laws dealing with K-12 public education in Kansas starts with Article 6, the Education article, in the Kansas Constitution, as updated by the Legislature and approved by the voters in 1966.

Article 6

Ks. Const. Art. 6, §1 “The legislature shall provide for intellectual, educational, vocational and scientific improvement by establishing and maintaining public schools, educational institutions and related activities which may be organized and changed in such manner as may be provided by law.”

COMMENT: The Legislature is empowered and directed to provide for educational improvement and if that doesn’t happen, the Legislature may make changes. The reference to related activities has been interpreted by the courts to cover a wide range of subjects, basically, anything related to education.

Ks. Const, Art 6, §2(a) “The legislature shall provide for a state board of education which shall have general supervision of public schools, educational institutions and all

the educational interests of the state, except educational functions delegated by law to the state board of regents. The state board of education shall perform such other duties as may be provided by law.”

COMMENT: The reference to general supervision has been interpreted to mean “something more than advise and something less than control.” In fact, the courts have held that the Kansas Constitution limits rather than confers powers and that the power of the State Board of Education is “limited” to general definition, as they have defined it. The last phrase makes it clear that the SBOE’s power is not exclusive, since the Legislature may and has enacted many laws dealing with the SBOE, local boards and K-12 in general, nearly 900 such statutes in all.

Ks. Const. Art. 6, §5 “Local public schools under the general supervision of the state board of education shall be maintained, developed and operated by locally elected boards....”

COMMENT: Local boards are constitutional bodies. The KSDE and local school district administrations are statutory creations. It is the local boards who have the power to “maintain, develop and operate” the public schools. While local boards can and do delegate duties, the power, oversight and ultimate responsibility remains with the local boards. It is up to local boards to determine what responsibilities will be delegated. The courts have held that local boards have such powers as may be granted by the Legislature and are subject to the State Board’s general supervisory power.

CHAPTER 72

The body of legislatively enacted statutes dealing with Education is found in Chapter 72 of the Kansas Statutes Annotated. Within that Chapter, there are over 40 articles dealing with separate subject areas. Hundreds of statutes reference local school boards in some fashion. The following is a summary of the more important statutes local school board members should be aware of in carrying out their constitutional duties on behalf of the public schools in their districts.

Article 1. - General Provisions

KSA 72-120 enables the SBOE to publish school laws in force and requires that those laws be delivered to each legislator and all persons under contract to administer school laws.

COMMENT: The latest version, if any, should be reviewed for accuracy and any commentary that is questionable. Current legislators have not seen a publication, if it exists. Have local school board members been given copies or been made aware if its existence? Are local school board members briefed on the statutes and SBOE Rules & Regs that apply to them?

Article 2. - State Board of Education

KSA 72-245 establishes the composition of the SBOE and states that the SBOE has “such powers that it is specified to have in the constitution as such powers are more specifically described and defined by law.”

Comment: Again, this statute clarifies that SBOE authority is not exclusive. Anywhere a statute references the phrase “as more specifically described and defined by law” or words to that effect, it is describing the power of legislative action. The Kansas Supreme Court has stated that the general supervision powers the State Board is granted in Art. 6, §2(a) of the Kansas Constitution are “self-executing.” All this means is that this power does not require a separate statute granting that power. The same Court held that “general supervision” means something more than to advise but less than control. The Kansas Constitution limits rather than confers power, thus the power of the SBOE is limited to general supervision.

State ex rel., v. Board of Education, 212 Kan. 482.

KSA 72-255 sets out the general powers of the SBOE “consonant with other applicable statutory provisions.” This includes adopting rules and regs for: (1) school libraries and other educational materials with the exception of textbooks; (2) courses of study and curriculum; (3) accreditation of schools including elementary and secondary, public and non-public; and (4) certification of administrators, teachers, counselors, school nurses and supervisors of school districts and of the state department of education and of teachers and administrators on non-public schools.

COMMENT: This statute must be read in conjunction with the constitutional power of local boards to operate their public schools and **KSA 72-1138**. The power of the SBOE is “general supervision” only.

KSA 72-256 grants SBOE rule and reg authority “not in conflict with law” and “except as otherwise specifically provided by law.”

COMMENT: The SBOE’s rule and regulation authority extends only as far as its general supervisory power. The SBOE is prohibited from adopting rules and regulations exceeding those powers.

KSA 72-257 provides that every rule and regulation adopted by the SBOE must comply with the rule and regulation filing act.

COMMENT: At one time, the SBOE took the position that if it cited Art. 6, §2(a) as its authority for the rule and regulation, it could not be reviewed by the legislature. This statute makes it clear that whether the SBOE cites a statute or the constitutional provision for its authority, the rule and regulation must still go through the statutory rule and regulation adoption process.

KSA 72-258 provides that all local board of ed records, etc. are open and available at all times to the SBOE.

The Legislature has the power to, from time to time, order studies of various topics to inform legislators and guide them in their continuing constitutional duty to provide for educational “improvement” in the public schools of the state.

KSA 72-291 ordered the SBOE to undertake a comprehensive study of the organization of school districts to determine if the public school system could be more efficiently and effectively operated under a different configuration. That report was required to be delivered to the Legislature in January 2001.

Comment: There is interest in the Legislature to once

again explore this subject considering the pushback to open enrollment proposals that exposed the elitism and racial bias of affluent districts. *Brown v. Board of Education* successfully challenged the concept of “separate but equal.” However, there is still racial disparity in educational opportunity with what is now essentially, “consolidated but unequal.” The promise of Brown has been left unfulfilled in many Kansas districts.

KSA 72-292 ordered the SBOE to prepare a strategy for a mastery of basic reading skills in K-3 with a goal to achieve reading mastery by the end of grade 3. The report was to be delivered to the legislature in the 2001 session.

Comment: Effective July 1 of 2023 the Legislature passed the new Every Child Can Read law. Then in 2024, the Legislature passed the Blueprint for Literacy. The SBOE has finally conceded that the prior reading protocol and teacher training in reading was simply wrong. The Science of Reading is to be implemented thanks to years of pressure from dedicated legislators.

KSA 72-294 ordered the SBOE to conduct a study of the implementation of requiring each district to maintain an “individual career plan of study” for each student, due by Jan. 15, 2014.

Article 3. - Commissioner of Education

KSA 72-371 requires the SBOE to appoint a commissioner of education to “perform such duties as are prescribed by law or by the state board.”

Comment: Note that both the SBOE and legislature have roles to play regarding what the Commissioner does.

Article 4. - State Board of Education

KSA 72-408 created in statute the KSDE “under the supervision of the commissioner as directed by law and the state board.”

Comment: The KSDE is a statutory creation and not a constitutional department and, as such, is subject to oversight and control by both the SBOE and the Legislature. The statute makes the KDSDE subject to the Kansas Governmental operations accountability law (K-Goal, KSA 74-7283 *et seq.*), making the Department subject to audit, review and evaluation.

Articles 5, 6, and 7 of the Education Chapter deal with school district organization, disorganization and consolidation, respectively.

Article 10. - School District Board Of Education Elections

KSA 72-1072 provides that the governing body of a USD shall be an elected board of education.

KSA 72-1077 sets out the procedure for changing the boundaries for board member districts within a school district.

Article 11. - School District Board Of Education Powers And Duties

KSA 72-1131 establishes the uniform way to identify USD’s and grants them the usual corporate powers including the right to sue and be sued. Local Boards may delegate to the superintendent the power to execute contracts for the purchase of goods and services of \$20K or less.

KSA 72-1133 deals with electing a Pres. and V.P. of the local board. The president is to preside “and perform such other duties as are provided by law.”

COMMENT: The legislature has the authority to enact laws relating to board president duties.

KSA 72-1134 requires each local board to appoint a superintendent. “The superintendent of schools shall have charge and control of the public schools of the school district, subject to the orders, rules and regulations of the board of education.” The local board may appoint ass’t superintendents.

COMMENT: This statute makes it clear that the local board has power over the superintendent, not the other way around. The superintendent’s power is limited to that which has been delegated to him by the local board.

