

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT.

The meeting was called to order by Chairman Vickrey at 3:30 p.m. on February 25, 2003 in Room 519-S of the Capitol.

All members were present except:

Committee staff present: Mike Heim - Legislative Research Department
Kathie Sparks - Legislative Research Department
Theresa Kiernan - Office of Revisor of Statutes
Maureen Stinson - Committee Secretary

Conferees appearing before the committee:

Laura Kelly	Kansas Recreation and Park Association
Fred DeVictor	Parks and Recreation Department, City of Lawrence
Rogers Brazier	Parks and Recreation, City of Topeka
Mark Nordstrom	Kansas Alliance of Boys & Girls Clubs, Inc.
Blaise Plummer	City Attorney, City of Emporia
Rebecca Simmons	The Salvation Army
Stuart Little	Association of Community Mental Health Centers of Kansas, Inc.
Kathy Damron	YMCA's of Kansas
Emily Lies	Greater Wichita YMCA
Gary Brunk	Kansas Action for Children
Shirley Norris	
Katheryn Lansford	
Lesa Jackson	
Nancy Jensen	Child Care Licensing Surveyor
Jim Murphy	Kansas Department of Health and Environment
*Sally Finney	Kansas Public Health Association, Inc.
*Abby Thorman	Mid-America Regional Council's Metropolitan Council on Child Care
*Gail Hansen	
*Lisa Muntz	Greater Kansas City YMCA

* written testimony only

Others attending: See attached list

Chairman Vickrey explained that **SB 40**, fire districts; board of trustees, is nearly identical to **HB 2044** which passed out of the committee without a dissenting vote and passed on the House Floor 110 to 12.

The Chairman opened the hearing on:

SB 40: fire districts; board of trustees

There were no conferees appearing before the committee.

The Chair closed the hearing on **SB 40**.

SB 40: fire districts; board of trustees

Rep. Campbell made a motion for the passage of SB 40. Rep. Peterson seconded the motion. The motion carried.

HB 2204: planning and zoning; relating to planning commissions

Rep. Campbell made a motion for the passage of HB 2204. Rep. Reitz seconded the motion. The motion carried.

HB 2122: abandoned property; rehabilitation thereof

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT at on February 25, 2003 in Room 519-S of the Capitol.

Rep. Campbell made a motion to amend the bill on page 1, in line 21, by striking "one year" and inserting "two years." The motion was seconded. The motion carried.

Rep. Campbell made a motion to amend the bill on page 1, in line 23, by striking "30" and inserting "180." Rep.Reitz seconded the motion. The motion carried.

Rep. Storm made a motion to amend the bill on page 2, in line 4, by inserting "for first-time home buyers who will occupy the residence for three years". Rep. Campbell seconded the motion. The motion carried.

Rep. Yonally made a motion to amend the bill on page 2, in line 8, by striking "10" and inserting "20"; in line 29, by inserting "For good cause shown, the court may extend the ninety-day compliance period. If the property is brought into such compliance within the ninety-day period or extension of time thereof, the petition shall be dismissed". He added that any clean up language be included in the motion. Rep.Gilbert seconded the motion. The motion carried.

Rep. Campbell made a motion for the passage of **HB 2122** as amended. Rep. Reitz seconded the motion. The motion carried.

The Chairman opened the hearing on:

HB 2376: KDHE licensing of child care facilities; exemptions

Laura Kelly, Executive Director, Kansas Recreation and Park Association, addressed the committee as a proponent of the bill (Attachment 1). She explained the bill would give relief to public park and recreation agencies and allow them to continue providing affordable and necessary services and to expand those services for an under-served population.

Fred DeVictor, Director, Parks and Receptions Department, City of Lawrence, testified as a proponent of the bill (Attachment 2). He stated that the bill exempts licensing of programs for children, such as playgrounds or day camps, that are designed for recreational activities for school aged children and operated by local units of government. He testified that the City of Lawrence opposes efforts to license these summer youth programs and further stated that the City of Lawrence supports the bill.

Rogers Brazier, Director, Parks and Receptions Department, City of Topeka, appeared on behalf of the department, in support of the bill (Attachment 3). He stated that cost increases due to KDHE's new regulations will result in a decrease in summer programming for some Topeka children. He urged support for the bill, noting that it would allow Parks and Recreation of Topeka to continue to provide high quality, low-cost programs that meet the needs of our school age children and their families.

Mark Norsdstrom, President, Kansas Alliance of Boys & Girls Clubs, submitted testimony on behalf of the Boys & Girls Clubs in support of the bill (Attachment 4). He explained they do not believe the Boys and Girls Clubs fall within the definition of "child care" under Kansas statutes because they do not contract to provide child care for children. He summarized that should Boys & Girls Clubs be required to operate subject to the after school program licensing and regulation of KDHE, clubs will be forced to reduce the number of children they service. He stated that compliance with the regulations will cost each Club a significant amount of money and regulating the clubs will cost the State of Kansas substantial dollars.

Blaise Plummer, City Attorney, City of Emporia, testified as a proponent of the bill (Attachment 5). He explained that KDHE has been given unfettered discretion to determine what constitutes a day care facility. He explained that the bill would remove summer youth programs operated by local units of government from the regulatory jurisdiction of the KDHE. He summarized that passage of the bill would benefit local communities by encouraging innovating recreation alternatives, and by allowing more state resources to be focused where they are needed.

Rebecca Simmons, Social Services Director, Salvation Army in the State of Kansas, appeared in support

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON LOCAL GOVERNMENT at on February 25, 2003 in Room 519-S of the Capitol.

mental health treatment of children and adolescents provided by a licensed Community Mental Health Center.

Kathy Damron, appeared as an opponent of the bill on behalf of the YMCAs of Kansas (Attachment 8). She testified that the KDHE regulations reflect more than two years of work with providers of school age care across the state. She states that the bill would treat some providers of child care differently than others even if the programs they are offering are exactly the same. She summarized that if certain programs for school age children really don't need the licensure envisioned by KDHE, then these providers can seek an exemption from the Secretary of KDHE. She urged the committee to reject the legislation.

Dianna Carkin, Director of Child Care Services, Topeka YMCA, testified as an opponent of the bill and provided no written testimony. She stated that the KDHE guidelines ensure the health and safety of children in school age care. She testified that none of the regulations are unobtainable or unreasonable and provide baseline protection for children from injury, disease or development impairment. She stated that the YMCAs of Kansas support licensing standards.

Emily Lies, Executive Director, Greater Wichita YMCA Child Care and Camp Branch, testified in opposition to the bill (Attachment 9). She stated two areas of particular concern are:

- inequity of treatment of organizations that provide the same service
- no clear definition of minimum standards for care for children

She explained that the new KDHE school-age program regulations appear more flexible and relevant to programming.

Gary Brunk, Executive Director, Kansas Action for Children, presented testimony opposing the bill (Attachment 10). He submitted that licensing is the tool used to ensure both the safety of programs and minimum level of quality. He stated that licensing by itself does not guarantee a high level of quality, but it can provide a measure of security and peace of mind for all parents, regardless of socioeconomic status. He urged the committee to not act on the bill.

Shirley Norris, former director of the child care licensing and registration section in KDHE, appeared in opposition to the bill (Attachment 11). She stated that if this proposed legislation is approved, the state will be opting out of its responsibility as *parens patriae* for thousands of vulnerable children, would subject those children to increased risk of harm and the state to increased liability. She urged the committee to not recommend passage of the bill.

Katheryn Lansford, mother of two children, testified in opposition to the bill (Attachment 12). She stated that the need for licensure and a system of checks and balances and accountability expectations must be put into place, not as a way to hinder the operation of the programs, but as a way to ensure that good nutrition, education, safety and the well-being of the children placed in their care are protected. She expressed that regulations regarding organizations such as the Boys and Girls Clubs must be changed so that they are licensed, regulated and investigated if the need arises.

Lesa Jackson, mother of five children, appeared in opposition of the bill (Attachment 13). She expressed concern that exempting certain child care operations from state regulations will put some of our Kansas children at risk. She asked the committee to not grant exemptions to any child care facility.

Nancy Jensen, child care licensing surveyor, presented testimony opposing the bill (Attachment 14). She stated that licensure provides ongoing education, standards for best practice, consultation, and a legal avenue for protecting children when the provider is not considering the children's best interest. She pleaded for the committee to not pass the bill because it is a giant step backward in the progress that this state has made in advancing the health and safety of our children in "out of home" care.

Written testimony from the following opponents was distributed to the committee:

- Sally Finney, Executive Director, Kansas Public Health Association, Inc. (Attachment 15).
- Abby Thorman, Director, Mid-America Regional Council's Metropolitan Council on Child

CONTINUATION SHEET

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Nancy Jensen, child care licensing surveyor, presented testimony opposing the bill (Attachment 14). She stated that licensure provides ongoing education, standards for best practice, consultation, and a legal avenue for protecting children when the provider is not considering the children's best interest. She pleaded for the committee to not pass the bill because it is a giant step backward in the progress that this state has made in advancing the health and safety of our children in "out of home" care.

Written testimony from the following opponents was distributed to the committee:

- Sally Finney, Executive Director, Kansas Public Health Association, Inc. (Attachment 15).
- Abby Thorman, Director, Mid-America Regional Council's Metropolitan Council on Child Care (Attachment 16).
- Gail Hansen, hearing officer for the KDHE regulations (Attachment 17).
- Lisa Muntz, Vice President, YMCA of Greater Kansas City (Attachment 18).

Neutral testimony concerning the bill was presented by Jim Murphy, Office of the Secretary, Kansas Department of Health and Environment (Attachment 19). He testified that the regulations permit organizations affiliated with national organizations to use their national standards in place of some of the regulations concerning licensed capacity, some building requirements and staff qualifications. He explained that the regulations specifically exclude from licensure programs that clearly operate on a limited basis. He further explained that the summer playground programs that operate each day all summer long and in which elementary age children attend most of the day are the programs that are subject to licensure under the school age program regulations.

The Chairman closed the hearing on **HB 2376**.

The meeting was adjourned at 5:50 p.m.

The next scheduled meeting is March 11, 2003.

HOUSE LOCAL GOVERNMENT

DATE 2 - 25 - 2003

NAME	REPRESENTING
Lesa M Jackson	Low Income Kansas Children
Kristina Prater	YMCA - KC
Bridgett Mitchell	Office of the Secretary / Health & Environment
Shirley Norris	POT Citizen
Chris Ross Bye	KDHE
Debi Hatfield	KDHE
Deb Elder	KCEA
Gary Bunn	Kansas A ctiv for children
Fred DeVictor	City of Lawrence, Parks & Rec. Dept
John Mc Con	Emporia Recreation Commission
Robin Plummer	City of Emporia
Mark Nordstrom	Ks Boys + Girls Clubs
Rebecca Simmons	The Salvation Army
Paul Sasse	SRS
Kathryn Zinsford	Private Citizen
Pat Lehman	KRPA CTR.
Stuart Little	Assoc. of County Mental Health
LAURA KELLY	KRPA
Jim Murphy	KDHE
Chyn Buehler	Parks + Recreation of Topeka
Kathy Deunrom	YMCAs of Kansas
Emily Lies	Wichita YMCA Pg. 1 of 2

HOUSE LOCAL GOVERNMENT

DATE 2.25-2003

NAME	REPRESENTING
Nancy Jensen RN	private citizen
Cindy D'Ercole	Kansas Action for Children
	Pg. 2 of 2

KRPA

KANSAS RECREATION AND PARK ASSOCIATION

House Committee on Local Government

February 25, 2003
State Capitol, Room 519S

Testimony on HB 2376

Laura Kelly
Executive Director

Kansas Recreation and Park Association

Chairman Vickery and members of the committee:

I am Laura Kelly, Executive Director of the Kansas Recreation and Park Association.

The Kansas Recreation and Park Association (KRPA), established in 1948, is a private, non-profit membership organization representing public park and recreation agencies, professionals, citizen advocates and commercial vendors. Current membership stands at over 900 with services provided to approximately 240 agencies.

KRPA stands in support of HB 2376.

The association has struggled with the decision to request exemption from all childcare licensing regulation for school-age children. As long ago as September, 1991 (testimony attached), KRPA requested exemption from regulations governing school-age care because the regulations in effect at the time were stifling the growth of school-age care programs at the same time the demand for such programs was growing. We requested that a task force be formed to develop relevant standards for school-age programs that would ensure safe and stimulating environments but not create unnecessary barriers.

Our association and other organizations in the business of providing programs for school age children did meet with the Kansas Department of Health and Environment a number of times in the early 1990s. Follow-up calls were made over the course of several years to the department to ascertain the status of the drafting of what was to be the school-age care regulations. We were given a number of reasons why progress on the drafting was slow and no draft was ever offered to KRPA for review.

In the Spring of 2002, KRPA was alerted by the Lawrence Parks and Recreation Department that temporary school-age care regulations were in place and that public park and recreation agencies were being notified that they would be expected to comply.

A public hearing on the regulations was scheduled for June 19, 2002. Prior to that hearing, KRPA set up a meeting with representatives from KDHE and several of our agencies. We wanted to review our concerns with KDHE and work towards consensus prior to the public hearing.

Our major concerns with the school-age care regulations centered around 3 areas:

- 1) KAR 28-4-578 which broadens the definition of programs that need to be licensed to include "...drop-in or enrolled basis to attend 12 hours a week or more for more than two consecutive weeks,..." This definition sweeps in all playground programs

House Local Government
Date: 2-25-2003
Attachment # 1

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- and community center drop-in programs; programs that had not been subject to licensing under the stricter standards of the original childcare regulations.
- 2) KAR 28-4-588 which imposes vague definitions of "high risk activities" and other related sections which require onerous parental permission-gathering and have ill-defined staff qualification clauses.
 - 3) KAR 28-4-588 related to children or youth with special needs which requires an Individual Program Plan (IPP) much like the Individual Education Plan (IEP) required in the schools. The amount of paper work and the number of staff, both agency and others, required for the IPP cannot be justified for participation in seasonal recreation programs.

KRPA testified at the public hearing on June 19 (testimony attached). Essentially, KRPA said that we supported licensing of those programs developed and operated by our agencies with the intent of providing alternative childcare during the months when schools are not in session but that we opposed licensing of playground programs and drop-in programs. We provided alternative language that would have met our agencies' needs (and we believe the needs of the communities) and, if adopted, would have secured the support of KRPA for the school-age care regulations. We met with then-Secretary Graeber in an attempt to secure his support for the requested changes. While there was some tweaking of the regulations to deal with relatively minor procedural points, the issues we could not support in any way remained intact

I mentioned at the beginning of my testimony that KRPA struggled with requesting exemption from all childcare regulations for school-age programs. We know of approximately 50 licensed programs operated by our agencies. Some are for pre-schoolers and those would not be affected by this bill. The others are summer day camp programs designed and advertised to the public as alternative childcare. If this bill were to become law, and if it were possible, many of these agencies would request voluntary licensure because they don't pretend to be anything other than safe and age appropriate school-age childcare. But the negative consequences of the new school-age care regulations out-weigh the positive. Not only do the new school-age regulations not promote the expansion of quality programs, they will have the reverse effect: agencies will be forced to cut back or shut down programs they have operated without incident for years. The number of school-age children left home alone without adult supervision will increase. It is not in the best interest of the state, our communities, our families or our children for this to happen.

We are hear today asking you to pass HB 2376 to give relief to public park and recreation agencies, to allow them to continue providing affordable and necessary services and to expand those services for an under-served population. Public park and recreation agencies are held accountable every day by the children they serve, their parents, concerned citizens, appointed and elected officials. To quote an editorial that appeared in the Lawrence Journal World last July (attached): "Summer programs operated by local school districts already are exempt from the regulations, as are "single-activity" programs such as vacation Bible school or youth basketball leagues. Why should city-operated recreation programs be any different?"



KANSAS RECREATION AND PARK ASSOCIATION

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TOPEKA, KANSAS 66603

(913) 235-6533
Laura J. Kelly, Executive Director

Testimony given before the
SPECIAL COMMITTEE ON CHILDREN'S INITIATIVES

September 11, 1991

Laura Kelly, CTRS
Executive Director
Kansas Recreation and Park Association
(913) 235-6533

The Kansas Recreation and Park Association is a 600 member organization comprised of citizen board and commission members and recreation and park professionals providing services at the state, county and local level in community and clinical settings.

Park and recreation professionals, along with other social service providers, educators and law enforcement officials, witness firsthand the dramatic social and demographic changes that have occurred in our state and nationally and which are being discussed in depth by this committee.

While park and recreation professionals influence the lives of nearly all children over the age of 3, it is the plight of school age children and their families that seems to need our attention most. Rough estimates suggest that for children under the age of 13 anywhere between 2-6 million (and maybe many more) care for themselves before and/or after school. While research on this issue is scarce, there is now some documented evidence of the ill effects of this unsupervised time. In the September, 1989 Journal of Pediatrics, Dr Jean Richardson and others from the University of Southern California School of Medicine reported on a study involving nearly 5,000 eighth graders and over 2,000 parents. They found that eighth graders who took care of themselves for 11 or more hours each week were at twice the risk for substance abuse. Another study suggested that younger children who went home to empty houses were more fearful and depressed.

In response, park and recreation department have begun to get into the business of extended day care, through latchkey programs and summer day camps that run from 7:30am until 5:30 or 6:00pm. One of the most successful programs is sponsored by the Johnson County Park and Recreation District. A description of the program is enclosed in your packet. A number of other departments have attempted to develop comprehensive school age child care programs but have fallen short for 2 primary reasons: money and facilities. Many of the children who would and need to take advantage of school age child care cannot afford the fees that must be charged to cover costs. Their care must be

subsidized. Current law requires all childcare facilities to meet licensing regulations established by the Department of Health and Environment to be eligible to receive SRS funding. While the KRPA strongly endorses the concept of regulations to govern day care for children, the current regulations contain provisions that eliminate the use of many otherwise obvious choices for school age childcare: School Buildings. I will give you an example: In October of 1988, the Manhattan Park and Recreation Department trained 21 recreation leaders (most of them K-State students) to provide after school care for children at 5 school sites. Some of these buildings could not meet the regulations mandated by KDHE because they did not have running water available in the classrooms, floors were tiled instead of carpeted, and in one case, there was no fence around the playground. Of the 90 children who signed up, nearly half could not afford the \$3/day fee which included all activities and a snack. But since the school building could not be licensed, SRS funds could not be tapped. Five months later, the program folded with Manhattan Parks and Recreation \$5,000 in the red. Meanwhile, school principals and parents were pressing for before school care and an extension of the after school program into all Manhattan elementary schools.

With this in mind, the Kansas Recreation and Park Association would like to recommend that the following strategy be included in your plan:

1. Immediately exempt all local units of government from childcare licensing regulations for school age childcare.
2. Establish a task force to develop standards to govern all school age childcare that will ensure a safe and stimulating environment.
3. Provide a mechanism for start up funding to allow park and recreation departments to develop, in concert with the local schools and other social service agencies, comprehensive school age childcare programs.

By implementing these strategies, a major gap in service provision to children can be filled. Additionally, other related issues could be addressed: after school programs could supplement the physical education programs by providing fitness activities on a daily basis; productive leisure skills could be taught and positive peer relationship encouraged giving kids an alternative to antisocial outlets such as gangs, drug use, vandalism, violence and pregnancy; academic reinforcement could be built into program offerings.

Below are listed the specific targets this committee has outlined that would be impacted by the suggested strategies. 1-4

regarding their school age child care project, information from the Minnesota School Age Childcare Alliance, and a National Recreation and Park Association Program entitled "Exercise the Right Choice".

TARGET ADDRESSED: #1 Greater Support for Families

- c) affordable childcare for working/single parents
- d) nurturing environment

#2 Restructure Schools to respond to Changing Educational and Developmental Needs of Children

- d) active support of preschool and childcare programs
 - *social support systems linked to school
 - *extracurricular activities that build academic, social and physical skills

#5 Modify Service Delivery Systems

- a) Improve State/Local Coordination
 - ...Such a coordinated system must be based upon a cooperative relationship between schools, social agencies, business, community programs and the courts
 - ...allow service providers to package an appropriate array of services for a child, free from some of the constraints imposed by state or federal funding

#7 Reduce High Risk Behavior in Children and Families

- a) ...reduce teen pregnancy
- b) ...substance abuse prevention
- c) ...prevent children from becoming involved in such criminal behavior
 - *reduce unsupervised time in adolescent and pre-teen children
 - *countering negative peer pressure
 - *awareness of cultural differences
 - *meeting adolescent needs for identity, belonging

LAWRENCE
JOURNAL-WORLD

Opinion

Circular reasoning

J-W Editorials

WEDNESDAY, JULY 31, 2002

State officials may be trying to fix something that isn't broken.

The state of Kansas seems to be playing a game of "Ring Around the Rosy" with local recreation programs.

Kansas Department of Health and Environment (KDHE) officials had told Lawrence Parks and Recreation officials that their 60-year-old summer playground program now would have to be licensed as a child-care provider. Meeting that requirement would increase the price of the playground program beyond what many families could afford to pay, according to Parks and Recreation Director Fred DeVictor, who argued that playground programs should be exempt from the regulations.

The state department heard the appeal from DeVictor and other parks and recreation officials, but has decided to stick by its decision — sort of. They won't grant an exemption, but neither will they enforce the law. At least for now, there is no money for enforcement, so KDHE officials are asking local programs to voluntarily comply with the new regulations.

"We can't require people to abide by regulations that we don't have the resources to enforce," said KDHE spokesman Mike Heideman.

One wonders how many other state laws that principal applies to. But, at any rate, this particular law won't be enforced at least until KDHE can appeal to legislators for funds to provide that enforcement.

The local playground program ended its summer run last Friday, so it has until next year to decide whether it will beef up its staff, provide additional training and add a snack program in an attempt to comply with the child-care standards. DeVictor has said if the costs of those additions are covered by raising the fees for children participating in the program, the cost will rise from \$65 for a four-week session to about \$110.

This is one of those instances where the state might be better off not trying to fix something that doesn't appear to be broken. About 400 local youngsters participated in the recreation program this year; about 30 percent of those already receive financial aid to participate. The playground program is one of many summer options available to Lawrence families and undoubtedly fills an important niche. It certainly would be a shame if raising the price of the program forced parents to withdraw their children and leave them without supervision during the summer.

At least in Lawrence, there has been no outcry for stiffer regulations for the recreation program. The parents of about 400 children apparently are pleased with the service it provides. Summer programs operated by local school districts already are exempt from the regulations, as are "single-activity" programs such as vacation Bible school or youth basketball leagues. Why should city-operated recreation programs be any different?

The current plan to apply, but not enforce, the state regulations makes little sense. Presumably, if state officials perceived a real risk to children, they would place a higher priority on enforcing these regulations.

If they aren't important enough to enforce, they may not be needed in the first place. Perhaps state officials should rethink the need for the new regulation and whether the cure is worse than the disease.

1-6

School Age Child Care Proposed Regulations
June 19, 2002 Submitted via Email 12:30pm

Laura Kelly
Executive Director
Kansas Recreation and Park Association

The Kansas Recreation and Park Association is a 900-member organization representing citizen advocates and professionals who provide leisure services and facilities for Kansans in over 240 communities across the state including programs for thousands of school age children.

It is the position of the Kansas Recreation and Park Association that those programs developed and operated by our agencies with the intent of providing alternative childcare during the months when schools are not in session should be licensed by the state.

Currently, we know of approximately 50 licensed programs operated by municipal or county park and recreation departments. These programs are staffed from 7 or 7:30am until 5:30 or 6:00pm. There are advertised to parents as licensed day care, accept SRS payment, and operate under the current regulations or stricter standards imposed by the agency. By and large, the proposed regulations are reasonable and rational for the setting and the children served. Attached is a list of those regulations that we feel need modification.

Those programs that are developed to provide recreational activity opportunities for school age children at public park and recreation facilities but are not designed with the intent of providing alternative childcare during the months when schools are not in session should be exempt from the licensing requirements. These would include most, if not all, playground programs and drop-in programs. These programs are not scheduled to coincide with the normal workday schedule and they are not advertised as childcare. The fact that some parents might use them as childcare is not grounds for requiring licensing. If it were, then just about every municipal pool, library, and shopping mall also would need to be licensed since many parents, out of desperation, neglect or naiveté, use these facilities to provide extremely low cost or free child care.

If licensing were to be required for playground, drop in programs and other activity programs not intended to be childcare, we would anticipate that agencies would need to raise fees significantly, making the programs inaccessible to many low-income children, or they would eliminate the programs altogether, depriving all children access to these tax-supported facilities. Those scenarios would not be in the best interest of our children.

It is important to remember that public park and recreation agencies are held accountable every day by the children, the parents, concerned citizens, appointed and elected officials. If something is not right in a park and recreation program, consumers know where to go to get action and they are quick to do so.

SUGGESTED CHANGES TO PROPOSED REGULATIONS

Pg 6 KAR 28-4-578 (a) (1) Eliminate "...a drop-in or..." Tax supported parks and recreation facilities are expected to be open to the public 7 days/week, 12 hours per day. Drop-in "programs" are designed to let the public know how a facility is going to be used at a particular time on a particular day (Tuesday, basketball; Thursday, volleyball, Saturday, teen dance, etc) so they can determine if they want to go to the facility then. Drop in programs are not developed nor operated to provide alternative childcare.

Additionally, the 12 hours/week sweeps in a broad array of programs that are not intended to provide alternative childcare. KRPA would recommend that this be altered to read "scheduled to operate more than 6 consecutive hours/day, for more than 4 consecutive weeks during the time when public schools are not in session.

As an alternative to our suggestions, we could also support the suggestion of the Salvation Army that seasonal programs of 10 weeks or less duration be exempt from licensing regulations.

Pg 7 (b) (3) this section exempts single focus programs, seemingly without regard for length or intent. We would argue that if the program is designed in such a way as to provide alternative childcare then it should be subject to licensing regulations regardless of program focus or sponsor.

Pg 9 KAR 28-4-580 (a) (1) (B) and Pg16 KAR 28-4-584 (a) (1) This section should read "...for each individual who works, substitutes, or regularly volunteers." rather than specifying any age limit.

KRPA is assuming that KDHE assumes the cost of the required background checks.

Pg 10 (a) (3) is it necessary to submit the plans for approval? There are other codes regulating construction (building, fire, etc) and the requirements for use as a childcare setting are spelled out in the regulations.

Pg 13 KAR 28-4-582 (e) (3) Can this permission (and the one referenced on Pg 15 (c)) is built into the registration process?

Pg 22 (B) Fencing, partial fencing, other barrier.... it is not reasonable to fence in parks. Eliminate this regulation.

Pg 24 (2) (B) Define proximity and eliminate "other large body of water"

Pg 27 (3) Eliminate the prior approval clause. The qualifications are spelled out, agencies know whom to hire, can't always hire soon enough to allow for return of the approval letter.

Pg 29 (g) Lower the age for volunteers to 14. 14-15 year old high school kids are too old for childcare, too young to work and need substantial volunteer opportunities where they really make a difference and really learn technical, social and leadership skills.

Pg 33 (e) high-risk sport and recreational activities this entire section does not work. Most physical recreation activities carry some element of risk. For this to be included high risk activities would have to be spelled out specifically or this section is too open to interpretation. It should also be noted that many activities don't have certification programs. Public park and recreation agencies are reigned in significantly by municipal risk managers so any activities/facilities they want to implement/use have to pass serious safety scrutiny.

Pg 41 (a) Picnic tables are appropriate for outdoor programs but are generally not smooth or nonporous.

Pg 44 (f) (1) (A) Kids share sack lunches. Eliminate this sentence.

(4) Can this be altered to allow parents to be asked to bring a lunch later?

Pg 45 (h) (1) (A) Milk is very difficult to digest when it is hot outside. Eliminate this requirement for outdoor summer programs.

(2) Allow parents to provide snacks as an alternative to the agency doing so.

Pg 52 Swimming Pools Could there be some clause in here that the pool/swimming sites must be operated by a recognized entity (municipal/county/state government, eg) and that if they are not, then... these regulations rule.

In summary, the Kansas Recreation and Park Association supports the efforts of the state to ensure the safety and well being of Kansas kids. We will work with our agencies to ensure licensing of those programs intended to provide alternative childcare. Further, we will encourage them to reevaluate those programs that might have been designed to avoid licensing requirements but would be of more service to the kids and families in their communities if they were reconfigured to provide alternative childcare.



MIKE WILDGEN, CITY MANAGER

City of Lawrence KANSAS

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CITY COMMISSION

MAYOR
SUE HACK

COMMISSIONERS
DAVID M. DUNFIELD
JAMES R. HENRY
MARTIN A. KENNEDY
MIKE RUNDLE

February 25, 2003

Dear House Local Government Committee,

The City of Lawrence opposes efforts to license summer youth programs such as playgrounds or day camps that are designed for recreational activities for school aged children. **We support House Bill 2376, which exempts licensing of programs for children age 5-15 operated by local units of government.**

The City of Lawrence has provided low-cost summer playground programs for almost 60 years with local school district cooperation in use of school facilities. **These summer programs are not day care programs.**

In 2002 Lawrence provided two four-week sessions of 6 hours daily recreational activities for youth. There were 382 youth participating in our playground programs and 326 in two different day camps for a total of 708 participants last summer. We try to keep our fees low so all children have constructive activities during the summer - average cost per week was \$16.25 for these services.

Summer youth programs provide fun activities like outdoor and nature education, arts and crafts, swimming, sports and games. We do not consider these short eight-week, 6 hr/day programs as day care services. For us, more regulations relate directly to additional costs. We are not budgeted for additional expenditures; we would be required to pass costs for these already heavily-subsidized programs on to participants or reduce the number of neighborhoods we serve.