KSA 72-1135 requires the local board to appoint a clerk, who serves at the pleasure of the board. The clerk must keep an accurate journal of the proceedings of the local board and “shall have the care and custody of the records, books and documents of the board.”

COMMENT: **Attorney General Opinion 90-89** makes it



Suzanne Perez / KMUW

clear that the official records custodian is the clerk, not the superintendent. The clerk answers to the board, not the superintendent. The clerk may delegate his or her duties, but the local board may by their own rules and regulations limit particular delegations such as this one.

KSA 72-1137 allows the local board to appoint “other officers and employees to serve at the pleasure of the board.” Also, the Legislature recently amended this statute to authorize, for the first time, the ability of local school board members to receive compensation from the school district for their services.

COMMENT: Decisions over other officers in the district are for the board. Ultimately, it is the board that needs to address any concerns over the growing percentage of non-instructional personnel. The growth in non-teaching personnel compared to instructional staff has reached an alarming level.

KSA 72-1138 requires local boards to meet at least once a month. Special meetings may be called by the board president or by joint action of any three members of the board. Also, the statute includes provisions allowing the local boards to “prescribe courses of study,” adopt rules and regs for teaching, approve and adopt “suitable” textbooks and study materials “subject to plans, methods, rules and regulations of the state board of education.” In addition, the “board may transact all school district business and adopt policies that the board deems appropriate to perform its constitutional duty to maintain, develop and operate local public schools.” The power granted “shall not be construed to relieve a board from compliance with state law.”

COMMENT: Another reminder of the ultimate power and responsibility of the local boards, subject only to the “general supervision” of the SBOE. [See KSA 72-3214 regarding the SBOE’s duties with respect to required subjects in elementary schools]

KSA 72-1145 authorizes but does not require local boards to use general funds to pay KASB dues.

COMMENT: The local board gets to decide whether to join KASB. Membership is not required. Boards that are members should annually evaluate the benefit of membership.

KSA 72-1151 sets forth the rules regarding sealed bids for expenditures made by the board.

KSA 72-1163 is the building-based needs assessment statute. Each year “the board of education shall conduct an assessment of the educational needs of each attendance center in the district.” The board is required to use this information when approving the school district budget. The board minutes must reflect that not only did the board have the needs assessments but that the board evaluated the assessments and indicated “how the board used such assessment in the approval of the school district’s budget.”

In addition, the law requires that each school year the board of education shall review the state assessment results and document (A) the barriers that must be overcome to have all students achieve “proficiency above level 2 for grade level academic expectations on such assessments; (B) any budget actions including possible reallocation of resources that should be taken to address and remove such barriers; and (C) the amount of time the board estimates it will take for all students to achieve proficiency above level 2 for grade level academic expectations on the state assessments if such budget actions are implemented. The budgets, needs assessments and state assessment documentation are to be posted on the district websites.

This statute also mandates that the school district budget approved by the board “shall allocate sufficient moneys in a manner reasonably calculated such that all students may achieve the goals set forth in **KSA 72-3218(c).**” (Rose

capacities). The budget, budget summary and needs assessments are required to be posted on the school district's website.

COMMENT: The base requirement for building-based needs assessments has been on the books for over 20 years. Sadly, many local school board members were not aware of its existence. This has led to the Legislature having to put teeth into the statutory requirement, considering the current lack of acceptable academic progress in the districts. It is, in fact, one of the most important functions of a local school board. Local public schools cannot be "maintained, developed and operated" by local school boards, as required by Art. 6, §5 of the Kansas Constitution unless the requirements of this statute are taken seriously.

There is conflict here between what the law says, and KSDE's interpretation. The duty of the local board extends beyond review and reflecting that review in the board minutes. It is the board that is required by statute to conduct the needs assessment. While a good deal of the administrative duties involved may be reasonably delegated, the board remains ultimately responsible for the results. If results do not meet expectations, the district administration will point to the fact that the board signed off on the needs assessments and resulting budget allocations. It is the board that must ensure that the budget it approves allocates sufficient resources to get the job done. Too often, district employees put together a proposed budget that essentially mirrors the prior budget with some annual adjustments. We see year after year a fundamental failure to allocate sufficient resources to ensure that student outcomes improve. Hard choices need to be made, including adopting the discipline to build a district budget from the classroom up, not the administration building down. This is not a "check the box" or "rubber stamp" exercise by the board. It is the essence of the board's constitutional duty.

The allocation and reallocation of resources language is meant as a reminder that it is up to the board to manage the resources in order to achieve the statutory outcomes that are expected. In fact, the failure of a board to not properly allocate funds based on needs assessments and student outcomes could expose boards to legal liability. We have noted a number of instances where the needs assessments identified, with specificity, the barriers students were experiencing only to have the district administration and local boards claim the only solution was to seek more funds from the Legislature. The Kansas Supreme Court has ruled that the funding formula produces adequate funding, and the Governor has acknowledged that the schools have been fully funded for many years. It is up to the local boards to ensure that the district's existing resources are allocated in a manner reasonably calculated to achieve the expected outcomes.

KSA 72-1164 requires the board to prepare a district profile including a budget overview, information regarding the budgeting process, and information regarding the governing body of the school district.

KSA 72-1165 required the SBOE to implement a uniform system of reporting data by school district to be freely available to the public, allowing any person desiring to obtain, analyze and compare financial and performance data of school districts the ability to do so, including the ability to compare data among districts.

KSA 72-1166 In like manner, this statute requires each school district to compile and report expenditures of the district in providing programs required by law and the number of pupils enrolled in such programs.

KSA 72-1167 contains the specific information the uniform system of data reporting shall include. Local boards are required to report annually to the SBOE all school bond activity and shall publish on the school district's website all financial information for certain account codes including Function 1000, instruction, et al. The required publications must be made available to the public at every meeting held by the local board when the board is discussing the district's budget or any other school finance matter.

KSA 72-1168 outlines the board's authority to declare a temporary cash deficit and authorize the district to issue temporary notes for internal borrowing.

KSA 72-1181 requires that all accountability reports (KSA 72-1167, *e.g.*) are to be published on the KSDE website with a link to the reports prominently displayed on the website homepage titled "Accountability Reports" and on each school district's website with a link prominently displayed on the homepage titled "Accountability Reports."

COMMENT: Collectively, these sunshine law statutes have dramatically increased the amount of verified information members of the public now have about their districts. Those who still question public comment on what the data shows are reminded that this data comes directly from the Kansas Department of Education.

Article 14. - Provisions Relating To The Use Of School District Property

KSA 72-1416 provides that "the school board shall have control of the school district property, including the school building or buildings, schoolgrounds and all buildings and structures erected thereon, all furniture, fittings, and equipment, such as books, maps, chart, and instructional apparatus." The board has the authority to approve use of school property for public purposes.

COMMENT: This statute makes it clear that it is the local board and not the district or school-based administration, that has authority over school premises. Some administrators seek to limit local board member access to school grounds. School board members have the right to reasonable access to school facilities as part of their constitutional duty to "maintain, develop and operate" the schools in their district.

KSA 72-1421 allows local boards to establish and operate a childcare facility, enter into cooperative agreements to operate a childcare facility or contract with private, non-profit organizations or private entities to operate a childcare facility.

KSA 72-1431-KSA 1438 deal with closure and sale of school buildings

Article 21. - Teacher Licensure

KSA 72-2154 authorizes the SBOE to issue a special teaching license and specify on its face the subject or subjects the licensee is authorized to teach.

KSA 72-2160 authorizes local boards to enter into contracts with colleges and universities for the use of student teachers. The SBOE is authorized to issue student teaching licenses.

KSA 72-2165 contains the list of offenses that disqualifies an individual from obtaining or renewing a teaching license through the SBOE.

Article 24. - Evaluation Of School District Employees

KSA 72-2409 requires each board to adopt a written policy of personnel evaluation for all employees of the district.

KSA 72-2410 sets forth the guidelines to follow for evaluations and provides that the board will do the evaluation of the superintendent.



Article 25. - Professional Development Of School District Employees

KSA 72-2547 requires each board to establish and maintain a professional development program for certified personnel.