Last year it costs us about \$90,000.00 to operate these programs and projections show we would need to add at least 20% or an additional \$18,000.00 to meet the Kansas Department of Health and Environment day care licensing regulations. We would need to increase participant fees 50% to fund increased staffing qualifications and requirements, training, snacks, inspections, more documentation on participants and activities.

An example of one concern to us, which we think is unnecessary in the regulations, is the requirement for a detailed Individual Program Plans (IPP) for every child with special needs. One of our day camps is planned specifically for children with special needs. It is unrealistic to complete an IPP by a licensed professional for a program, which is only 8 weeks and recreation oriented.

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In a slowed economy, parents are relying more on local services and additional costs will provide a hardship on those who participate in these programs. Folks are paying more fees at school because of budget cuts and more fees for summer activities are not in family budgets.

If accountability is an issue, I would strongly suggest that we respond more rapidly to concerns through local government than through KDHE services. As a City service, if a City Commissioner or City Manager receives a complaint, my staff would address the concern immediately per our city standards.

We feel regulations for licensing impose more bureaucracy and unnecessary burdens on programs, which face more pressures each year. We would be required to pass these fees on to participants. If those who need these services cannot afford them, the alternatives are immense. It means more kids are on the streets; more kids get into trouble and more costs are incurred to the juvenile court systems. Our community cannot afford these extra costs.

We appreciate your sensitivity to home rule issues and mandates that add to local government costs. **We support House Bill 2376; exemption of licensing for programs similar to what the City of Lawrence offers.**

Sincerely,



Fred DeVitor, CPRP
Director
Parks and Recreation Department

HB 2376

Testimony presented to the
House Committee on Local Government

February 25, 2003

Rogers Brazier
Director, Parks and Recreation of Topeka
City of Topeka

Mr. Chairman, members of the committee,

I am Rogers Brazier, director of Parks and Recreation of Topeka. On behalf of our department I appear in support of HB 2376.

Our department, like many around the state of Kansas, operates summer drop-in and after-school programs that until a month ago fell outside the regulatory purview of the Kansas Department of Health and Environment's child care regulations. New regulations promulgated by KDHE became effective in January 2003, bringing the drop-in and after-school programs within the regulatory authority of KDHE, despite a response to KDHE from local units of government in opposition to the proposed inclusion of these programs.

Significantly, the expansion of KDHE regulatory control over drop-in and after-school programs was made despite a paucity of evidence indicating a need for expansion of KDHE's regulatory authority.

A good example of a program that we operate that will likely suffer diminishment in scope as a result of the new regulations is our Cool Summer program (see attached flyer). The Cool Summer program is an eight week summer drop-in program operated on three separate Topeka USD 501 playgrounds through partnerships with USD 501 (playground and building access; breakfast and lunch programs), The Arts Council of Topeka, Girl Scouts, Camp Fire USA and Count on Me Kids. The program operates on weekdays from 9:00 a.m. to 3:00 p.m. for children ages six to 12, and served 350 children in 2002, and was not previously under the regulatory authority of KDHE.

Cool Summer is not intended to serve as day care for working parents, but does serve nonetheless as a safe haven and structured program for children with and without working parents. Each of the Cool Summer sites is in an area of predominantly low to moderate income families.

The cost of Cool Summer to participants is \$0. The cost for a child to attend one of our licensed programs, such as Back to Nature or Passport to Adventure, is \$80 per week. Our licensed camps operate on summer weekdays from 7:15 a.m. to 5:30 p.m.

The focus of Cool Summer is to reach children whose parents might otherwise be unable to afford a summer camp experience for their children. Through our three sites located in East Topeka and the Oakland community we are able to provide this opportunity to children of low to moderate income families at a reasonable cost to the

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department (\$25,000 authorized in 2003). With licensing as mandated by the new regulations our cost will increase, leaving us with little choice but to discontinue one of the three sites or to reduce the total days of the program; additional funding is not a foreseeable option, and we do not intend to start charging for this program. Cost increases due to KDHE's new regulations will result in a decrease in summer programming for some Topeka children.

Generally, government regulates where regulation is necessary. In this instance, with oversight already provided at the local level through our department's staff, the Mayor's office and by our elected city council members, an additional layer of government oversight by KDHE, especially where the impact is significant and the necessity of such is lacking, seems harmful and unnecessary.

For the above reasons we would appreciate your support of HB 2376. Parks and Recreation of Topeka will continue to provide high quality, low cost programs that meet the needs of our school age children and their families.

Thank you.



council of topeka



COOL Summer

DROP-IN PLAYGROUND PROGRAM

2002

PRESENTED BY
TOPEKA PARKS AND RECREATION
CAMP FIRE BOYS AND GIRLS



Camp Fire USA

Have your kids join the fun at the Cool Summer Playground Program.

Cool Summer is a special FREE supervised playground program offered to all Topeka kids, ages 6 to 12. This summer fun program provides a variety of activities, sports, games, crafts and special events including a visit from the Topeka Police helicopter. Field trips are planned for swimming, fishing and a day at the zoo. The program will also include lessons on personal safety and other topics.

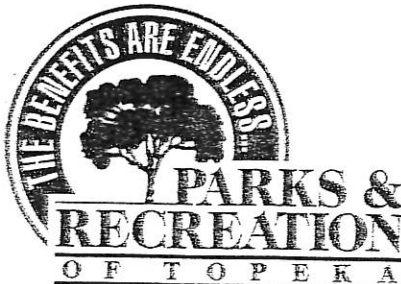
This is a drop-in program, and your kids can join in the fun any time from 9:00 a.m. until 3:00 p.m. on weekdays. The program runs from June 3rd through July 26th. Children must provide counselor with name, address and emergency phone number. Written permission is required for all field trips.

Garfield Park, 1600 N.E. Quincy
Chase / State Street Playground, 2250 State Street
Avondale East, 455 Golf Park.

This is a FREE summer fun drop-in program at all locations.

Your kids don't have to be bored this summer...let 'em get Cool!
Join in the Cool Summer fun... the kids will love it, and parents are invited too!

The City of Topeka is by law not responsible for medical conditions or injuries which a program participant might incur while on property permitted or intended for recreational purposes. Parents or guardians are financially responsible for all care which might be necessitated by reason of a child participating in any City recreational program.



For more details call:
Arnol Jack
(785) 368-3787

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February 25, 2003

The House Committee on Local Government
Kansas State Capital
Room 115-S
Topeka, KS

RE: Testimony of Kansas Alliance of Boys & Girls Clubs, Inc.
In Support of House Bill #2376 amending KSA 65-501

Dear Mr. Chairperson and members of the Committee:

I am Mark Nordstrom of Topeka, Kansas. I am the President of the Kansas Alliance of Boys & Girls Clubs (KsBGC). I have served on my local Boys and Girls Club Board of Directors here in Topeka for 14 years, and as the Chief Volunteer Officer for 2 years. I am submitting this written testimony in support of HB #2376 amending K.S.A. 65-501.

The Boys & Girls Clubs of Kansas, serving over 15,000 girls and boys between the ages of 6 and 18, are opposed to the Regulations for School Age Programs because the requirements of these regulations will have the effect of reducing the number of children Boys & Girls Clubs may serve, will cause the loss of jobs for certain Club professionals, will substantially increase the cost of providing our membership based Clubs to kids. These regulations in fact, may for the first time necessitate Boys & Girls Clubs statewide to request Child Care Subsidies and Food Reimbursement from the State and Federal Government. Until this time, our members have not been required to rely on state support in order to participate. The Regulations will substantially increase the cost of doing business without any material increase in the safety of our children or the quality of development programs available. We believe what the Boys & Girls Clubs do does work, and works well, without state regulation.

THE CASE IN OPPOSITION OF REGULATION

We do not believe the Boys & Girls Clubs fall within the definition of "child care" under Kansas statute because we do not contract to provide child care for children. Instead, the membership based Clubs charge an annual fee, some as low as ten dollars per year. This fee, waived for those who can not afford it, allows the member to participate in activities year round as the member chooses with freedom to come and go at the member's own volition. We believe Clubs would only fall under these regulations should the Secretary find it in his discretion pursuant to K.S.A. 65-500 et seq. To include our membership based Clubs within the Child Care definition and policy consideration. Boys & Girls Clubs have operated successfully in the United States for 140 years; more than 50 years in Kansas. Our Clubs across the state have not been regulated under the Child Care Licensing and Registration Regulations until this time. No other state currently regulates Boys & Girls Clubs under child care or after school care licensing rules. The truth is, we believe the way we operate has worked and regulation will only impede the service we provide to youth, especially those from some of the most disadvantaged circumstances. When we questioned the Department about specific concerns they have had regarding Boys & Girls Clubs no incidents or concerns were specifically identified, only the concern from actual child care providers who feel some families choose to access the Club because our annual fee is lower than the weekly fees they charge. In actuality, we find only about 15% of our members each year would access alternative "child care"

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arrangements if a Club were not available. Regardless, we would hope perceived competition is not the basis for the regulation that will have such dire results.

Boys & Girls Clubs operate as charter organizations of the Boys & Girls Clubs of America, an organization chartered by Congress with over 3,000 Clubs nationwide. Boys & Girls Clubs of America provide standards for membership, training, operational goals and a commitment to quality analysis for each Club on an ongoing basis. These national standards work well for our organizations. They balance the need for child safety and development with the feasibility in operating our non-profit clubs which are, on average, 90% funded by community contributions - - not membership fees. Boys & Girls Clubs were founded to effectively provide youth development opportunities to all children, but especially focus on those who do not have adequate access to alternative after school and summer opportunities. Most members have not chosen to participate in the Boys & Girls Club in place of traditional children care, instead they would likely return to their neighborhoods after school unsupervised during the early evening hours and during the summer. It is hard to find how the after school regulations are in the best interest of children when the result will be that thousands of Kansas' most at risk youth will be forced out of the Clubs and onto the street if the proposed regulations which include everything from additional record keeping, space allocations, and staff ratios, to very specific requirements for milk with snacks, and drinking fountains flow height, are enforced. We question whether Kansas will truly increase the best interest and safety of children by including Boys & Girls Clubs in these Regulations.

As stated previously, no state in the 140 year history of Boys & Girls Clubs has elected to either license or regulate Boys & Girls Clubs. One of the key reasons for allowing Clubs to operate without licensing or regulation is the acknowledgment that each Club is significantly self-regulated by five layers of oversight as follows:

1. Boys & Girls Club of America National Standards of Operational Excellence
2. Boys & Girls Club of America Regional Service Office
3. The Kansas Alliance of Boys & Girls Clubs of Kansas, Inc.
4. Local Board of Directors
5. Each Club has an Executive Director hired by the Board

Beginning in March 2002, the Kansas Alliance of Boys & Girls Clubs initiated a series of meetings, conference telephone calls and correspondence with KDHE, and a series of meetings with Secretary Graeber of KDHE; each time recommending exemption from after school regulations.

In addition to the meetings and telephone calls with KDHE, the Kansas Alliance of Boys & Girls Clubs, Inc., has testified before the Joint Legislative Committee on Administrative Rules & Regulations, submitted written and oral testimony during the public comment phase prior to adoption of the after school regulations, and has supplied KDHE with our opposition to the regulations in written form dated August 22, 2002. Copies of each of these pieces of testimony and correspondence are attached to this written testimony.

Interestingly, following KsBGC testimony before the Joint Committee on Administrative Rules and Regulations; The Legislative Research Department wrote Secretary Graeber on 6/3/02, saying in pertinent part:

- General Comment: Pertaining to the school-age regulations, the Committee suggests that the Department give consideration to repealing the temporary regulations and, further, give serious consideration to excluding Boys and Girls Clubs and any other similarly situated national

organization from any proposed permanent regulation.

KsBGC met on three separate occasions with Secretary Clyde Graeber of KDHE. On each occasion Secretary Graeber was sympathetic to our position, that KsBGC need not fall within the scope of the after school regulations. On each occasion the Secretary said that he felt the agency was constricted in their ability to act in our favor by current Kansas statute. Finally, in a face-to-face meeting on November 12, 2002, Secretary Graeber indicated he supported our position, but felt our best recourse would be through the State Legislature, not KDHE. KsBGC believes House Bill #2376 accomplishes exactly what Secretary Graeber recommended.

In summary, after careful review and study of the after school regulations and licensing procedures imposed by KDHE, KsBGC believes enacting the language in House Bill #2376 into law provides the best solution for all concerned. Make no mistake about it, should Boys & Girls Clubs in Kansas be required to operate subject to the after school program licensing and regulation of KDHE, Clubs will be forced to reduce the number of children they serve. Compliance with the regulations will cost each Club a significant amount of money, and regulating Boys & Girls Clubs in Kansas will cost the State of Kansas substantial dollars.

The State of Kansas, nor Kansas residents, nor the boys and girls served by the Boys & Girls Clubs of Kansas will be better off by licensing and regulating Clubs. What Boys & Girls Clubs do for kids works; it is not broken; it does not need to be fixed. The Alliance of Boys & Girls Clubs, Inc., enthusiastically supports the enactment of House Bill #2376 into law.

Sincerely,

Kansas Alliance of Boys & Girls Clubs, Inc.
Mark Nordstrom
President

STATE OF KANSAS

BEN F. BARRETT
DIRECTOR
WILLIAM G. WOLFF
ASSOCIATE DIRECTOR
ALAN D. CONROY
CHIEF FISCAL ANALYST



STAFF
LEGISLATIVE COORDINATING COUNCIL
INTERIM COMMITTEES
STANDING COMMITTEES
LEGISLATIVE INQUIRIES

THE LEGISLATIVE RESEARCH DEPARTMENT

300 W. TENTH—ROOM 545-N
PHONE (913) 296-3101/FAX (913) 296-3824
INTERNET: kslogres@lr01.wpo.state.ks.us
TOPEKA, KANSAS 66612-1504

June 3, 2002

Clyde D. Graeber, Secretary
Kansas Department of Health and Environment
1000 Jackson, Suite 540
Building Mail

Dear Secretary Graeber:

At its meeting on May 31, 2002, the Joint Committee on Administrative Rules and Regulations reviewed for public comment rules and regulations concerning hazardous waste, maternal and child health – residential centers and group boarding homes, secure residential treatment facilities, and detention and secure care centers; and school-age programs. After discussion, the Committee had no comment on the maternal and child health – residential centers and group boarding homes, and secure residential treatment facilities regulations, but commented further as follows:

- General Comment: Regarding hazardous waste regulations, since the Department has consolidated adoption by references in a single regulation, consider simply cross referencing that regulation as those adoptions are referred to in later regulations.
- KAR 28-4-351. Concerning detention and secure care centers, subsection (c) relating to notifications to school districts should be interpreted with some degree of flexibility.
- General Comment: Pertaining to the school-age regulations, the Committee suggests that the Department give consideration to repealing the temporary regulations and, further, give serious consideration to excluding Boys and Girls Clubs and any other similarly situated national organization from any proposed permanent regulation.

Please make this letter a part of the public record on these regulations. The Committee will review the regulations which the agency ultimately adopts and reserves any

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Secretary Graeber

- 2 -

expression of legislative concern to that review. To assist in that final review, please inform the Joint Committee in writing, at the time the rules and regulations are adopted and filed with the Secretary of State of any and all changes which have been made following the public hearing.

Prior to filing with the Secretary of State, review the history sections of the rules and regulations to update them to the most recent statutory citations, making certain the citations for authorizing and implementing statutes are correct and complete. Finally, verify that the adoption by reference of any materials included in the regulations is properly completed as prescribed in the *Policy and Procedure Manual for the Adoption of Kansas Administrative Regulations*.

Sincerely,

William G. Wolff
Associate Director

WGW/dg

36331(6/3/2(3:11PM))

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August 22, 2002

Director Chris Ross - Baze
Kansas Dept. of Health & Environment
Division of Child Care Licensing
Charles Curtis State Office Bldg.
1000 S.W. Jackson
Topeka, KS 66612

RE: Proposed Revision to Proposed New Regulations
for School-age programs

Dear Director Baze:

We have now had opportunity to review the proposed regulations received the beginning of August 2002 following our meeting. Our comments are as follows.

28-5-577 We request the following change to: " (a) License capacity. Building based and outdoor summer camps. (A) Licensed capacity for building based programs shall not exceed the maximum occupancy established by state fire code and building standards determined by local building code." We believe this option was discussed at length in our meetings and is not directly tied to national standards.

28-5-578 We request the following change to: "(b)(5) an organization that serves exclusively youth who are 14 years of age and older". We would like to see a teen recreation center, be exempt from the regulations.

We request further clarification on the meaning of (f)(1) "the description of the program of activities indicated in the initial application". As a for instance, please comment on the following. If the initial description given is "after school and summer activities for 6-18 year olds, to include but not limited to, arts, learning activities, gym recreation, arcade games, special interest clubs, and field trips;" and if later the applicant determines to add music or a basketball team to its offerings. Is the initial description adequate? Would notification be required of the added activities? If the answer is Yes to the former and No to the latter, we do not have further issue. Otherwise we would like to discuss the implications of this reporting requirement on staff time, frequency of changes and updates in Boys & Girls Club programming.

In (f)(3) we suggest the word "substantial" be inserted before

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remodeling, or further written clarification be given. We suggest deletion of (f)(4). Within a Boys & Girls Club many activities are moved from one room to another to accommodate an ever changing and evolving programming schedule. Optimum flexibility is needed to accommodate age groups, interests of members and to make better use of staff in critical program areas. Please clarify the reporting KDHE envisions as necessary in (f)(4).

- 28-4-579 No change or clarification is requested.
- 28-4-580 Please clarify that in (A)(ii) a response of a number equal to capacity and for ages 6-18 will suffice. Please clarify how detailed the requirements of (2)(A) and (B) are intended to be, given our concerns for program flexibility stated above.
- 28-4-581 No change or clarification is requested.
- 28-4-582 Please provide a sample of the health history referenced in (e)(1)(B). We submit the following as the Kansas Alliance of Boys and Girls Club's plan to be approved by the Secretary under (e)(4). Please advise as to the Plan's acceptability:

A membership packet including a health history, notification of a drop-in status, membership information sheet containing the information set forth in (e)(1)(A) and (D), an activities permission slip and emergency medical authorization shall be provided to each parent or student expressing interest in joining the Boys and Girls Club. The packet will clearly state the information shall be returned prior to the child participating at the Boys & Girls Club. In the event the child attends the Boys & Girls Club, the information will be requested. If the child does not have the information available, a note or second packet will be sent home requesting return. If the child attends a second time without the information, a staff member will phone the parent if a phone number is available. If a phone is not available another note will be sent home. If a sibling is also attending the Club, the staff will attempt to receive information from the sibling as well. Staff will make a second and final attempt to reach the parent by phone the third time the child attends without providing the information. If at any time the parent drops off or picks up the child, staff will make an attempt to receive the information from the parent either in writing or verbally, with the parent's signature if possible.

We would like a statement to be included in the membership information that will authorize staff to share information with school personnel and off-site activity providers on a need to know basis. Accordingly, we request the following change: (e)(6) shall read "However, each operator or staff member may disclose confidential information to another staff member, school

personnel or third party activity provider on a need-to-know basis
... “

We request the following change: (g)(1) “Each operator shall maintain a daily attendance record that shall be completed by staff or each child or youth attending the program, and shall be kept . . . “ (The intent here is to allow self reporting by members).

28-4-583 Please confirm that the requirement of (E)(4) would allow a drop in site to post field trips scheduled each week at the site and available for members. The initial membership packet would provide a universal permission form covering the types of field trips that may be taken. No additional notice would be necessary.

28-4-584 No change or clarification requested.

28-4-585 Please change the language of the last sentence of (1) to “Each Operator shall ensure that no child or youth is exposed to environmental hazards, including asbestos, lead paint or pesticides of which the operator is aware.” The concern is that we cannot reasonably ask operators to conduct environmental studies of each facility.

We request the following change: (3)(C) national “or state body of the” organization with which the organization is affiliated.

We request the following change: (5)(D) A floor covering, paint or sealant, shall be required over concrete floors. . . “

In (7)(b)(2) the exception for premises that are in a public or accredited non-public school building should be expanded to exempt public community buildings and Public Park equipment. (even “maintained by a city or county” could be added to tighten this exemption). It is nearly impossible for a Boys & Girls Club operating within or adjacent to a community building or public park to make changes necessary to meet compliance standards of these regulations, when the city or county parks department has budgeted for and intends to enforce those guidelines within which it is mandated by state and federal government. See also (e)(2) and (3). Impact absorbent surfacing and maintenance shall be determined by standards governing parks, Boys & Girls Clubs availing themselves of local parks are not authorized and cannot force a park to make the changes suggested in this regulation. An exemption for parks is appropriate. Please confirm that a “park” is a “public recreation center” even if a “building” owned by a political subdivision is not involved.

28-4-586 Please confirm in writing our understanding that a one to two week camping experience for members held each summer by a Boys & Girls Club would not meet the requirements of this

regulation, provided the camping experience were part of the overall membership opportunities of the Boys & Girls Club.

28-4-587 Please define what (b)(1)(D) means. In Boys & Girls Clubs we feel strongly that all staff has direct connection to members by leading one or more weekly activities. Would the Program Director be allowed to oversee a gym activity, a girls leadership weekly meeting, etc., provided that the program director's designee was available during the activity? We are unsure what the language "no other assigned program responsibilities" is intended to mean.

We request (b)(2)(D) be changed to read as follows. "for a license capacity of 121 or more children and youth, has a minimum of a four-year bachelor's degree from an accredited college or university or a combination of academic credit hours from an accredited college or university and job-related experience, approved by the secretary;

Please explain the use of the word "group" under the revised regulations. We are under the impression that the staffing requirement will be reached by dividing the total number of children and youth in attendance by 30 to determine the number of group leaders who should be working with programming. Next, a provider should then divide the total number of children by 15 and subtract the number of group leaders to determine the number of assistant group leaders needed. We understand from our meetings that the staff is not required to be proximately located in the same room as or working with groups of 30 kids per se. If 40 are in the gym with two staff, and 20 are in the learning center with 4 staff we believe we would be in compliance. Please confirm that this is correct. If this interpretation is correct we are concerned with the language in (d)(1) "for each group of children and youth".

Please insert a provision at (2)(A) allowing "comparable" professional development training provided by the national organization with which the organization is affiliated.

28-4-588 Request (2)(A) be revised to read as follows: "Each operator shall provide sufficient space in each area for children and youth to engage comfortably in the activity without being crowded." The remainder of d(A), (B), (b) and (c) shall be deleted. (This lettering may be off somewhat in our copy - the intention would be to delete until (d) materials, equipment and furnishings begins). We believe in our last meeting we had discussed the need to stick with occupancy and building codes, in addition to staff ratios, to determine the proper number of children and youth attending the program at any one time.

As previously requested, please define (e) "High risk sports and recreational activities".

Regarding, (f) "Children or youth with special needs"; please provide an exemption for drop in centers that allow an operator, upon prior notification to parents, to refuse to provide IPP required specialized services where an undue hardship would result to the operator. Boys & Girls Clubs nationally do not routinely provide these services. The staff intensive requirements of many IPP's are not available from this economical club type atmosphere and are better left to service providers who are paid on an weekly or hourly basis for their services. We strongly oppose a requirement that Boys & Girls Clubs must provide IPP services. We would like to be able to offer our Club memberships to students who may have special needs, but agree not to request the use of, specialized services while attending the program. Please clarify this provision.

- 28-4-589 No further request or clarification needed.
- 28-4-590 We request on exemption to the effect of which would provide, upon prior notification to parents, an operator may determine as the operator's policy that it will not administer medicine to children and youth and shall thereby be exempt from the requirements hereof, provided no medication is administered. In the event the operator shall provide for self-administration, the provisions of (5) hereof shall apply.
- 28-4-591 We request (e)(3) clarified the requirement that "food shall be made available to each child or youth" may authorize that "food shall be made available" may mean at an additional charge - for example through vending machines, snack bar, etc. Clarify whether a "drop in" program in (e)(3) is also a "school age program" in (e)(4). If so, again the requirement shall be to make available at an additional charge.
- 28-4-592 No further request or clarification is needed.
- 28-4-593 Clarify that a school bussing service which routes children to a drop in operator after school for a flat fee paid by the operator is not "operator provided or arranged transportation" when the school bussing services operates under general contract with the school district and follows the rules and requirements for school bussing and the school district. The concern here is that the bussing services used are accommodating club members by coordinating the stop on their routes. This service will be substantially more expensive if they must alter their typical procedures to provide for additional medical care information. The regulations should defer to school policy as would be in place if the driver were taking the child home.

28-4-594 Please confirm that no requirement of this section, other than permission for participation shall apply to a public swimming pool operated by city or county government and used along with the general public by the operator.

We remain available to answer any further questions you may have, or to meet with you regarding the proposed revision. When the regulations are completed, we would appreciate a courtesy copy prior to official publication. We appreciate the progress being made and look forward to continued correspondence.

Sincerely,

KANSAS ALLIANCE OF BOYS & GIRLS
CLUBS, INC.

Mark Nordstrom
President

MN/mk

Enclosures

Kansas Alliance of Boys & Girls Clubs, Inc.
Atten: Lisa Ward, Secretary
20 W. 2nd Ave., 2nd Floor
Hutchinson, KS 67501

June 18, 2002

Secretary Clyde D. Graeber
Director Chris Ross - Baze
Kansas Department of Health & Environment
Division of Child Care Licensing
Charles Curtis State Office Building
1000 SW Jackson
Topeka, KS 66612

RE: Written comment submitted in Opposition to
K.A.R. 28-4-576 -K.A.R. 28-4-596
In response to Public Comment Period ending June 19, 2002

Dear Secretary Graeber and Director Ross -Baze:

Thank you for meeting with representatives from the Kansas Alliance of Boys & Girls Clubs, Inc. in person on three occasions this spring, and most recently by phone on May 28, 2002. During these meetings we have consistently expressed concern that these regulations, while well intended, do not adequately address appropriate standards and flexibility for school age after school programs, and in particular the workings of Boys & Girls Clubs across the state. I believe we have agreed in the most recent meeting that Boys & Girls Clubs are intended to operate as a membership club where members are free to come and go. The Clubs do not contract for care with the parent. Instead the member pays an annual fee to participate in activities in the Club. Although, it is possible that on occasion a Boys & Girls Club would offer a different type of program, we have limited our discussions to the more traditional Club arrangement described above.

We have explained that modifications to the facilities and operations necessary to comply with the regulations would be expensive. In Lawrence, for example, the cost of facility renovations would total approximately \$600,000 and modifications to operations, namely staffing requirements, would cost an additional \$200,000 yearly. We have provided numerous examples of changes that would be required to the national Boys & Girls Club model if Clubs were governed by the proposed regulations. We have explained that each Club participates in a Commitment to Quality evaluation

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Secretary Graeber and Director Ross Baze
June 18, 2002
Page 2

annually and works with a representative of Boys & Girls Clubs of America to improve the quality of member services provided. This internal regulation is very effective in the 3000 clubs which are a part of the Boys & Girls Clubs of America, some of which have been in existence for 140 years. We maintain that the Boys & Girls Clubs do a very good job regulating themselves through the materials and personnel of Boys & Girls Clubs of America. You may recall meeting the Boys & Girls Club of America representative Mr. Ed Massey in our meeting with the agency in early May. He has offered to be of additional help to your agency at any time. A complete narrative of our position in opposition to the proposed regulations is attached as the "Testimony of Kansas Alliance of Boys & Girls Clubs, Inc. to the Joint Legislative Committee on Administrative Rules & Regulations" dated May 31, 2002. Said testimony is hereby entered as Public Comment.

We have appreciated in our discussions with you, and your agency personnel, a desire on the part of the agency to reach a compromise position. We understand from your letter dated May 28, 2002, that KDHE would be willing to accept the national standards of the Boys & Girls Clubs of America in lieu of agency regulations as the standards by which Boys & Girls Clubs across the state should operate. In accordance therewith, we have stated that Boys & Girls Clubs would agree to be licensed by the agency, provided it is the national standards that will govern their operations. You have indicated that the agency has not fully reviewed the standards or considered each regulation but believes this may be a possibility. While it remains our hope that Boys & Girls Clubs would be fully exempted from licensing, we are willing to make good faith effort to operate as a licensed facility provided that only the following regulations, in addition to the Boys & Girls Clubs national standards, will be the rules by which we operate. Those regulations we find acceptable are:

K.A.R. 28-4-576, K.A.R. 28-4-577 (b)- (g), K.A.R. 28-4-579, K.A.R. 28-4-581, K.A.R. 28-4-584, K.A.R. 28-4-585(a), and K.A.R. 28-4-592(g). Regulation 28-4-578 should contain the reference for the Boys & Girls Clubs or words descriptive of Boys & Girls Club. K.A.R. 28-4-586 should not apply to temporary camping outings of one to two weeks in duration run in conjunction with a Boys & Girls Club. K.A.R. 28-4-580 shall only govern the Boys & Girls Clubs by (a)(1), (b) and (c).

The national standards of the Boys & Girls Clubs of America referenced herein are the Operational standards for Clubs as published in "Commitment to Quality" and "Effective Guidance & Discipline Techniques." Any reference to national standards shall be solely contained in these documents. Should these documents be updated at a future time, the Kansas Alliance of Boys & Girls Clubs, Inc. will timely notify the Agency. It is agreed that the standards in existence at this time shall continue to regulate Clubs, without further review by the agency, unless and until modified by the Boys & Girls Clubs of America.

We have further discussed that a club indicating they will make application for a charter from the Boys & Girls Clubs of America shall be entitled to a temporary license provided that they obtain a Boys & Girls Club charter prior to the issuance of a permanent license. In the event a Boys & Girls Club is no longer in good standing

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Secretary Graeber and Director Ross - Baze
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with the Boys & Girls Clubs of America, the agency will be notified and should the violations not be timely corrected, the Club will lose its ability to be licensed by the agency under the special provisions available to Boys & Girls Clubs in Kansas.