KSA 72-2562 allows a local school board to establish and maintain a mentor teacher program.

KSA 72-2571 allows a local school board to contract for services to benefit district employees with assistance programs designed to assist in the identification and resolution of personal problems affecting performance.

Article 26. - School District Employee Retirement Systems

KSA 72- 2624 et seq. covers the school district employee retirement system provisions.

Article 31. - School Attendance

KSA 72-3115 deals with the school term and grants local boards authority to adopt policies regarding school hours, trimester or quarterly terms and inclement weather situations. Parent-teacher conference time and staff development time may be considered part of the school term and boards may employ noncertified personnel to

supervise students for noninstructional activities.

KSA 72-3120 is the compulsory attendance law. Local boards may now allow students to enroll part-time in courses, programs or services if the student is also enrolled in a nonaccredited private elementary or secondary school or other private, denominational or parochial school pursuant to policies established by the local board.

KSA 72-3121 sets forth the duties of local boards regarding tracking and dealing with truancy.

KSA 72-3123 authorizes local boards to permit non-resident students to enroll in the district, with the local boards allowed to determine the district's "capacity" to accept out-of-district students. The statute was amended in the 2024 legislative session (SB 387) to give priority to Kansas resident students and to allow non-resident students who are allowed to transfer to continue to attend through graduation.

KSA 72-3124 authorizes the local boards to furnish or provide transportation to non-resident students.

KSA 72-3125 allows local boards to enter into contracts with other local boards regarding transfer students.

KSA 72-3126 requires the local boards to adopt a policy prior to Jan. 1, 2024, to determine the capacity to accept non-resident students, specifying the reasons the board may use to deny enrollment. Requires a public hearing before policy approval.

COMMENT: Collectively, these are the new open enrollment provisions. Boards have always had the power to admit non-resident students, but recent legislative changes were intended to further encourage the "open enrollment" concept. The current practice of students being locked within an underperforming district simply by virtue of their zip code has led to efforts to provide students and parents with an element of public school choice. Unfortunately, the provisions relating to districts being able to make their own determinations of "capacity" will likely hinder realization of legislative intent. There are already signs of some districts "redlining."

Article 32. - School Curriculum

KSA 72-3214 sets out the required subjects in elementary schools and provides that the SBOE is responsible for the selection of subject matter within the several fields of instruction and for its organization into courses of study and instruction for the guidance of teachers, principals and superintendents.

COMMENT: This must be read in conjunction with the powers of local school boards over the selection of texts and teaching materials. See **KSA 72-1138**.



KSA 72-3215 authorizes local boards to offer, teach courses and conduct preschool programs.

KSA 72-3216 contains the requirement to offer kindergarten and K-12 and at least 30 units of instruction for grades 9-12 and requires each board to "adopt all necessary rules and regs for the government and conduct of its schools, consistent with the laws of the state."

COMMENT: The statute also provides that the board "shall have the title to and care of all school buildings and other school property." The board may adopt rules and regulations regarding use of school property by the public. The statute was amended in 2024 to prohibit a district that offers a vacant school building for sale to refuse an offer based on the fact the buyer intends to use the building as a nonpublic school building.

KSA 72-3217 sets out the requirement of providing a complete course of instruction in civil government, U.S. history, patriotism and the duties of a citizen, suitable to the elementary grades and high schools must give a course of instruction concerning the government and institutions of the U.S. and particularly the U.S. Constitution, "and no student who has not taken and satisfactorily passed such course shall be certified as having completed the course requirements necessary for graduation from high school."

COMMENT: The actual courses and study plans to meet this requirement should be reviewed on a continuing basis to ensure they are carrying out the legislative intent. Concern has been expressed that this requirement is being too often glossed over.

KSA 72-3218 requires the SBOE to adopt subjects and areas of instruction designed to achieve the goal established by the Legislature of providing each and every child with at least the following capacities: (1) sufficient oral and written communication skills to function in a complex society; (2) sufficient knowledge of economic, social and political systems to enable the student to make informed choices; (3) sufficient understanding of governmental processes to enable the student to understand the issues that affect his or her community, state and nation; (4) sufficient self-knowledge and knowledge of his or her mental and physical wellness; (5) sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage; (6) sufficient training or preparation for advanced training in either academic or vocational fields to enable students to choose and pursue life work intelligently; and (7) sufficient levels of academic or vocational skills to enable students to compete favorably with their counterparts in surrounding states, in academics or in the job market.

COMMENT: These are commonly referred to as the *Rose* capacities, first mentioned in the school finance case of *Gannon v. State* and later adopted by the Legislature as educational goals. In school funding terms, the structure and implementation of school finance must be reasonably calculated such that every student may achieve these goals.

KSA 72-3219 requires the local board to annually have prepared a report concerning the academic achievement testing program conducted during the school term to assess educational performance of district students, and this report must be presented at a regular meeting of the board.

KSA 72-3220 – 3224 is the Challenge to Secondary School Pupils Act, encouraging programs of concurrent enrollment between public school and post-secondary institutions.

KSA 72-3231 provides that a local school district may request the SBOE to assist in the development of a grade-appropriate curriculum for character development.

KSA 72-3233 created Celebrate Freedom Week, to be observed the week of September containing the 17th day of the month. See **KSA 72-3234**.

KSA 72-3234 requires the SBOE to adopt rules and regulations requiring *appropriate* instruction as part of the curriculum for grades K-8 on history and government "concerning the original intent, meaning and importance of the Declaration of Independence and the United States Constitution, including the Bill of Rights of the United States Constitution, in their historical contexts. The religious references in the writings of the founding fathers shall not be censored when presented as part of the instruction. The rules and regulations must provide that "the study of the Declaration of Independence include the study of the relationship of the ideas expressed in that document to subsequent American history, including the relationship of such ideas to the rich diversity of our people as a nation of immigrants, the American Revolution, the formulation of the United States Constitution and the abolitionist movement, which led to the Emancipation Proclamation and the women's suffrage movement." This instruction is required to be taught during Celebrate Freedom Week or such other full week as the SBOE may determine.

KSA 72-3238 and 3239 enable local boards to establish and operate or enter into cooperative agreements for summer programs and "extraordinary" school programs for students. The latter means a program operated before or after school to assist students to achieve improvement plan outcomes, provide remedial instruction or independent study assistance, afford opportunities to attain mastery of basic or higher order thinking skills and providing special projects and activities to enhance the educational experience of students.

COMMENT: Intended to address primarily at-risk students, these authorized programs should be considered as part of a district's plan to address needs assessments and low student performance outcomes. Students on free or reduced lunch may not be charged fees for extraordinary programs.

KSA 72-3255 - 3258 is the Promoting Advancement in Computing Knowledge Act.

KSA 72-3262 is the "Every Child Can Read" Act and requires local boards to include certain reading initiatives as part of instruction in literacy and further requires the boards to measure student achievement, provide targeted interventions, ensure 3rd grade teachers communicate with parents regarding their child's literacy status/progress.

ress and report district stats.

COMMENT: This reform was long overdue and local boards are in the best position to ensure the intent and promise of this legislation is carried out. Reading is the key to educational success and, ultimately, success beyond the classroom. The so-called social-emotional-learning mindset should be replaced with a mindset that every child needs to be proficient in reading in order to have social and emotional well-being, self-confidence and a thirst for education. The legislature has been far too patient in this area while class after class of students is left behind. Ultimately, the legislature may require that children who are not proficient in reading not advance in grade level. Local boards need to hold the district's feet to the fire so that such legislation is not necessary.

The Kansas Blueprint for Literacy was passed by the 2024 Legislature and signed into law (SB 438) Statutes amended are in Ch. 74 of the Kansas Statutes Annotated, dealing with the Board of Regents. This historic reform of literacy training and instruction was the result of a collaborative effort between the Legislature, the Kansas Board of Regents and the Kansas State Board of Education, with the support of the Kansas Policy Institute. The Kansas education community has now recognized that the method of educating pre-service teachers and the method of in-service teachers teaching students reading skills has been flawed and that we need to move will all due haste to the Science of Reading and Structured Literacy.