It is the intention of the Kansas Alliance of the Boys & Girls Clubs, Inc. and the Boys & Girls Clubs of America to work with the Kansas Department of Health and Environment to ensure that Kansas children participating as members of our clubs are safe and healthy. It is also the intention of the Kansas Alliance that our Clubs in Kansas continue to successfully operate in the manner by which Boys & Girls Clubs have been run for 140 years. Although we appreciate the empathy the agency has given to persons who may believe they are in competition with Boys & Girls Clubs for kids in any given community, we do not believe it a good practice for state agencies to make regulation to reduce services to young people in order to reduce competition. We believe traditional child care centers, summer camps, school run after school programs and other out of school clubs, achievement facilities and care centers all have their place within a community that serves families. We believe parents should have the option of enrolling their child in child care services or allowing their child to choose to participate in a Club environment. The mission of the Boys & Girls Clubs is to inspire and enable all young people, especially those from disadvantaged circumstances, to realize their full potential as productive, responsible and caring citizens. Our mission is fulfilled by giving youth a place to visit, mentors who care and choices for participation in activities available at times they choose.

We find the practices and methods used to accomplish our mission are very different from the legislative definition of a child care facility defined at K.S.A.65-503. We also believe that the standards set by our national organization allow Boys & Girls Clubs to effectively operate in accordance with the desired outcomes, established by the legislature. This direction given at K.S.A. 65-528, enacted in 1994, was intended to further fine tune and direct the Agency's authority. Please consider that the modifications necessary for our Clubs to comply with the proposed regulations will effectively a) reduce family self-sufficiency and accessibility, b) limit our responsiveness to the changing needs of families, c) increase the cost of Club services to members, without d) changing the level of investment in children or diversity within the program. We find that the legislature's desired outcomes will not be furthered by the Boys & Girls Clubs inclusion in the proposed regulations. Our conversations with the state representatives and senators have echoed that the Agency's required obligation to develop appropriate measures of progress toward achievement of the stated outcomes does not appear to be achieved by the addition of the proposed regulations when applied to Boys & Girls Clubs.

We remain available to further discuss our concerns as have been stated in our ongoing conversations with the agency. Director Chris Ross - Baze has promised that additional negotiations will ensue between the Boys & Girls Clubs and the Agency following the conclusion of the public comment period. We appreciate the attention the Agency has given to our concerns and look forward to reaching

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understanding as to which regulations will directly apply to Boys & Girls Clubs in the future.

Thank you for your consideration of our comments.

Sincerely,

Kansas Alliance of Boys & Girls Clubs, Inc.

Mark Nordstrom, President

CC: Governor Bill Graves
Senator Dave Kerr
Senator Dwayne Umbarger
Senator "Rip" Gooch
Senator Chris Steineger
Senator Karin Brownlee
Representative L. Candy Ruff
Representative Laura McClure
Representative Bill Light
Representative Carl Holmes
Representative Melvin Neufeld
Representative Mike O'Neal
Representative Tony Powell
Representative Jan Pauls
Ms. Janet Newton
Mr. Bill Hanna
Ms. Lisa Ward
Mr. Carl Kurt
Mr. Jon Farr
Mr. Ed Massey
Mr. Mike Spencer
Mr. Kirk Dominick
Members of the Kansas Alliance of Boys & Girls Clubs, Inc.

May 31, 2002

Joint Legislative Committee on
Administrative Rules & Regulations
Kansas State Capital
Room 514-S
Topeka, KS

RE: Testimony of Kansas Alliance of Boys & Girls Clubs, Inc.
In Opposition to K.A.R. 28-4-576 through K.A.R. 28-4-596
Proposed Regulations for School Age Programs
Kansas Department of Health and Environment
Child Care Licensing and Registration Division

Dear Mr. Chairperson and members of the Committee:

I am Mark Nordstrom of Topeka, Kansas. I am the President of the Kansas Alliance of Boys & Girls Clubs and the Area Council President. I have served on my local Boys and Girls Club Board of Directors here in Topeka for 13 years, and as the Chief Volunteer Officer for 2 years. With me today is Jon Farr, the Chief Professional Officer of the Topeka Boys & Girls Club. It is our desire to share with you the detrimental impact the proposed regulations would have on the work of the Boys & Girls Club in our state. I am here to summarize my written testimony and to answer your questions.

The Boys & Girls Clubs of Kansas, serving over 15,000 girls and boys between the ages of 6 and 18, are opposed to the proposed Regulations for School Age Programs because the requirements of these regulations will have the effect of reducing the number of children Boys & Girls Clubs may serve, will cause the loss of jobs for certain Club professionals, will substantially increase the cost of providing our membership based Clubs to kids. These regulations in fact, may for the first time necessitate Boys & Girls Clubs statewide to request Child Care Subsidies and Food Reimbursement from the State and Federal Government. Until this time, our members have not been required to rely on state support in order to participate. The Regulations will substantially increase the cost of doing business without any material increase in the safety of our children or the quality of development programs available. We believe what the Boys and Girls Clubs do does work, and works well, without state regulation.

THE CASE IN OPPOSITION OF REGULATION

We do not believe the Boys & Girls Clubs fall within the definition of "child care" under Kansas statute because we do not contract to provide child care for children. Instead, the membership based Clubs charge an annual fee, some as low as ten dollars per year. This fee, waived for those who can not afford it, allows the member to participate in activities year round as the member chooses with freedom to come and

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go at the member's own volition. We believe Clubs would only fall under these regulations should the Secretary find it in his discretion pursuant to K.S.A. 65-500 et seq. to include our membership based Clubs within the Child Care definition and policy consideration. Boys & Girls Clubs have operated successfully in the United States for 140 years; more than 50 years in Kansas. Our Clubs across the state have not been regulated under the Child Care Licensing and Registration Regulations until this time. No other state currently regulates Boys & Girls Clubs under child care or after school care licensing rules. The truth is, we believe the way we operate has worked and regulation will only impede the service we provide to youth, especially those from some of the most disadvantaged circumstances. When we questioned the Department about specific concerns they have had regarding Boys & Girls Clubs no incidents or concerns were specifically identified, only the concern from actual child care providers who feel some families choose to access the Club because our annual fee is lower than the weekly fees they charge. In actuality, we find only about 15% of our members each year would access alternative "child care" arrangements if a Club were not available. Regardless, we would hope perceived competition is not the basis for the regulation that will have such dire results.

There is one Boys & Girls Club that participates, in our national organization, as an affiliate of a Missouri Club but is located in Wyandotte County. Without knowledge of our other Clubs, the Wyandotte location did license its facility last year after pressure from KDHE. It has been helpful to us, in considering the impact of regulation to discuss licensing with the Wyandotte Club staff. To the best of our knowledge, the effect in Wyandotte has been a reduction in the number of children who may be served by perhaps as much as 50% potential members, and a reduction in on-site programs and hours of operation. The Kansas City organization was forced to raise in excess of two hundred thousand from the United Way, community foundations and individuals to pay for immediate facility upgrades in order to meet the child care regulations. A program director lost his job because he did not hold a degree but instead had years of experience. The staff of the Wyandotte county Boys & Girls Club we spoke with reported finding no advantage to the child care license after their first year of operation. They report the Club, new at the time, could have offered activities to twice as many members if the license were not required with no apparent reduction in quality. They further believe they could operate without state child care subsidy for members if the national standards of Boys & Girls Clubs, and not child care regulations, were the guiding principals namely because the paperwork required would be reduced, they would waste less food in the preparation of snacks and could better assess the number and level of training for staff needed based on activities and practical safety concerns.

Boys & Girls Clubs operate as charter organizations of the Boys & Girls Clubs of America, an organization chartered by Congress with over 3,000 Clubs nationwide. Boys & Girls Clubs of America provide standards for membership, training, operational goals and a commitment to quality analysis for each Club on an ongoing

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basis. These national standards work well for our organizations. They balance the need for child safety and development with the feasibility in operating our non-profit clubs which are, on average, 90% funded by community contributions - - not membership fees. Boys & Girls Clubs were founded to effectively provide youth development opportunities to all children, but especially focus on those who do not have adequate access to alternative after school and summer opportunities. Most members have not chosen to participate in the Boys & Girls Club in place of traditional child care, instead they would likely return to their neighborhoods after school unsupervised during the early evening hours and during the summer. It is hard to find how the proposed regulations are in the best interest of children when the result will be that thousands of Kansas' most at risk youth will be forced out of the Clubs and onto the street if the proposed regulations which include everything from additional record keeping, space allocations, staff ratios, and accident insurance, to very specific requirements for milk with snacks, and drinking fountains flow height, are enforced.

The Boys & Girls Clubs in Kansas are in no way opposed to reasonable standards proven to improve the quality of service to young people. For years, our Clubs have been in the forefront of a battle for tougher background checks for youth workers. In fact, the background check used in the Clubs contains a national background check which appears to be more inclusive, with faster turnaround time, than that proposed by the State. The training for youth professionals available from Boys & Girls Clubs of America is more extensive and more specifically targeted to developing youth than that proposed by the Regulations. However, when the proposed regulations base license capacity on the formal educational level of the program director, the square footage available per child for activities and the number of toilets and hand sinks available, we question whether Kansas will truly increase the best interest and safety of children by implementing these Regulations.

OPPOSITION TO SPECIFIC REGULATIONS

Specifically, the following proposed regulations are opposed for the following reasons having the anticipated effect set forth hereafter:

K.A.R. 28-4-577 (a) The license capacity of each school-age program shall be determined by the (1) program director's qualifications; (2) the square footage available for activities for children and youth; and (3) the number of toilets and hand sinks available to the program.

We do not believe whether a program director has completed a college degree or whether there are five toilets as opposed to six should control the capacity for our Clubs. We do believe the safety regulations used by the fire marshal for determining capacity shall suffice and so should our national standards for program director

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training which include experience and ongoing professional development from Boys & Girls Clubs of America and community training sessions. Our national standards further guide staff and space recommendations well. Our standards direct the square footage should be appropriate for the type of activity conducted. A gym activity would require more space than homework assistance, for example. The 35 square feet per child required later within the regulations is excessive for many art & craft, computer and homework tutoring areas.

K.A.R. 28-4-578 Each person shall have a temporary permit or license to operate a school-age program before children or youth are in attendance unless exempted in subsection (b) of this regulation. . .

We would like to see an out-of-school drop in program that does not contract for care with the parents and instructs parents that children and youth are free to come and go on their own volition be exempted under this regulation. We would not be opposed to also requiring that in order to be exempt the program be affiliated with a national youth development agency recognized by KDHE.

(f) Notification requirements. Each applicant or operator shall notify the secretary in writing before . . . changing any of the following:

- (1) the description of the program of activities indicated in the initial application;
- (2) the physical structure of the program site due to . . . remodeling;
- (3) the use of any part of the premises.

Boys & Girls Clubs, by nature are ever changing and evolving Clubs that regularly add and change programs in order to maintain the interest of their members who attend for as many as twelve consecutive years. As the needs of the members change, the use of rooms, the activities, and possibly even the configuration of the structure may change. It would be burdensome to complete reports each time a Club adjusts to the ever changing and developing needs of their members. We know that change is possibilities but not core programs and mentors is an important part of keeping our members attention, especially as they enter adolescence.

K.A.R. 28-4-580 (a)(1)(C) the nonrefundable annual license fee is an unnecessary additional burden on the non-profit organizations already financially existing almost solely on the contribution of individuals that are not Club members. We do not find any addition to the quality of the Club environment provided by the regulations that would equal or exceed the license fee.

K.A.R. 28-4-580(a)(2)-(4) The requirements for submission of a detailed floor plan including intended use of space, location of each activity area within the building, measurements, rest room toilets, urinals and hand sinks is burdensome and creates additional administrative cost. We believe the fire marshal is adequately trained to evaluate upon inspection whether the Clubs are operating within their state allowed

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capacities. The national standards of our organization suggest appropriate space for activities and our professionals are trained in best use of space for the accommodation of our members.

K.A.R. 28-4-582(a)(3) documentation of accident insurance for children and youth attending the program. . .

It is not feasible for Boys & Girls Clubs with 1200-1500 members to carry accident insurance on each member. This cost would have to be passed on to members, whose families could not afford it and would send members back on the street. Boys & Girls Clubs of America does not require accident insurance. However, Clubs do maintain appropriate liability insurance.

K.A.R. 28-4-582 (c)(d) Staff meetings, training and authority is adequately addressed by the national standards of the Boys and Girls Club. We fail to believe that it is a good use of time or even feasible to “discuss the status of each child and youth”. We believe training regarding programs, discipline and youth development is proper as currently managed and will not benefit from increased regulatory standards.

K.A.R. 28-4-582 (e) – Given the nature of the drop in program designed to serve all children and youth, there are parents who wish to remain undocumented, and those who do not care where their youth spend their out of school hours. Therefore, we are not always able to obtain parent permission, health history and name, address and phone number of the parents. Of course, our professionals want as much information and permission as possible that would only assist in their efforts. However, staff should not be bound by a “plan approved by the secretary” that shifts liability to the Club professional who must assert that he or she is “reasonably assured medical treatment can be obtained, reasonably assured the child has permission to participate and reasonably assured there are no allergies or other health conditions that would interfere with participation”. Boys & Girls Clubs have not contracted with parents to care for children, instead they are a positive place for children to come, if they want, to engage in activities. In many neighborhoods the Club is an oasis from crime and with other situations in which their own parents may even be involved. Generally, in those situations, Club staff are able to obtain very little initial information. As the trust builds, staff do attempt to receive further identifying, health and insurance information - - sometimes unsuccessfully.

The alternative would be for the families to absolutely prohibit their child's attendance. With as many as 1500 members per Club, who may come on average 20% - 40% of the days the Clubs are open, the paperwork of keeping track of the department approved forms, which are subject to routine change, itself will be costly and burdensome. Members currently complete a membership application with this information listed. However, a child is not restricted if the form only contains the child's name and his own knowledge of health questions. Members self report

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attendance with a check-mark in many Clubs, we believe this attendance process will suffice.

K.A.R. 28-4-583(b) It is burdensome and costly for staff to record the daily arrival time and departure time. Members self report this information. They are free to come and go and explained to any parents participating in the enrollment of their member.

K.A.R. 28-4-583(c) The regulation for "Program Sponsored off-premises activities" does not adequately provide for trips to movies, skating, the swimming pool etc. whereby the Club transports children and may work out a reduced rate with the pool or theatre. The Club does not supervise the members during the activity at the typical ratio of supervision because additional lifeguards, theatre personnel etc. are present and employed for supervisory roles. The Clubs have taken the position that the children could attend the activity unsupervised, without attending the Club. The Club only sponsors the activity by providing transportation to and from the event and may provide a staff member to assist members in emergencies or to increase a mentor relationship. To meet the requirements of this regulation may require 4 staff to ride a bus and stay at the pool for instance. We believe these staff are better used back at the Club providing small group reading instruction or one on one art or music instruction. Clubs will assess the safety of participants and self regulate the best use of staff.

K.A.R. 28-4-584. While we are not opposed in any way to background checks. We believe the Boys & Girls Club of America's currently contracted and nationally recognized "Choice Point" system is adequate and its turnaround time quicker. Our Clubs would complete both a Choice Point and State check if required under this regulation. It would seem this would require additional cost to the State of Kansas, for a duplicative effort.

K.A.R. 28-4-585 Boys & Girls Clubs believe a sanitary, inviting and stimulating environment is extremely important. Our concern is that administrative regulation of numerous building requirements comprising 6 full pages of regulations will be overly burdensome to administer and could lead to minor violations. These include, but are not limited to: a drinking fountain that does not have a consistent three inch steam; a working toilet for every 30 children (this would require 10 toilets in most Clubs that now have five to six - without waiting lines); no concrete floors, impact resistant surfaces under any outdoor equipment over four feet in height including swings - loose surfaces must be leveled, raked and replaced (6-12" of sand, etc. -grass is not listed, packed dirt is not allowed; if a door is opened it shall be screened; 75 square feet of outdoor space per child; and a fence around outdoor areas. The Boys & Girls Club believes safety is a very high priority. We believe we know how to keep kids safe. Basketball courts used by ten to twelve year olds may not need a fence. Swings with grass may be all the park adjacent to the Club has, and sometimes opening the doors on a nice spring day works without a screen door. Regulation of these aspects is

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sufficient, without increased regulation, under the existing fire marshal, building code and national standard requirements for our Clubs.

K.A.R. 28-4-586 Currently our Clubs do not operate summer camps to our knowledge. We have been assured by the Department that a week of "camping" whether day or overnight camping is not what is intended by this regulation. We defer further comment on this regulation.

K.A.R. 28-4-587. This complicated regulation of levels of staffing with increasing levels of college education does not appreciate the experience of professionals who have spent their lives running Boys & Girls Clubs across the nation and have experienced training development through the Boys & Girls Club ongoing seminars. At a minimum a program or site director would require a two year degree, at most sites a four year degree. It is not clear what the requirements for the 15 clock hours of training will include that provided out of state by the Boys & Girls Club of America. The Supervisory staff ratio suggests one staff member for every 15 children. As a whole this is appropriate. In our Clubs staff are assigned to areas based on the number of kids in certain activities and "float" to where the need exists, i.e. more in the homework center or arts & crafts, less in the arcade, etc. This regulation requires the staff be "physically present with the children and be assigned responsibility for the children in the ratio". A group of children shall not exceed 30 with two staff members. The grouping in this manner is appropriate for a day care center, but implies restricted freedom in the child's activities at a Club setting. We believe activity based staffing works as is.

K.A.R. 28-4-588. Generally, the increased paperwork is unnecessary in a Club where extensive training and attention is given to activities, programming, materials etc. A requirement that would require a "functional separation" in the gym each time more than 30 students play in the gym is unnecessary. The Boys & Girls Club wants safe and strong programs for their members, stopping to review the four pages of regulations each time an activity is operated will increase required planning time, administrative functions and cost. Nationally, the Boys & Girls Clubs have not had the resources to provide IPP services to children with special needs. IPP's require extensive documentation and true specialized care that is not feasible to our Club. We welcome members who may have IEP's or IPP's, but do not provide additional services as would be required under the regulations. The cost would be exhorbant.

K.A.R. 28-4-589. Boys & Girls Clubs have several curriculums of guidance and effective behavior management. We believe the self regulation of our national standards address this item. Of greatest concern is the reference to the IPP, and the lack of practical guidance for a crisis situation in which the safety of staff and members competes with the need not to temporarily restrain a member. We suggest further development of this situation.

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K.A.R. 28-4-590. The Boys & Girls Clubs attempt to receive a health history for each member as part of its membership application. We are not always successful in parent cooperation and do not believe the responsibility should shift to our staff under a "Plan" whereby we assure that we know the history. When a child becomes sick our Clubs do contact the parent, when the parent is available. Because the Club provides freedom to members to come and go, our members and their families may choose for them to simply walk home when they do not feel good. Again the judgment of our staff and policies of the Boys & Girls Club consider the age of the member and severity of the sickness in this determination.

K.A.R. 28-4-591. Most problematic in this regulation are the sack lunch regulation (f) and the Nutrition requirement (h). We suggest an alternative be that an operator notify parents that children may not bring perishable foods unless it is in a self-cooled or insulated container. Further, it is our desire to continue to allow our volunteers, and member families who "bring treats at holidays and birthdays" to be able to do so even if they are not a "food service establishment or catering service licensed by the Secretary". The restriction from this type of no-cost food will certainly increase expenses to our Clubs.

The Nutrition regulation will cause the most dramatic increase in cost. Currently, some Clubs serve a snack, others only offer vending machines. This regulation would require one snack with milk each day. To prepare a snack for each child the site is licensed for, but does not show up, will undoubtedly cause food waste. If the member is there more than four hours a meal must also be served. Because our clubs are come and go, members, who are mainly older when they stay into the evening, usually go home for dinner or eat from vending machines or eating establishments nearby. The cost and waste of preparing a meal for members who may or may not be present at mealtime is unconscionable when a meal, by regulation, must allow sufficient portions of bread, milk, vegetables and fruit.

While safety is very important to our organization, we are furthermore suspect of the administrative requirements that may be added by these regulations to assure the basic principals of serving safe food.

K.A.R. 28-4-592 We believe our national standards adequately address the requirements of this regulation and would be unnecessarily burdened by this additional set of safety and emergency requirements. Most problematic for us is the requirement to report each child's illness (section (f)) to the parent immediately. We would attempt to report illnesses of which we know. Additionally, in (g) we believe if we suspect child abuse it may not be in the best interest to report to a parent who may be the expected abuser. We are concerned with the amount of reporting requirements given the number of members served in each Club. It would appear the reporting of an injury that requires medical attention could be burdensome. We would hope this to be defined as emergency medical attention by a health care provider.

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K.A.R. 28-4-593 This regulation is covered in our national standards. This added regulation would again be cumbersome and costly.

K.A.R. 28-4-594 and K.A.R. 28-4-595 Swimming and Animals will require additional review during the public comment period. We believe our national standards consider both in determining the safety, use and planning requirements.

In essence, while it may be possible to work toward an agreed set of regulations by supplementing national standards already in place for some regulations, rewriting others and complying with the remainder, the effort and confusion and ongoing increased compliance does not, in our opinion, seem to increase safety or care of children above its present nationally recognized level in the Boys & Girls Clubs of Kansas.

KANSAS ALLIANCE OF BOYS & GIRLS CLUBS'
INVOLVEMENT IN TAILORING THE PROPOSED REGULATIONS

Upon learning the school aged care regulations may be implemented, our Boys & Girls Clubs attended numerous community information meetings hosted by KDHE throughout the state. We expressed our concerns at each meeting and invited the Director of Child Care Licensing to attend our statewide meeting in March. We were told numerous times that the regulations proposed were a substantial loosening in requirements and that our Clubs would not be materially impacted. Upon receiving the temporary Proposed Regulations in late April, we found Boys & Girls Clubs would indeed be substantially impacted and began discussions with the KDHE. We are in the process of working towards a compromise position by which the national standards under which our Clubs operate would be substituted for virtually all of the substantive regulations. While each Club would be licensed by KDHE, the regulations would refer to membership requirements and curriculum available from Boys & Girls Clubs of America.

At this time I can report we are operating under a certain level of trust in Secretary Graeber and Director Ross-Baze that the outcome will be the conceptual outcome we have discussed. It may be too soon to tell. The Department does need to further review our standards and we are concerned that we do not have final assurances today as to which regulations may continue to burden our operations and how those may change over time. It is our hope that our board volunteers who have worked diligently this last month to impact the regulations will not have need to revisit the situation periodically with KDHE should their view of a national standard change. Already this group of volunteers has invested well over 100 hours each in this effort. The proposed regulations are confusing and in the haste of implementing them, our needs have not yet been adequately addressed. For example, while the Director has assured us the temporary regulations will not be enforced until permanent regulations are approved, the inspector for Riley County contacted our Manhattan Club yesterday

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to arrange for an inspection under the "Proposed School Age Regulations". That Club is set to open for its large summer membership on Monday. Its facilities and operations would not comply in full with the proposed regulations.

I have included in my written testimony, communication dated May 28, 2002 from Section Director Christine Ross-Baze identifying the Department's position. We had a lengthy phone conversation late Wednesday to further discuss those items remaining as requirements and some being considered. In an effort to prepare for today's testimony, we have not memorialized our current understanding but will do so within the next week. There is significant work to be done and it is unlikely these discussions could be resolved at or prior to the end of the public comment period according to Director Ross-Baze.

RECOMMENDATION BY THE KANSAS ALLIANCE OF BOYS & GIRLS CLUBS

The Kansas Alliance of Boys & Girls Clubs asks this committee to recommend KDHE reassess the definition of child care to exclude membership based youth development organizations who do not contract with families for the care of children. The definition, under current statute definitely allows either for inclusion or preferably exclusion of Clubs like ours. In the event, the committee recommends inclusion of the Boys & Girls Clubs in the proposed regulations, we would ask that the committee postpone its comments to allow additional input from Representative Neufeld and Representative Powell who are unable to be present today but are well apprised and have taken an active interest in understanding our concerns. What may be needed is additional time prior to the end of the public comment period in order to work out the details and provide regulations that would allow Boys & Girls Clubs national standards and certain training curriculum to replace all substantive regulations for Clubs. Furthermore, the regulations must be changed to exclude the requirement of providing snacks and meals.

If Kansas intends to license youth development agencies, let's take time to create regulations of which Kansas can be proud. Let's serve as a model for the 49 other states that do not currently license Clubs. Let's implement those regulations that do improve child safety and development but do not force Kansas children onto the streets without any care, without access to mentors and without the character, educational and physical development currently available during off school hours.

It is ironic that while the Department may contend failure to meet the regulations makes a Club unsafe, 52% of Boys & Girls Club alumni nationwide in a recent Harris poll concluded "Boys & Girls Club saved my life". Please recommend KDHE allow us to do what we do, what works and has worked for 140 years for the kids of Kansas. Please allow to literally, in some cases, save the lives of Kansas kids.

Testimony of Mark Nordstrom, President of
Kansas Alliance of Boys & Girls Clubs, Inc.
In Opposition to K.A.R. 28-4-576 – K.A.R. 28-4-496
May 31, 2002
Page 11 of 111

I remain eager to respond to your questions and comments today or at a later time. I may be reached at Monarch Management Corporation, 3550 S.W. 5th Street, Suite 100, Topeka, KS 66606, phone 785-234-2300 or mnordstrom@mmc-ins.corp.

Sincerely,
KANSAS ALLIANCE OF BOYS &
GIRLS CLUBS, INC.

Mark Nordstrom, President

Encl.

- Letter from Christine Ross – Baze dated May 28, 2002
- Proposed Draft Regulatory Language to Address Drop In Programs
- Table of Regulations that may affect Boys & Girls Clubs under suggested changes



TESTIMONY IN SUPPORT OF HB 2376

CITY OF EMPORIA and EMPORIA RECREATION COMMISSION (ERC)
FEBRUARY 25, 2003

Issue : Should the ERC Summer Playground Program for Youth be Licensed by the KDHE as a Day Care Facility?

Chairman Vickrey and Members of the Local Government Committee:

Day care facilities are required to be licensed by KDHE pursuant to K.S.A. 65-501 *et seq.* The definition of a "Day Care Facility" contained in K.S.A. 65-503(c)(1)(b) is very broad and includes "day care facility or other facility of a type determined by the secretary to require regulation under the provisions of this act . . ." KDHE has been given unfettered discretion to determine what constitutes a day care facility.

KDHE has determined that the ERC Summer Playground Program must be licensed as a day care facility. For many years, the ERC has operated a playground program for youth. Children are invited to come to an elementary school in their neighborhood for activities during the summer. There is a planned schedule of activities at each location. Activities are supervised by two recreation supervisors at each location who are paid staff of the ERC. Typically, the staff provides a craft activity, games and supervised sports for the children. During the week field trips are scheduled to the roller skating rink, movies or the aquatic center. Transportation is provided by school bus. Lunches are not provided and parents are expected to arrange for lunch time for their child during the noon lunch break. All activities, except field trips, take place outside, on the playground and do not involve the use of the school building except for the restrooms. The playground program provides adult supervision, organized games and sports, and positive social interaction. Without this program, some youth could turn to gangs, delinquency or other negative activities for something to do.

Now, the ERC is being told by KDHE that it must be regulated as a day care facility. Imposing the day care facility regulations on the ERC summer playground program will force it to close because it would change the fundamental nature of the program. A day care facility is required to have advance registration. The summer playground program is operated on a philosophy that all children may participate without advance registration. Regulations would require a health assessment on each child. The playground program welcomes all children without regard to physical limitations with a range of activities from crafts and board games

to organized sports. Regulations require each "facility" to have a full time program director. The summer playground program is offered at elementary schools throughout the City with staff consisting of two adults at each location who are hired for the summer only. Many of our summer staff are education majors from ESU with excellent qualifications. Each "facility" is required to be licensed. Does this mean that each playground at which activities are planned would need to be separately licensed?

More fundamental is the question of whether the State needs to be regulating local government youth programs. The need to regulate summer youth programs operated by local units of government is less than the need to regulate for-profit day care facilities. Local governments are answerable to and responsive to the needs of their communities; and are very aware of their role in promoting public health and safety, including the operation of youth programs. For-profit day care facilities answer only to KDHE. Local governments do not compete directly with for-profit day care facilities, rather they offer an alternative.

Taking summer youth programs out of the regulatory jurisdiction of KDHE will allow that agency to focus its scarce resources where they can best be used to fulfill its mission to license and inspect day care facilities. And it will allow local government units to continue to provide innovative, fun summer youth programs.

H2376 would remove summer youth programs operated by local units of government from the regulatory jurisdiction of the KDHE. Passage of H2376 would benefit local communities by encouraging innovative recreation alternatives, and by allowing more state resources to be focused where they are needed. The Committee may want to consider a clarification to the amendment by adding "Recreation Commission." As it reads now, it exempts "local units of government." Recreation Commissions are creatures of statute formed under K.S.A. 12-1922, *et seq.* I am not aware that any statute expressly states that a Recreation Commission is a "local government unit." Without clarification, there may be a question of whether a Recreation Commission constitutes a local unit of government. Thank you for your consideration of this bill.

Respectfully,



Blaise Plummer
City Attorney

The Salvation Army

Public Testimony
House Bill 2376
February 25, 2003

Thank you Mr. Chairman and members of the Committee for this opportunity to provide testimony on this important bill. My name is Rebecca Dickson Simmons and I am the Social Services Director for The Salvation Army in the State of Kansas. The Salvation Army is among the largest Faith-based Social Services Agencies in Kansas providing multiple programs and services for individuals, families and children. The focus of our programs is to provide the family supports that empower parents and individuals to take control of their lives, sustain their jobs, and find and/or stay in their housing.