Highly summarized, the Blueprint calls for development of teaching methods at the teacher training institutions and public schools to have 100% of the workforce achieving a micro-credential in the Science of Reading and Structured Literacy by 2030, leading to 50% or more of 3rd – 8th graders achieving Level 3 or higher and at least 90% of 3rd – 8th graders achieving level 2 or above on the ELA assessments by 2033. In addition, as of July 1, 2025, districts are prohibited from using texts or teaching materials that utilize discredited methodologies such as 3-cuing. A new comprehensive reading and literacy assessment system is to be developed with universal screening measures and diagnostic, formative and summative assessments to be used in teacher-prep programs.

COMMENT: The new law is welcome news but is long overdue. Mississippi was the first state to implement the Science of Reading in 2011. Many states have followed suit, so Kansas is more than a decade behind. Nevertheless, it's historic that the Regents and SBOE have come around to the realization that poor performance on the reading assessments over time is a product of failed teaching methodologies and that there is a clear research and evidence-based system that, when fully implemented, will make a huge difference in the lives of students. It's a tragedy that so many classes of students did not get

the literacy education they deserved.

KSA 72-3266 authorizes boards to adopt a policy to allow students enrolled in grades 6-12 to earn course credits through alternative educational opportunities with sponsoring entities. A district may accept a proposal if the alternative educational opportunity provides additional learning through work-based, pre-apprenticeship, apprenticeship, internship, industry certification or community program approved by the SBOE. The alternative program must be managed and directed by a licensed teacher hired by the district.

Article 33. - School Textbooks And Materials

KSA 72-3344 – 3351 cover the statutes regarding textbook purchases, waiver of fees and textbook rental.

KSA 72-3352 authorizes local boards to purchase certain items for use by pupils, including workbooks, specialized clothing, instruments, instructional materials and “materials and supplies which are consumed in specific courses or projects or in which the pupil may retain ownership upon completing of such courses or projects.”

KSA 72-3353 allows the local boards to establish and collect certain fees for use of district materials.

KSA 72-3354 allows the local boards to waive such fees in appropriate circumstances.

KSA 72-3355 creates the textbook and student materials revolving fund, which can be used, among other things, to “pay the cost of materials or other items used in curricular, extracurricular or other school-related activities...”

COMMENT: Collectively, these 4 statutes raise the issue of teachers continuing to complain about having to buy their own classroom materials. The Governor has touted the fact that K-12 has been fully funded for several years. Indeed, the last cut to K-12 happened in 2008-2009. Yet we hear stories of teachers believing they must buy supplies out of their own pockets. The answer is, they do not. The *Accounting Handbook for USDs*, published by the KSDE, has 16 pages listing school supply items and materials recordable under account code 1000 (Instruction). Virtually any item a teacher thinks they need in the classroom is on the list. The local boards need to address this false narrative and ensure that teachers get the supplies they need and/or are reimbursed when a teacher is authorized to purchase materials out of their own pockets. Clear communication between teachers and administration would help, including listing those needs in the building-based needs assessments to be addressed

by the local board at budget time.

See the accounting handbook here:
tinyurl.com/accountinghandbook

Article 34. - Special Education

KSA 72-3403 et seq. is the Special Education article.

KSA 72-3410 requires each board to adopt and implement procedures to assure that all exceptional children residing in the district who are in need of special education services are identified, located and evaluated and provided free public education for exceptional children enrolled in the district.

KSA 72-3411 authorizes boards to use a variety of options in order to satisfy their duty to provide SPED, subject to the authority of the Legislature to change or terminate SPED contracts entered into by the board.

COMMENT: Local boards need to be vigilant in this area as districts who deny services and then force parents to litigate are exposing districts to liability and enormous judgements when those dollars would be better spent providing required SPED services. See **KSA 72-3430** outlining parental rights.

KSA 72-3422 sets out the requirements of the SBOE regarding calculating special education allocations to the districts. SB 387, passed and signed into law in 2024, amends the formula to require districts to transfer funds attributable to special education funding within the district's LOB to the special ed fund. The bill also requires the SBOE to assign costs of providing special education by interlocal agreements or as members of cooperatives to each school district based on expenditures of a district in comparison to the expenditures of all school districts within the interlocal agreement or cooperative. The SBOE must develop a new distribution formula for the additional SPED funds appropriated in 2024 and beyond, with the base amount of SPED funds (the prior year's appropriation) distributed as before. (**KSA 72-5143**, the LOB statute, is amended to require the local districts to transfer LOB funds attributable to SPED expenditures to the SPED fund of the district.)

COMMENT: For many years the State has been required to fund 92% of the excess costs of providing special education services in the districts. In reality, some districts have received much more, sometimes over 100% of excess costs, and some districts have received less than 92%. In addition, the Legislature has learned that not all funds attributable to SPED expenditures have been counted. Expenditures attributable to a district's LOB funds and expenditures from interlocal agreements and

cooperatives have also been omitted or undercounted. The new law seeks to adjust for that and, in addition, require the SBOE to design a new distribution formula to equalize payments to districts with the goal of all districts receiving 92% of excess costs, no more, no less.

Article 35. - At-Risk Education

KSA 72-3566 – 3573 contains the Skills For Success In School Program provisions.

KSA 72-3567 requires each district that applies for a grant to determine, at least annually, each child's math and reading skill level and whether each child is progressing adequately for grade level. Districts are to use the grade-level standards set by the SBOE. Each participating district must include in their improvement plan research-based intervention programs determined by the district, including, but not limited to, individualized instruction, alternative teaching methods, a restructured school day, and extended time strategies. The district must create a mechanism to track each participating child. If the student doesn't achieve the appropriate grade-level despite intervention, the school must take action to initiate additional interventions. Districts are encouraged to utilize skilled and trained community-based organizations and individuals to implement the plans. The SBOE must report to the Senate and House Education Committees annually. There is a \$20M cap on the program.

Article 41. - Parent Education

KSA 72-4162 enables local boards to develop and operate a parent education program, enter into cooperative or interlocal agreements or contract with private or public entities to operate or provide services to such programs. This is grant-based and subject to approval of a grant application by the SBOE.

Article 42. - Alternative Public Education

KSA 72-4206 – 4213 are the Public Charter School laws.

KSA 72-4206 states the legislative intent that public charter school provide an alternative for ensuring accomplishment of the necessary educational outcomes by offering opportunities for school district employee groups, educational service contractors and others to operate charter schools within a school district structure, but independently from other schools in the district. A



charter school would be required to be accredited, offer a general curriculum appropriate to the grades offered but may include one or more special programs and may be organized around a special emphasis, theme or concept or utilize innovative educational methods or practices.

KSA 72-4207 authorizes local school boards to establish nonsectarian charter schools as a means of providing (a) improved pupil learning; (b) increased learning opportunities for pupils in special areas of emphasis; (c) creative and unconventional instructional techniques and structures; (d) new professional vistas for teachers who operate such schools or who choose to work in them; and (e) freedom from conventional program constraints and mandates.

KSA 72-4208 sets out the procedure for petitioning for establishment of a charter school. The SBOE designs the petition form, and the local boards may adopt policies and procedures for receiving, reviewing and screening petitions. Petitions may be presented to the local boards by or on behalf of a school building or school district employees' group, an educational services contractor or any other person or entity. The local board may grant a petition if it meets 16 listed statutory criteria in addition to complying with each of 4 additional mandates: (1) the school must be focused on outcomes and participate in the QPA process, unless granted a waiver; (2) pupils must be reasonably reflective of the racial and socio-economic composition of the district as a whole; (3) no tuition may be charged; and (4) compliance with applicable health, safety and access laws must be assured. There is a process for seeking reconsideration of a denial. After an acceptance, the SBOE then has the power to reject the petition notwithstanding local board approval. The SBOE may consider and approve or reject requests for waivers of school district policies or SBOE rules and regs.

KSA 72- 4213 allows the SBOE to adopt rules and regs to administer charter schools, require periodic reporting and "establish additional criteria for evaluating and approving charter schools."