The Salvation Army has a long history of operating programs and facilities for children in Kansas. We are committed to providing excellent care in a safe and healthy environment for the children and families we serve. Because of this commitment, The Salvation Army has mandated a program called *Safe From Harm* in every program which serves children. This plan sets standards for our programs to assure that all children are safe from injury or abuse when they are at The Salvation Army.

The Salvation Army currently has sixteen programs in fourteen cities throughout Kansas. These programs are in both urban cities (like Wichita and Olathe) and rural cities (like Garden City and Pittsburg). They serve children by providing a safe and healthy environment after school to keep them off the streets. On average 56 children attend each program five days a week for over 200,000 in attendance annually. These programs usually operate on very limited budgets with no funding from local, state or federal sources. Due to the safety procedures which The Salvation Army routinely implements, in the last five years there have been no incidents of children being hurt and there have been no reports to SRS for child abuse.

Most of the children served in these programs are from families who do not have the financial means to enroll their children in more traditional programs, which come with a price. With families being encouraged to move from welfare into the workforce our staff finds that many of these families obtain entry level jobs with salaries that are inadequate to pay for after-school and summer programs. It is our assessment that these drop-in centers meet a significant need in the community. Without these programs many of these children would end up unsupervised at home or on the streets.

Currently, all of the programs for children The Salvation Army offers after school or during the summer are subject to licensing regulations for school age programs. These regulations become prohibitive for the types of programs which we offer and increase the cost of programs due to changed staffing, equipment, and record keeping. Since all of these programs function through The Salvation Army's fundraising efforts, increased program costs during a time when contributions are down will eventually limit program functioning and could possibly closes programs.

HB 2376 will assist The Salvation Army to continue to serve low-income, at risk school age children in after school and summer programs as we have in the past. We would like to request that you support this bill also.

(prepared by Rebecca Dickson Simmons, MSW, Divisional Social Service Director, The Salvation Army, 3637 Broadway, Kansas City, Mo 64111, 816-968-0400, rebecca_simmons@usc.salvationarmy.org)

House Local Government
Date: 2-25-2003
Attachment # 6



Association of Community Mental Health Centers of Kansas, Inc
720 SW Jackson, Suite 203, Topeka, Kansas 66603
Telephone: 785-234-4773 / Fax: 785-234-3189
Web Site: www.acmhck.org

Randy Class, President
Michael J. Hammond, Interim Executive Director

Testimony to the House Local Government Committee

February 25, 2003

Mr. Chairman and members of the Committee, I am Stuart Little, a contract lobbyist for the Association of Community Mental Health Centers of Kansas, Inc. Thank you for this opportunity to appear before you today on House Bill 2376.

The Association represents 29 licensed Community Mental Health Centers (CMHCs) - providing mental health services in every county in over 100 locations. Each CMHC has a defined and discrete geographical service area. With a collective staff of over 4,000 professionals, the CMHCs provide services to Kansans of all ages with a diverse range of presenting problems.

I appear before you today seeking language which would exempt any service or program designed for mental health treatment of children and adolescents provided by a licensed CMHC per K.S.A. 75-3307b(4). This particular statute authorizes the Secretary of SRS to adopt rules and regulations setting the standards, inspection and licensing of all CMHCs receiving state or federal funds.

The CMHCs already operate under significant levels of accountability and oversight by SRS as well as the federal government. Some examples include: CMHC licensing rules and regulations; participating CMHC contracts; Medicaid and Medicare rules and regulations; and SRS Quality Enhancement staff.

It is my understanding that the Kansas Department of Health and Environment (KDHE) has an interest in licensing some of the CMHC programs for children and adolescents even though SRS already provides such a function. A few examples of programs impacted by this would include afterschool programs, psychosocial groups, school-based mental health programs and day treatment programs. It has created a fragmented regulatory process as well as conflicting policies which, at times, prove to contradict one another. It also results in a duplicated governmental


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Date: 2-25-2003

Attachment # 7 1

function – two agencies licensing one community service provider on for the same service or program. It simply makes no sense and appears to be inefficiency in the state bureaucracy.

We are recommending the following insertion, which could appear on line 34 of the bill, which reads:

 *(d) any service or program designed for mental health treatment of children and adolescents provided by a licensed CMHC per K.S.A. 75-3307b(4).*

Thank you for the opportunity to appear before you today. I would be happy to stand for questions and provide any necessary follow-up.

7-2

Kathy Damron

(785) 235-2525

(785) 354-8092 FAX

E-MAIL: MKDTopeka@aol.com

800 SW JACKSON STREET, SUITE 1100

Topeka, Kansas 66612-2205

Testimony of
Kathy Damron
on behalf of
YMCAs of Kansas
Opposing HB 2376

Mr. Chairman and Members of the Committee:

My name is Kathy Damron, appearing before you this afternoon on behalf of the YMCAs of Kansas. I am both a volunteer board member of the YMCA of Topeka and serve as the legislative advocate for the YMCAs of Kansas. We are here this afternoon to voice our strong opposition to HB 2376.

For well over two years, we have been working with the Kansas Department of Health and Environment to revise and update school-age child care regulations. This has been an extensive effort initiated by KDHE to seek the input of providers of school age child care in Kansas in developing more appropriate regulations. Task force meetings were held, public hearings were convened and through this give and take process, more user-friendly school age child care regulations were adopted.

The regulations reflect more than two years of work with providers of school age care across the state. They are the product of public input from all parties you are hearing from today about this legislation. And they are a great step forward from those regulations which used to govern school age child care.

What you are being asked to do in HB 2376 is treat *some* providers of child care differently than others even if the programs they are offering are exactly the same. That flies in the face of fairness and is simply terrible public policy.

If certain programs for school age children really don't need the licensure envisioned by KDHE then these providers can seek an exemption from the Secretary of KDHE. That is a more appropriate course of action than that suggested in HB 2376. For these reasons, among many others, we respectfully urge the committee to reject this legislation.

House Local Government

Date: 2-25-2003

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State of Kansas



Department of Health and Environment

1000 SW JACKSON, SUITE 540
TOPEKA, KS 66612-1368

PHONE (785) 296-0461
FAX (785) 368-6368

BILL GRAVES
GOVERNOR

May 6, 2002

CLYDE D. GRAEBER
SECRETARY

The Honorable Representative Kenny Wilk
State Capitol, Room 514-S
Topeka, Kansas 66612

Dear Rep. Wilk:

I understand some providers of school age programs have expressed concern that the KDHE temporary school age regulations would be strictly enforced during the transition time from now until the permanent regulations are adopted and that this concern prompted a proviso to the appropriations bill to rescind the temporary school age program regulations.

The temporary regulations reflect almost two years of work with providers of school age regulations and other child care partners across the state. They are less stringent and more appropriate than the current child care center regulations that governed these programs prior to the adoption of the temporary regulations. If the temporary regulations are rescinded then the more stringent child care center regulations will apply leaving summer programs for school age children with more difficult requirements to meet. The adoption of the temporary regulations gives the provider community and the Department an opportunity to test the applicability of the regulations. If changes are needed they can be addressed prior to the adoption of the permanent regulations. In addition, the temporary regulations exclude certain types of programs from regulation that are required to be licensed under the child care center regulations.

The Department is in contact with the Boys and Girls Clubs, the YMCA's and other providers of school age programs to discuss the temporary and proposed permanent school age program regulations. The Department has offered to partner with these programs to develop appropriate standards for this population and is encouraging comment and discourse.

8-2

Representative Wilk
May 6, 2002
Page 2

If the temporary regulations governing school age programs are rescinded, there could well be a negative impact on the majority of providers of summer school age programs. So far the Department has received many positive comments about the temporary and proposed regulations and is actively committed to working with the various programs to address any remaining concerns. Your support in removing this proviso would benefit the majority of Kansas school age programs across the state.

Sincerely,



Clyde D. Graeber
Secretary

CDG:CRB:ln

- c. Rep. Melvin Neufeld
- Rep. Rick Rehorn
- Kathy Damron

To: Honorable Jene Vickrey and Members of the House Local Government Committee
From: Emily M. Lies
Date: February 25, 2003
Re: House Bill 2376

Thank you for the opportunity to testify in regards to House Bill (HB) 2376, which seeks to exempt specific organizations from child care licensure. I am here to testify in opposition to the bill and its proposed exemption of selected school-age child care providers.

My name is Emily M. Lies and I am the Executive Director of the Greater Wichita YMCA Child Care and Camping Branch. The YMCA is the largest provider of child care nationally and the Greater Wichita YMCA is the largest provider of Kansas Department of Health and Environment (KDHE) licensed child care in Wichita and surrounding communities. Fifty-nine licensed programs are operated throughout the year for children two weeks of age through elementary school age. During the summer months, the Y expands its age range to include teenagers up to age fifteen. Our programs include child development centers, before and after school programs, school day out child care, holiday camps and summer day camps. Child care programs at the Y meet the needs of student and working families.

Our KDHE licensure allows us to enroll over 2000 children, and our average daily enrollment varies from approximately one thousand children to eighteen hundred fifty children. We are in the business of providing quality, affordable and accessible programs to children and families. The YMCA enrolls children from all segments of the community. Our ratio of low-income children varies from as much as one hundred percent of participants to none. Our average number of subsidized children program-wide is slightly over thirty-three percent, which means that one out of every third child in our programs meets state guidelines as a member of a low-income household. Financial assistance to families is provided through United Way, state of Kansas child care plans, community partnerships and YMCA scholarship assistance.

We are opposed to HB 2376 for several reasons. Two areas of particular concern are inequity of treatment of organizations that provide the same service and no clear definition of minimum standards for care of children.

Inequity of treatment of non-profit organizations As stated, the YMCA is a non-profit organization that meets a community need for child care for all children. It seems inconsistent to exempt some organizations and not others when all of the organizations mentioned in House Bill 2376 hold themselves up as doing the same thing that the Y does. Each of us presents ourselves as providing quality, affordable and accessible programs for children in

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Date: 2-25-2003

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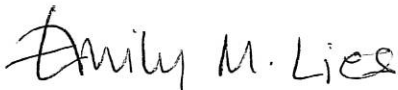
care outside of the home and outside of school hours. If the state of Kansas is making a policy decision that exempts certain organizations, then where is the logic in not exempting other organizations? If we are to all be exempt, then how will the standard of quality care be defined?

Definition of minimum standards for school-age child care The YMCA is committed to quality care for children; quality that meets clearly defined standards for programming. In our society, there is a need for a safe, supportive and stimulating environment for school-age children before and after school and when school is not in session. Children today come from homes where many parent(s) work or go to school every day. It has been proven that non-school hours represent the largest single block of unsupervised time for children and youth and that children benefit academically and socially from participation in high quality programs. Communities in turn benefit from reduced crime and higher student achievement.

KDHE has worked with child care providers over the past few years, seeking input to ensure that new and appropriate regulations for school-age programs (SAP) would be developed. The new SAP regulations appear more flexible and relevant to programming. As change, interpretation and implementation of the regulations occur, we believe that the opportunity will exist for organizations to provide input so that the regulations continue to be applicable to day-to-day operational needs, safeguarding of children and quality programming.

Thank you again for the chance to speak with you today about a subject that is important to all of us in the business of school-age programming for children and youth.

Respectfully submitted,



Emily M. Lies Ed.D.

(316) 264-1610. 250

9.2



February 25, 2003

To: House Local Government Committee
From: Gary Brunk
Re: House Bill No. 2376

Kansas Action for Children opposes enactment of HB 2376.

According to a recent report from the Institute of Medicine and the National Research Council, "at least 25 percent of adolescents in the United States are at serious risk of not achieving 'productive adulthood.'" This national assessment is echoed by Kansas specific data. For example, while these numbers are now improving, there is a significant group of adolescents and youth in Kansas who report binge drinking and using tobacco and other harmful drugs.

Many children and youth need at least two things to increase their prospects of becoming successful and contributing adults. First, they need more adults who take the time to establish relations with them and become friends and mentors. Second, they need safe and constructive out-of-school activities that help prevent risky behavior and develop the skills and knowledge that prepare them for life as adults.

Many organizations in Kansas are doing a terrific job of responding to those needs with safe, high quality and effective programs. We need to continue to support their current work and find ways to increase the capacity of those programs so they can serve many more children and youth. We have a long ways to go in Kansas in this regard.

I have been talking about what children and youth need, but what do parents need? Parents whose children participate in out-of-school programs need to be confident that programs *are* safe and of good quality. However, they do not always have access to information about out-of-school programs. Licensing is the tool we used to ensure both the safety of such programs and a minimum level of quality. Licensing by itself does not guarantee a high level of quality, but it can provide a measure of security and peace of mind for all parents, regardless of socioeconomic status.

Kansas has often been a national leader in licensing and standards. It would be a step backward and a serious mistake to allow some programs to be exempt from licensing. If there are specific problems posed by licensing requirements they should be reviewed and, if appropriate, fixed. We are confident that the Kansas Department of Health and Environment will be responsive to suggestions for improving current regulations and we urge this committee to not act on this bill.

EXECUTIVE DIRECTOR
Gary Brunk

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House Local Government Committee
Date: 2-25-2003
Attachment # 10

Written Testimony on HB 2376
presented to the
Local Government Committee
February 25, 2003
by
Shirley A. Norris
131 SW Greenwood
Topeka, Kansas 66606-1225
Ph. 913-232-3206

My name is Shirley Norris. For thirty-five years I was the director of the child care licensing and registration section in KDHE. I retired in 1990, only to return four years ago with the specific assignment of drafting school-age program regulations governing before-and-after-school and summer school-age activities. These regulations were completed and adopted in December, 2002, so that my employment with the agency was terminated at the end of December. At the present time I am a private citizen, although obviously I have considerable interest in the bill before you today.

The amendment to licensing statute 65-501 as proposed in HB 2376 would erode an 84-year-old public health policy that children who are away from the supervision of their parents or legal guardians have a right to have their health and safety protected. This policy has been upheld by the Kansas Supreme Court in two court cases which addressed the issue of the balance of a program's right to operate and the need for licensing protection. The two cases are *The State of Kansas vs. Heritage Baptist Temple*, 236 K. 544 and *The State vs. Heart Ministries, Inc.*, 227 K. 244. In both cases the Supreme Court found that the state has a compelling interest as *parens patriae* to protect its children from harm and maltreatment "in all its forms. . . by imposing licensing and inspection requirements" on facilities and programs serving children whose parents or legal guardians are not available to them.

Which brings me to my major concern about this proposed legislation. I believe it to be very bad public policy because it would remove equal protection under the law from thousands of children who are dependent upon the state to prevent harm from coming to them when they are not being supervised by their parents.