COMMENT: Although well-intended, the charter school act has been a failure, primarily due to the complicated

application and approval process, the bureaucratic hoops that must be cleared, and the authority of the SBOE to add even more roadblocks to approval. Delegating to the SBOE more power than general supervision of charter schools is questionable. Contrast this law with the provisions of **KSA 72-4241** (alternative schools).

KSA 72- 4221 – 72-4230 are the Public Innovative School District laws.

KSA 72-4223 allows local boards to apply to the SBOE for authority to operate as a public innovative school district. The SBOE designs the application, which must include (1) a description of the educational programs of the proposed district; (2) a description of the interest and support for partnerships between the proposed innovative school district, parents and the community; (3) the specific goals and the measurable student outcomes to be obtained; and (4) an explanation of how student performance will be measured, evaluated and reported. If approved by the SBOE, an innovative school district must (1) not charge tuition; (2) participate in all math and reading assessments; (3) abide by all financial and auditing requirements; (4) comply with all health, safety and access laws; and (5) comply with all statements in the application. An innovative school district is exempt from laws and rules and regs that are applicable to school districts with the exception of any rules adopted by the innovative school district, rules and regs adopted by the SBOE and the requirements of the special education for exceptional children act.

KSA 72-4224 creates a coalition of innovative school districts with the Chair appointed by the Governor. The Board is to report progress annually to the Governor and the Legislature.

KSA 72-4225 provides that once there are two or more approved innovative districts new applications must first go through the coalition board. Not more than 10% of the districts in the states can be approved, except the percentage may go as high as 20% if school districts are Title I.

COMMENT: To date, only 7 districts have been approved.

Again, the Legislature was well-intentioned in providing opportunities for districts to improve and, well, be innovative. It was hoped that Title I schools in particular might benefit and find this opportunity helpful in addressing some of their unique challenges.

KSA 72-4241 has been on the books since 1974 and enables local boards to establish an alternative school or schools at any of the grades 7 or above to "provide an educational alternative for students determined to be unable to benefit from other schools in the district." If the local board determines that it would be beneficial to vary from the terms and conditions of a statute or SBOE rules and regs, the local board can apply to the SBOE for a waiver.

COMMENT: This older statute, in contrast to the charter school and innovative school district statutes, provides an avenue for local boards to be innovative without necessarily having to apply to the SBOE or some other authority. That said, notwithstanding language in the statute suggesting that the SBOE may waive provisions in a statute, this is not the case. See **AGO 90-30**.

Article 51. - School District State Aid

KSA 72-5131 – 5194 are the school district state aid statutes.

COMMENT: The Kansas Supreme Court has interpreted the phrase "The legislature shall make suitable provision for finance of the educational interests of the state" in Art. 6, §6(b) of the Kansas Constitution as a requirement for adequate funding. After years of litigation, the Kansas Supreme Court has ruled that the current funding formula is adequate and sustainable. The Court held that the "structure" and "implementation" of the funding formula must be "reasonably calculated such that all students may achieve the goals set forth in KSA 72-3218(c)." (*Rose capacities*) The "structure" is a function the Legislature is responsible for, and that structure is embodied in this Article of the education statutes. The "implementation," function, however, is uniquely the responsibility of local boards of education. As **KSA 72-1163**, the needs assessment statute, requires: "The budget of the school district shall allocate sufficient moneys in a manner reasonably calculated such that all students may achieve the goal set forth in K.S.A. 72-72-3218(c)." The statute mirrors the language of the Court's decision in *Gannon v. State*.

Simply stated, the funding formula provides an amount of base state aid funding per student, to which is added a number of weighted funding categories based on the

needs and demographics of the individual districts. Total funding is based on all funds available, state, local and federal, with state funding increased annually by a cost-of-living adjustment. Since the Supreme Court was particularly interested in those students, primarily minorities and the socio-economically challenged, who were lagging behind in student performance compared to their peers, the Legislature has been especially interested in at-risk funding and the requirements districts are mandated to following in improving the educational outcomes of those students.

In the 2024 Legislative session the Legislature established the Education Funding Task Force (SB 387), made up of 11 voting members and tasked with the study of the current school finance formula to determine what the next formula should look like. The current formula sunsets July 1, 2027. In particular, the Task Force is to look at the distribution formula for SPED funds to suggest a more equitable allocation formula. The Task Force is to not only look at funding inputs, including sources and impacts, but also outputs, including academic achievement outcomes and other measures of return on funding investment by the Legislature.

COMMENT: Another 2024 amendment (SB 339) provides that no state aid shall be distributed to a district that has no students enrolled in and attending a school in the district. A separate 2024 amendment amends KSA 72-5132 to alter certain enrollment determination criteria in the Kansas School Equity and Enhancement Act (KSEEA), requiring school district enrollment to be determined using the current or preceding school year. The bill also authorizes an additional enrollment count determination for school year 2024-2025 only, to allow school districts to consider the arithmetic mean of the sum of the number of students enrolled in the preceding school year and second-preceding school year.

KSA 72-5151 sets out the formula the SBOE is to use for determining the at-risk and high-density at-risk funding for the districts. The statute states: "The purpose of the at-risk student weighting and the high-density at-risk student weighting is to provide students identified as eligible to receive at-risk programs and services with evidence-based education services *in addition to* regular instructional services."

KSA 72-5153 provides that expenditures from the at-risk fund of the district may only be used for the following purposes: (1) at-risk and provisional at-risk educational programs *that are provided above and beyond regular educational services to students who are identified as at-risk [the italicized language was added in the 2024 session];* (2) personnel providing educational services with such programs; (3) support for instructional classroom personnel designed to provide training for evidence-based best

practices for at-risk educational programs; or (4) services contracted for by the district to provide at-risk and provisional at-risk educational programs.

The SBOE is required to identify, *approve and provide a list of at-risk educational programs that provide best practices and evidence-based instruction to students who are identified as eligible to receive at-risk programs and services that school districts shall use to provide at-risk educational programs to students who are identified as eligible to receive at-risk programs and services above and beyond that of a regular education.* [the italicized language was added in the 2024 session] The list may include, but not be limited to, programs and services provided by state-based national non-profit organizations that: (1) focus on students who face other identifiable barriers to success; (2) provide evidence-based instruction and support services inside and outside of the school setting; and (3) evaluate outcomes data for students, including attendance, academic progress, graduation rates, pursuit of post-secondary education or career advancement. The list must be shared with the districts and posted on the KSDE website.

Local districts may apply to the SBOE for approval of provisional at-risk programs not on the current list, but no expenditures may be made for any programs not on the approved list of at-risk or provisional at-risk programs.

The statute requires districts to provide at-risk students with additional educational opportunities, interventions and evidence-based instructional services above and beyond regular educational services.

“Evidence-based” instruction is defined to mean “an education delivery practice based on peer-reviewed research that consistently produces better student outcomes over a one-year period than would otherwise be achieved by the same students who are identified as eligible to



receive at-risk educational programs and services.”

KSA 72-5153a was added in 2021 to provide additional clarity and guidance in the identification of at-risk students. A student is eligible for at-risk services if the student meets one or more of the following criteria: (1) is not working at academic grade level [defined by the KSDE as Level 2 and above]; (2) is not meeting the requirements necessary for grade promotion or is failing courses or subjects; (3) is not meeting graduation requirements or is a potential drop-out; (4) has insufficient mastery of skills or is not meeting state standards; (5) has been retained; (6) has a high rate of absenteeism; (7) has repeated suspensions or expulsions; (8) is homeless or migrant; (9) is identified as an English language learner; (10) has social-emotional needs that cause the student to be unsuccessful in school; or (11) is identified as dyslexic or having characteristics of dyslexia. A 2024 amendment (HB 2703) added children in the custody of the Secretary of Children and Families.

At-Risk Student Accountability Plan The Kansas Legislature, in the 2024 Session (SB 387), made at-risk expenditure oversight a top priority, given the demonstrated failure of audited districts to follow the applicable at-risk funding laws and use evidence-based programs. The new law created a 10-district pilot program in school year 2024-2025, with all schools required to come on-line in school year 2026-2027, that requires local boards to annually submit to the SBOE an at-risk student accountability plan to attain at-risk proficiency and to ensure the provisions of programs and services that are above and beyond regular education services.

The plan’s purpose is to demonstrate compliance with the law, measure longitudinal academic improvement, establish quantitative student achievement goals and identifying cohort groups of at-risk students and provide evidence-based instruction above and beyond that of regular ed students until the district meets the SBOE goal of 75% of all students achieving proficiency at Level 3 or 4 on the ELA and math assessments.

Each district must identify no less than 2 cohort groups to track, one grade 3 and another in any grade K-8. One must consist of free lunch students and one must be made up of at-risk students from one of the subset groups identified for state assessment purposes. The districts must establish a 4-year quantitative academic improvement goal for ELA and math for each cohort group and repeat it every 4 years, without revising the goal for each period. The districts must identify and implement 2-4 targeted supports or interventions contained on the SBOE list of approved at-risk programs and evaluate whether they have a positive impact. They may replace programs that are ineffective. There are consequences for failure. Commencing in 2030-2031, if a cohort group

doesn’t meet its goals the SBOE is required to deem the district is not meeting at-risk improvement requirements and must post that fact on their website. If after a subsequent year the cohort group is still out of compliance, there will be a reduction in at-risk funding. There are greater funding consequences if both cohort groups are out of compliance.

COMMENT: Recent amendments to the at-risk statutes were necessitated by a demonstrated failure of many school districts to follow the law. No less than two successive Legislative Post Audits revealed districts misusing at-risk funds intended to be targeted to at-risk students and used to provide additional services that go above and beyond general education. Audits were also critical of the list of approved programs by the SBOE.

Legislative Post Audit reported its *K-12 Education: Evaluating At-Risk Student Counts, Weights and Expenditures* audit results in Dec. 2019. LPA reported it had audited 20 school districts and found that most at-risk spending was used for teachers and programs for all students and did not specifically address at-risk students as required by law. LPA also found that many of the at-risk practices used lacked strong research finding that they were effective. LPA found that KSDE had not approved strong at-risk practices or provided districts with good guidance on at-risk spending. Most practices approved by the SBOE did not target at-risk students and were not clearly evidence-based. KSDE also did not update spending guidance to reflect new requirements for the 2018-2019 school year that the Legislature had approved.

LPA conducted a follow-up compliance audit in 2023. LPA reported in its *Evaluating At-Risk Expenditures and Statutory Compliance* audit in July 2023 that none of the KSDE-approved programs reviewed met the statutory criteria necessary to be included on the statutorily required list. KSDE officials reported that the SBOE had delegated the task of approving at-risk programs to the Department. Many of the programs also did not meet the purpose of the at-risk law, which was to provide above and beyond opportunities for at-risk students. LPA found that KSDE’s process for approving at-risk programs did not include some of the statutory requirements, KSDE did not follow its own process and the SBOE did not provide any oversight of the Department. This audit demonstrated the same problems identified in the 2019 audit with most of the funds still being used to fund general education costs. LPA was particularly critical of KSDE lack of spending guidance given to the local districts.

LPA’s 2023 audit noted “Over the last 6 years, students eligible for free lunch have consistently performed worse on state assessments than students who are not eligible for free lunches. All 3 cohort groups we evaluated performed worse over time, but this trend was more pronounced for

students eligible for free lunch. Additionally, the graduation rates and ACT scores of students eligible for free lunch were also lower than other students.”

The KSDE and SBOE have been working on updating the approved list of at-risk programs and a number of programs have been removed from the list but many that remain continue to be suspect. (There were over 270 originally and it’s now down to around 150) It is up to the local boards to ensure compliance with this law.

KSA 72-5166 provides that any revenues of a school district not required to be deposited into a specific fund shall be deposited to any categorical fund or the capital outlay fund.

KSA 72-5167 provides that the local board may transfer moneys from the general fund to any categorical fund of the district and may transfer to the general fund from any fund to which transfers could be made from the general fund in an amount not to exceed the amount of transferred from the general fund to that fund in the same school year.

COMMENT: Local boards need to understand the portability of funds and the status and growth of unencumbered funds, particularly considering claims that there are never sufficient funds to educate children. There are sufficient funds; it is just a matter of allocating funds in a manner reasonably calculated to achieve the expected educational goals. For far too long, the excuse for underperformance has been the false narrative of insufficient funding. The first budget priority should be instruction.

KSA 72-5170 sets out the school district accreditation system provisions. The SBOE is to design an accreditation program “based upon improvement in performance that equals or exceeds the educational goal set forth in KSA 72-3218 (Rose capacities).” The system is to be measurable. The accountability measures are to be applied both at the district and school level. Districts not fully accredited must have a corrective action plan in place. If a school district is not accredited, the superintendent or designee must appear before the House & Senate Education Committees to report the challenges and obstacles that are preventing full accreditation.

The law also requires the SBOE to establish curriculum standards “that reflect high academic standards for the core academic areas of mathematics, science, reading, writing and social studies.” The standards may be reviewed every 7 years. The statute was amended in the 2024 session (SB 387) to prohibit the SBOE from substantially revising the ELA or math curriculum standards in effect on July 1, 2024 in a manner that would necessitate the development of new statewide assessments until the SBOE’s goal for all students, submitted to the U.S. Dept.

of Ed. in the consolidated state plan, is achieved such that 75% of all students score in performance levels 3 and 4 combined on the statewide assessments in ELA and math by 2030. The SBOE is also required to provide for statewide assessments in these core subjects at 3 grade levels. "The state board shall determine performance levels on the statewide assessments, the achievement of which represents high academic standards in the academic area at the grade level to which the assessment applies. The state board should specify high academic standards for both individual performance and school performance on the assessments."

The law also requires that each school in every district shall establish a school site council composed of the principal, teacher representatives, other school personnel, parents, the business community and other community groups. The statute gives the site councils a full range of input options to advise and make recommendations to the local school board.

COMMENT: School accreditation is due for an overhaul and the SBOE is starting the process. The statute requires a system that is based on improvement and is measurable. The current system has been neither. Accreditation requires improvement and we have districts that remain accredited without evidence of improvement. We have districts accredited who have been found to be out of compliance with state law regarding use of at-risk funds. While the primary burden is on the SBOE, local boards must be familiar with what is required and what their districts are doing to comply. Ultimately, loss of or lack of full accreditation will reflect poorly on local boards.

Regarding the site councils, this provision appears to be either underutilized or not well understood. Given the required inclusion of parents, the business community and other community groups, site councils have the potential of providing needed counsel and oversight. E.g., are districts and boards including their respective site councils in the building needs assessment process? The statute requires that site councils exist for every school in the district. The needs assessments are also building-based. There probably also needs to be transparency regarding who is selected to serve. Parents of at-risk and/or special needs students should be included or certainly not excluded.

The 2024 Legislature, in the Blueprint for Literacy Act (SB 438) added a requirement to this statute that on or before Jan. 15 of each year, the SBOE shall prepare and submit to the Legislature a report on students who take the statewide assessments. The report must include (1) the number and percent of students who took the statewide assessments during the preceding school year disaggregated by core academic area and grade level and (2) the percent of students who took the statewide

assessments in grade 10 who, 2 years after graduating obtained postsecondary education disaggregated by statewide assessment achievement level.

KSA 72-5171 requires the SBOE to post its financial accountability report on school district funding for each district. The statute lists all the data to be reported.

KSA 72-5172 required the legislature to conduct a review of financial data to determine if provisions of the act are reasonably calculated to have all students meet or exceed the *Rose* capacities. (KSA 72-3218) Review is done in annual stages from 2018-2026.

KSA 72-5173 sets out the schedule of performance audits to be conducted by LPA. One in FY 2024 will include special ed.

KSA 72-5178 requires SBOE to submit annual performance accountability reports and longitudinal achievement reports for all students, all districts and all schools. The longitudinal reports are to provide achievement rates on the state assessments for English language arts, math and science.

COMMENT: The legislature and the public have a legitimate interest in knowing how each student is progressing grade to grade, not just what overall state assessments are showing. Efforts to obtain longitudinal data has been hampered by the SBOE "moving the goalposts" frequently with changing measurements. The KSDE has even recently confessed to being confused by what the term "longitudinal" means in terms of legislative intent. While this is chiefly a SBOE/KSDE problem, local boards need to have a similar interest in being able to measure how each individual child is doing, so they do not get lost in the system. These students are not just numbers. They have names. They have dreams and goals and they and their parents are looking to the public schools to help them achieve educational success and reach the same educational capacities that the law intends all students to have.

KSA 72-5191 states the public policy goal that at least 65% of money appropriated or otherwise provided schools be expended in the classroom or for instruction. "Instruction" is defined as *"the activities dealing directly with the interaction between teachers and students and may be provided in a school classroom, in another location such as a home or hospital, and in other learning situations such as those involving cocurricular activities. Instruction may also be provided through the internet, television, radio, computer, multimedia telephone, correspondence that is delivered inside or outside the classroom and other teacher-student settings or through other approved media. Instruction also includes the activities of aides or classroom assistants of any type including, but not limited to, clerks, graders and teaching machines*

which assist in the educational process."

COMMENT: Notwithstanding the broad definition of "instruction," financial reporting that the Legislature has mandated has demonstrated that even in the face of years and years of underperformance, school districts are not coming close to meeting the state policy goal of 65% funding to the classroom or for instruction. This is probably due to the fact that the Legislature made this a state policy "goal" and not a "mandate." The *Rose* capacities are also state "goals." Sadly, anything that is not specifically mandated is looked upon by districts as "optional." This runs counter to both legislative intent and the expectations of students and families.

The KSDE's *Accounting Handbook for USD's* acknowledges the importance of instruction (Account code 1000) in the strongest of terms: *"Although all other functions are important, this function acts as the most important part of the education program, the very foundation on which everything else is built. If this function fails to perform at the needed level, the whole educational program is doomed to failure regardless of how well the other functions perform."*

This provision in the KSDE Accounting handbook is a plea to make instruction the foundation for the district budget upon which the balance of the budget is then built. Too often budgets are designed from the administration building down and not the classroom up. The needs assessment law is also designed to identify the instructional



Article 61. - Student Safety And Discipline

KSA 72-6114 sets out the grounds for suspension or expulsion a local board may use for any pupil guilty of: (1) willful violation of any published regulation for student conduct adopted by the board; (2) conduct which substantially disrupts, impedes or interferes with school operations; (3) conduct which endangers the safety of others or which substantially impinges upon or invades the rights of others at school, on school property, or at a school supervised activity; (4) conduct which, if the pupil is an adult, constitutes the commission of a felony or misdemeanor or, if the pupil is a juvenile, would constitute the commission of a felony or misdemeanor if committed by an adult; (5) disobedience of an order of a teacher, peace

needs of students.

This statute has been in place since 2005. Since then, the cumulative loss to the classroom by not meeting the public policy goal established by the Legislature is over **\$13B**. That is money that the Legislature appropriated for schools that was intended for instruction but was spent elsewhere by district budgets approved by local boards of education. If student performance is to improve, and improve it must, it is up to the local boards to make that happen.

KSA 72-5193 sets out the list of financing sources the legislature has made provision for in compliance with Art. 6 of the Ks. Const.

COMMENT: During school finance litigation, the State was not getting credit for all the funding sources the Legislature had made provision for. Districts claimed that LOB funds should not count, for example. The Court disagreed and this statute contains a non-exclusive laundry list of funding sources that the Legislature has made provision for and which count toward the Legislature's requirement to make suitable provision for the finance of the educational interests of the state.

KSA 72-5194 sets out the public policy of the state to require local districts to adopt LOBs as part of the system of finance; at a minimum 15%. LOBs are to be included in the calculation of moneys the legislature has made provision for.

officer, school security officer or other school authority when such disobedience can reasonably be anticipated to result in disorder, disruption or interference with the operation of any public school or substantial and material impingement upon or invasion of the rights of others.

KSA 72-6131 – 6136 are the Weapons-Free Schools statutes

KSA 72-6132 requires local boards to adopt a written policy requiring expulsion for a period of not less than one year of any student determined to be in possession of a weapon at school. On school property, or at a school supervised activity. The board must file an annual report with the SBOE on any such expulsions. Weapons safety courses of instruction are exempt as are air guns if used as part of a school sanctioned organization.

KSA 72-6141 – 6147 are the School Safety and Security Act statutes.

KSA 72-6143 requires local boards to adopt a policy that includes: (1) a requirement that an immediate report be made to the appropriate state and local law enforcement agency by any school employee who knows or has reason to believe that an act has been committed at school, on school property or at a school supervised activity which would constitute a felony or misdemeanor or which involves the possession, use or disposal of explosives, firearms or other weapons, provided that there is not an existing memorandum of understanding between the district and local law enforcement, the courts and district or county attorney establishing clear guidance for how and when to report such conduct.

The board must make available to pupils and their parents, to school employees and, upon request, to others, district policies and reports concerning school safety and security.

KSA 72-6144 provides local board members with immunity for reporting, without malice, conduct covered by the Act. A local board may not terminate or sanction a school employee for making a report based on reasonable belief that a covered act has been committed.

KSA 72-6146 allows local boards to hire school security officers. The board must adopt a policy providing for notification of a student's parents or guardian whenever the student is taken into custody by a school security officer.

KSA 72-6151 – 6158 was the Freedom from Unsafe Restraint and Seclusion Act, but the provisions expired by law on June 30, 2020.

Article 62. - Student Health And Welfare

KSA 72-6241 et seq. is the Student Health and Welfare Article.

KSA 72-6262 provides that on or before May 15 of each school year, the local board must notify the parents and guardians of all known students who are enrolled or who will be enrolling of the inoculations requirements of students as a prerequisite to admission to school.

KSA 72-6265 allows local boards to a policy allowing exclusion of any pupil out of compliance with the inoculations law. The policy shall provide for written notice to the parent or guardian of the circumstances and the right to request a hearing.

KSA 72-6266 requires local boards to require all employees who come in regular contact with students to submit a certification of their health on a Secretary of Health & Environment form and signed by a licensed physician or physician's assistant indicating no evidence of a condition that would conflict with the health and safety of students. This is subject to an exception for employees whose religious teachings forbid physical exams, in which case the employee must submit a certificate signed off on by a medical profession that the employee is free from tuberculosis. The board may impose this requirement on non-school employees who, in performing services for the district, come in regular contact with students.

KSA 72-6267 sets out the requirement for students up to age 9 who have not previously enrolled in any state school to submit the results of a health assessment conducted within the previous 12 months, subject to a religious objection exception. Prior to the commencement of the school year, the local board must give a copy of any policy adopted by the board regarding this requirement. The board may exclude any student who doesn't comply with the requirements of the health assessment law, with notice given to the parents of the circumstances and the right to request a hearing.

KSA 72-6268 requires local boards, at the commencement of each school year, to provide information on immunizations applicable to school age children to parents and guardians in grades 6-12, including: (1) a list of sources for additional information; and (2) related standards issued by the National Centers for Disease Control and Prevention. The Dept. of Health & Environment is required to provide assistance if requested by a local board without charge.

KSA 72-6272 allows local boards to provide for programs

designed to assist students in all grade levels in the identification, examination, prevention and resolution of alcohol and drug abuse problems which may affect their educational pursuit. Local boards may contract for the provision of related programs for students.

COMMENT: The 2024 Legislature amended current pharmacy law (HB 2547) to allow pharmacists to distribute a stock supply of standard dose and pediatric dose epinephrine and albuterol metered-dose inhalers, albuterol solutions and spacers to schools pursuant to a prescription by a qualified medical provider in the name of the school. Liability protections are included for pharmacists and school personnel administering the meds. The new law has not been assigned a statute number yet.

KSA 72-6282 requires school districts to adopt a policy authorizing self-administration of medication by students in K-12. Students must adhere to all requirements of the policy. The board may adopt a policy which: (1) imposes requirements relating to the self-administration of medications that are in addition to those set out in this statute; and (2) establishes a procedure for, and the conditions under which, the authorization for self-administration may be revoked.

KSA 72-6284 requires local boards to provide suicide awareness and prevention programming to all school staff and notify parents or legal guardians that the training materials are available to them. The programming must, at a minimum, include at least an hour of training each year based on programs approved by the SBOE and a building crisis plan developed for each school building. The SBOE must develop rules and regulations to implement the program.

KSA 72-6285 prohibits local boards from allowing any person to use tobacco products in any school building.

COMMENT: The 2024 Legislature added a new requirement (SB 19) that local boards adopt a comprehensive cardiac response plan, including policies and procedures for cardiac emergency responses for each attendance center based on standards developed by the Secretary of KDHE. This new law has not been assigned a statute number yet.

KSA 72-6286 requires local boards to adopt a policy requiring that separate overnight accommodations be provided for students of each biological sex during school-sponsored travel that necessitates overnight stays and provide that policy to parents prior to a student's participation in the activity. The law grants a student who is subject to retaliation or other adverse action by a school district or any district employee for reporting a violation of this statute a cause of action for injunctive relief, damages and any other relief available by law.

Attorney fees are recoverable if the student prevails.

COMMENT: Passed in 2013, the law comes as a result of a documented situation where a female was required, despite protest, to share a bed with a biological male during an overnight stay necessitated by a school-sanctioned activity. This remarkable situation highlights the importance of the Legislature's power, under Art 6, §1 of the Kansas Constitution, and as confirmed by the Kansas Supreme Court, to maintain public schools "and related activities" and make changes as may be provided by law.

**See Chapter 60 Article 56 on page 21 for Fairness in Women's Sports Act.*

Article 63. - Student Records

KSA 72-6310 provides that a student's school records may not be withheld for any reason. Upon request, a student's records must be provided to student or the student's parents or guardians.

KSA 72-6311 requires a local board to adopt a policy in accordance with the Student Data Privacy Act and any applicable federal laws and regulations to protect the right of privacy of any student and such student's family regarding personally identifiable records, files or data.

KSA 72-6315 prohibits districts from collecting biometric data from a student or use any device or mechanism to assess a student's physiological or emotional state unless the student, if an adult, or the student's parent or guardian, if the student is a minor, consents in writing.

KSA 72-6316 prohibits the administering of a nonacademic test, questionnaire, survey or examination containing any questions about the personal and private attitudes, values beliefs or practices of a student or the student's parents, guardians, family members, associates, friends or peers to any student in K-12 unless the parent or guardian of the student: (1) is notified in writing not more than 4 months in advance, with the notification to include (a) a copy of the item(s) to be administered; (b) information on how to provide written consent; (c) the name of the company or entity that produces the item; and (d) whether the school will receive or maintain the resulting data and an explanation of how the school intends to use the data; and (2) gives written consent. Notwithstanding a parent's consent, a student may refuse to take the test, etc., at any time without limitation. Student's must be informed in advance of their right to refuse. The item proposed to be administered must be posted on the district's website in advance. The only exception is the administration of a risk assessment if any school district employee becomes reasonably aware of a

suicide risk, in which case, the parent or guardian is entitled to notice and required consent before administration of the risk assessment, unless the parent fails to respond after reasonable attempts to notify. In that event, the parent is entitled to learn of any information obtained as a result of the assessment.

KSA 72-6331 – 6334 contain the provisions of the Student Online Personal Protection Act. There are no specific local board requirements.

Article 64. - Student Transportation

KSA 72-6486 – 64,103 are the student transportation statutes.

Article 71. - School Activities Associations

KSA 72-7114 et seq. are the Kansas State High School Activities Assoc. statutes.

COMMENT: in the session of 2023, the Legislature expanded the opportunity to participate in public school activities of the KSHSAA to non-public school students, including home-schooled students, who qualify under the statutory requirements. In addition, the new law protects local broadcaster rights to broadcast a school's regular and post-season activity if the broadcaster meets the conditions outlined in the statute, even if the KSHSAA has entered into an exclusive broadcast agreement.

Article 72. - Student Publications

KSA 72-7211 protects the freedom of the press rights for student publications. Local board members, the district and employees are insulated from liability for any student publication.

Article 82. - Education Compacts
KSA 72-8269 is the Interstate Teacher Mobility Compact.

Article 99. - Miscellaneous Provisions

KSA 72-9928 requires the SBOE to provide a program for patriotic exercises the SBOE "deems to be expedient,

under such instructions as may best meet the varied requirements of the different grades in such schools." The program of patriotic observation must include: a daily recitation of the Pledge of Allegiance to the flag of the U.S.; (2) instructions relating to flag etiquette, use and display; and (3) provisions relating to the observance in public schools of Lincoln's Birthday, Washington's birthday, Memorial Day and Flag Day and such other legal holidays designated by law. The SBOE is required to adopt rules and regulations to implement these provisions.

KSA 72-9929 allows classroom teachers to observe a brief period of silence with participation of all students at the opening of every school day. It may not be conducted as a religious exercise but is an opportunity for silent prayer or for silent reflection on the anticipated activities of the day.

COMMENT: This provision was found to be constitutional in **Attorney General Opinion 85-83**.

KSA 72-9930 prohibits sectarian or religious doctrines from being taught but does not prohibit the reading of the Holy Scriptures without note or comment.

KSA 72-9932 authorizes local boards to allow persons or groups to come in and make students aware of career or educational opportunities. If they do, they must also make that opportunity available to military forces of the U.S. The board may not allow access to names or addresses of students if a student files a written refusal.

KSA 72-9933 authorizes local boards to grant a teacher a paid leave of absence of up to a year for the teacher to participate in the federal foreign exchange program and may grant permission for a foreign national of the exchange state to teach locally if qualified to teach in the foreign state.

KSA 72-9934 provides that local boards must require proof of identity of a student prior to enrollment. In the case of K-1 children, this means a certified copy of the child's birth certificate, unless the child is in the custody of the Sec. of Children and Families, in which case the custody order suffices. The local board may designate what other documentary evidence of identity is deemed satisfactory. If proof is not presented within 30 days of enrollment, the local board must notify local law enforcement. The local board may delegate to one or more school personnel the task of complying with the statute.

Chapter 72 of the Kansas Statute Annotated can be viewed online at the Kansas Legislative website. Scan here:



Or visit:
www.kslegislature.gov/li/b2023_24/statute/072_000_0000_chapter/

*CHAPTER 60

Article 56. - Fairness in Women's Sports Act



KSA 60-5601 – 5606 is the Fairness in Women's Sports Act.

KSA 60-5602 provides that the act is applicable to all public schools and defines "biological sex" as male or female in the context of reproductive potential or capacity without regard to an individual's psychological, chosen or subjective experience of gender.

KSA 60-5603 provides that for any sports sponsored by a public school those sports must be designated as one of the following based on biological sex: (1) males, men or boys; (2) females, women or girls; or (3) coed or mixed. Athletic teams or sports designated for females, women or girls are not open to students of the male sex.

KSA 60-5604 prevents any governmental entity, licensing or accrediting organization or athletic association or organization from entertaining a complaint, opening an investigation or taking any other adverse action against a public school for maintaining separate teams or sports for female students.

KSA 60-5605 creates a legal cause of action for a student deprived of an athletic opportunity or who suffers any direct or indirect harm as a result of a violation of the Act. Any student who is subjected to retaliation for reporting a violation is also granted a legal cause of action. Any public school that suffers any direct or indirect harm from a violation of the Act is also granted a cause of action. Successful cases are entitled to an award of attorney fees in addition to other legal recoveries.

COMMENT: The Fairness in Women's Sports Act is found in the Code of Civil Procedure in the Kansas Statutes. The Act covers more than just K-12 public schools. The law was passed in 2013 by the Legislature due to documented cases of biological males competing in women's events in Kansas and nationally. While fair competition was a key factor, women's physical safety played an important role in the law's ultimate passage. Efforts by the Biden Administration to expand Title IX to include protections for biological males wishing to compete in women's sports by self-identifying as females has been blocked by the courts. Title IX was passed to protect and advance women's sports.

**Helping school board
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and improve academic
outcomes.**



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