There is nothing that makes the three agencies asking for exemption different from dozens of other agencies that provide before-and-after-school and summer activities for school-age children. The Boys and Girls Club of America is a service organization just as is the YMCA. The YMCA conducts many licensed programs for school-age children. The Salvation Army is a church, and since 1919 faith-based programs have not been exempt from licensing. There are currently many licensed faith-based programs. The "local unit of government" apparently refers to Parks and Recreation programs, although could possibly be construed to include before-and-after school and summer programs conducted by public schools. K.S.A. 65-527, passed in 1992, addresses licensing of Parks and Recreation programs and K.S.A. 72-8236 requires licensing of certain programs operated by public schools, so that this exemption would be in contradiction to those statutes.

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I believe the proponents of this bill will say that they are not providing “child care” so should be exempt from the licensing statutes. However, the fact they are asking that the “act” not apply to them indicates that they know the definition of “child care facility” in K.S.A. 65-503 does include the school-age activities they are conducting. They will also say that the regulations will represent a major financial burden for them. However, KDHE made every effort to modify the regulations to address their concerns, and since the regulations were filed less than two months ago, six additional Parks and Recreation programs have become licensed.

If “facilities or programs” for children 5 through 15 years are exempted from licensing, there will be no enforceable requirements to safeguard the health and safety of children in those programs. There will be no mandated KBI or child abuse registry check, both considered sufficiently important by the legislature that a law was passed to protect children in licensed facilities from certain felons or child abusers (65-516, 1980). Also, there will be no mandate to meet the fire safety code. Agencies operating unlicensed facilities have complained that if they are required to be licensed, it will be too expensive to meet fire safety requirements. However, the tragedies in this country in the past three weeks that resulted from non-compliance with fire safety requirements might lead us to ask “what price, the lives of our children?”

It is true that “summer instructional camps” are exempted in Section 1(b) of the statute under consideration (65-501) but there are very important differences between that exemption and those being requested in the proposed bill. Summer instructional camps last for a maximum of five weeks as compared with all-summer and year-round activities conducted by the three agencies requesting exemption, the youngest child in summer instructional camps is ten, not five as in the proposed amendment, and most importantly, the summer instructional camps must be accredited by an agency or organization acceptable to the secretary of KDHE and, because they are all located in Kansas educational institutions, they are required to be inspected to confirm compliance with building and fire safety codes. To my knowledge, there is no accrediting body associated with any of the three agencies requesting exemptions, and although they may have national guidelines for operation, meeting the guidelines is voluntary.

If this proposed legislation is approved, the state will be opting out of its responsibility as *parens patriae* for thousands of vulnerable children. This action would subject those children to increased risk of harm, and the state to increased liability.

I urge you not to recommend HB 2376 for passage, but to assure the protection of the state to the children in facilities and programs operated by the agencies requesting exemption.

Thank you.

11-2

February 21, 2003

Honorable Chairman, Committee Members and Guests:

Good afternoon!

My name is Katheryn Lansford and I am testifying today to support the implementation of school-aged child care regulations without exempting the Boys and Girls Clubs and the Salvation Army. I am a widowed mother of eight and 9-year-old children. During the summer of 2002, I was dependent upon summertime childcare for my children that was not only economical but also had a safe and structured environment.

I placed my children in the summer program with the Boys and Girls Club of Topeka at their Auburn Community Center annex in Auburn, Kansas. Prior to their attendance, I had visited with the director of the program who informed me that this was a new program for this area, however, he assured me that the environment was safe and that my children's time would be structured. The normal operating hours were 7:30 a.m. until 5:30 p.m.. They began their attendance on June 3 of 2002.

Two days into their attendance with this facility, I was on my way from my home, 3½ miles from the Community Center in Auburn, to pick up my children. I was delayed for 10 minutes on my way to the center and would have arrived at approximately 5:40 p.m.

I was stopped on 85th Street about 5 blocks east of the 85th Street and Auburn Road intersection. It was then I noticed two young school-aged children walking, unattended, east down 85th Street from Auburn Road; a very busy thoroughfare at 5:30 in the afternoon, there is no sidewalk or shoulder on this road. These children were walking on the roadway. They were far enough away that I didn't recognize who they were, I assumed they were children from the neighborhood. As these two children got closer to my vehicle, I then recognized that they were MY then 7 and 8-year-old children.

Upon picking up my children, I asked them why they were walking in the road. They informed me that they had been told it was time to go home and that they had to walk home (3 ½ miles). This infuriated me as my children had absolutely no business and certainly did not have my permission to walk home. I proceeded to the community center, I arrived at 5:40pm, where I found two young adults I knew to be employed by the Boys and Girls Clubs sitting outside the building with some other children. I asked them where the director was and was informed that he had already gone for the day. I asked them if they were aware that there were two children that had left the facility because they were told it was time to go home, the director had somewhere to be and that they needed to walk home.

The two young adults informed me that they were not aware that my children had left and I asked them what they were doing at a time when they should have been making sure that every child left with whomever they were supposed to. They informed me that they were "in the back, cleaning." I told them that 5:30 in the afternoon was not an appropriate time to be "cleaning" and that they should be attending to the children who had been placed in their care. I then ended the conversation and took my children home, thoroughly shaken and scared for my children's welfare.

The next day, I called the Kansas Department of Health and Environment - Child Care Licensing office in Topeka to make a complaint. I was informed that I would need to call the Topeka and Shawnee County Health Department as they handled all the complaints and investigations. I called their office and made my complaint and was informed that they would open an investigation.

The next day, the county health department called me back and informed me that the Boys and Girls Clubs of Topeka, and consequently the Auburn annex, was not a licensed child care facility and therefore were not subject to investigation by the health department. I asked them if there was any other recourse for my complaint and was informed that the only other recourse available was to call the Kansas Department of Social and Rehabilitation Services and make a complaint of neglect and lack of supervision on the part of the provider.

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I called and spoke to the director of the Boys and Girls Clubs in Topeka to inform them of the incident. The director of the Topeka Boys and Girls Clubs informed me that this was the first time that they had ever had a complaint from a dissatisfied parent. She told me that they were a drop-in facility and did not **have** to conform to the regulations provided for a licensed child care center. I conveyed my anger and frustration and concern that my children had been left to their own devices at such a young age.

The director informed me that she had spoken to the director of the Auburn annex and then proceeded to give his side of the story. She told me that the director had informed her that my children had said it was okay for them to walk home from the community center. I told her that on my children's applications my address was available and the director was aware that I did not live within the city limits of Auburn and that at no time had I ever given the director written or verbal permission to release my children to walk home 3½ miles. I informed her that **no one** made a phone call to my home or place of employment in order to make sure that it was all right for them to walk home.

I reminded her that I placed my children in their care and that they have taken responsibility for their safety and well-being while under the care of the Boys and Girls clubs. I asked her if they were prepared to also take the responsibility if something had happened to my children, either being hit by a car or, just as bad, being picked up by a stranger. She agreed that it was not something that they would like to see happen. She was very apologetic and assured me that it would not happen again.

My purpose in testifying today is to provide an example of what can possibly happen to any child that is placed in a non-licensed facility where there is no system of checks and balances or accountability expectations in place.

According to the **National Health and Safety Performance Standards**, it states in part:

- ✓ "A **drop-in facility** - provides care for fewer than 30 days per year per child either on a consecutive or intermittent basis or on a regular basis, but for a series of different children."
- ✓ "A **center** - is a facility that provides care and education to any number of children in a nonresidential setting, or 13 or more children in any setting, if the facility is open on a regular basis. To distinguish a child care center from drop-in facility, a center usually provides care for some children for more than 30 days per year per child. In many cases, summer camps operate for more than 30 days per year per child and, in fact, provide center-based child care."

"Every child has a right to protective care that meets the standards, regardless of the child care setting in which the child is enrolled."

"All persons who provide child care or who may be responsible for children or alone with children in a facility should be individually credentialed by a state licensing agency or credentialing body recognized by the state child care regulatory agency. The credential should be granted to individuals who meet age, education, and experience qualifications, whose health status facilitates providing safe and nurturing care, and who have no record of conviction for criminal offenses against persons, especially children, or a confirmed act of child abuse. The state should establish qualifications for differentiated roles in child care and a procedure for verifying that the individual who is authorized to perform a specified role meets the qualifications for that role."

According to the **Kansas Statutes for Licensed Child Care Facilities**, it states in part:

"Child Care Facility" means:

- ✓ (A) A facility maintained by a person who has control or custody of one or more children under 16 years of age, unattended by parent or guardian, for the purpose of providing the children with food or lodging, or both, except children related to the person by blood, marriage or legal adoption;
- ✓ (B) a children's home, orphanage, maternity home, daycare facility or other facility of a type determined by the secretary to require regulation under the provisions of this act;
- ✓ (C) a child placement agency or child care resource and referral agency, or a facility maintained by such an agency for the purpose of caring for children under 16 years of age; or
- ✓ (D) any receiving or detention home for children under 16 years of age provided or maintained by, or receiving aid from, any city or county or the state.

"Child Care Center" means a facility:

- ✓ (1) **which provides care and educational activities for 13 or more children two weeks to 16 years of age for more than three hours and less than 24 hours per day including day time, evening, and nighttime care; or**
- ✓ (2) which provides before and after school care for school-age children. A facility may have fewer than 13 children and be licensed as a center if the program and building meet child care center regulations.

Under **K.A.R. 28-4-442** Procedures - states in part:

(A) General

- (1) **Any person, corporation, firm, association, or other organization desiring to conduct a child care center or preschool which will operate for more than five consecutive hours or more than one day per week shall apply for a license on forms supplied by the Kansas Department of Health and Environment.**
- (4) **Children shall not be in attendance at the center or preschool until a license has been issued by the Kansas Department of Health and Environment.**

My children would have attended the Auburn Boys and Girls Clubs all summer as would have many other children in the Auburn community thus negating the drop-in facility classification and falling under the child care center classification.

I realize that by the sheer nature of the fact that my children were seven and eight years old, it is easy for them to misconstrue and completely misunderstand things. However, the fact remains that my children were found walking home from a child care center without prior permission and without parental knowledge. If I had known, my children would not have been walking home as I would have adamantly refused.

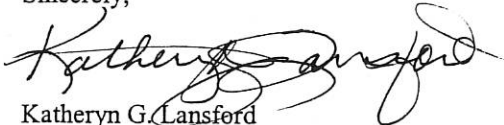
Most child care providers allow for traffic and unforeseen circumstances with respect to parents picking up their children at the end of the day, so that no child is left alone or goes home with someone they shouldn't. That practice must also extend to facilities such as the Boys and Girls Clubs and the facility should be staffed with an adequate staff-to-child ratio so that, should a staff member have to leave, sufficient supervision for **all** children in attendance is still provided. Children are our most precious asset, we should be honored to protect them and provide as safe an environment as possible for them to grow up to be happy, healthy and productive members of society.

The need for licensure and a system of checks and balances and accountability expectations must be put into place, not as a way to hinder the operation of the programs but as a way to ensure that good nutrition, education, safety and the well-being of the children placed in their care is protected. The majority of the children served by the Boys and Girls Clubs across the nation are children whose parents fall into the "working poor" and "poor" categories. I was informed by the director of the main branch in Topeka that the Boys and Girls Clubs of Topeka serves over 800 children daily from 7:30 in the morning until 8:00 in the evening.

The need for affordable yet safe and educational child care in this country is great. Why should the children whose parents can't afford the type of child care that must be licensed and regulated by the state of Kansas be subject to attending a facility that is neither licensed nor regulated all in the name of affordability? I understand that the Boys and Girls Clubs is a national organization but in Kansas we care about our children and who's taking care of them! To me, my children are priceless, irreplaceable! What are over 800 children worth? What is one child worth? What kind of value are we placing on the children of Kansas if these organizations are not regulated?

The regulations regarding organizations such as the Boys and Girls Clubs **must** be changed so that they are licensed, regulated and investigated if the need arises. Don't let an incident like this happen to another child, the child you protect through these regulations may be your own!

Sincerely,



Katheryn G. Lansford
7326 SW Indian Hills Road
Auburn, Kansas 66402
(785) 256-2211



12-4

TESTIMONY

AGAINST HB 2376

Mr. Chairman and Committee Members:

Thank you for your public service and hard work. I have heard that you work very long hours.

I am the mother of 5 kids. Two of them are in Head Start and will be in the public schools very soon. I am concerned that exempting certain child care operations from state regulations will put some of our Kansas children at risk.

We know that following child/staff ratios, nutrition requirements and staff training all cost money, but it is money well spent if children are well supervised and safe. At Head Start my children are learning about nutritious meals and snacks. They are learning that fruits and vegetables are much better than cookies, candy and doughnuts. If certain child care agencies can give kids any snack that is available, it could very well be junk food. We have enough tooth decay and obesity; let's not add to it.

Kids need adult supervision and guidance. If one adult has to care for too many children, accidents are more like to happen. Will the exempt facility require training on CPR and the Heimlick Maneuver. What will happen if a child is choking. This is just one example of how important basic training is.

Please do not grant exemptions to any child care facility. It is not fair to the facilities that are regulated or to the children who are in the unregulated care. Loopholes are usually not a good idea.

Thank you for your consideration.

**Lesa Jackson
Topeka, Kansas
785 357 7241**

House Local Government
Date: 2-25-2003
Attachment # 13

To: The Honorable Jene Vickrey and
Members of the House Local Government Committee

February 25, 2003

From: Nancy Jensen RN
Child Care Licensing Surveyor
1900 E. 9th
Wichita, Ks. 67214

Dear Sir or Madam:

I would like to address the portion of HB2376 that will require exemption from licensure for certain facilities or programs, as well as the addendum to transfer Child Care Licensure enforcement to the Department of Social and Rehabilitative Services. I have been an active registered nurse for 28 years and have functioned as a licensing surveyor in Sedgwick County for 14+ years. Child Care Licensing is not so much law enforcement as it is the only process available to us at this time to protect and provide for the health and safety of this state's greatest resource, our children.

Licensure is the vehicle for right of entry into these areas where children are the most vulnerable. They are by themselves, outside of their parents' protective umbrella, and unless the person caring for them understands their responsibility to meet, at the very least, a minimum standard of health and safety, our children are at risk. **There is no difference in any of the programs that care for children.** All children have basic needs for nutritious food, clean and safe environments, and activities that promote their healthy growth and development. People caring for children are not born with the innate knowledge of what children need. This is a learned process. Without some guidance, most people end up "parenting" day care children in the same way they were parented. This could include such hazards as physical or sexual abuse, extremely dirty, unsafe environments, absence of supervision, and lack of nurturing.

Bottom line-A facility or agency or program is only as good as the individuals that conduct the activities and supervise the children. Licensure provides on-going education, standards for best practice, consultation, and a legal avenue for protecting children when the provider is not considering the children's best interest. Additionally, the Kansas Department of Health and Environment is the only logical agent to provide this enforcement. The Licensing Surveyors are professionals that provide consultation and education to the providers in the areas of child growth and development, communicable disease control, nutrition, behavior management, health and safety, immunizations, fire safety, outdoor playground safety and supervision, emergency response, and Sudden Infant Death risk reduction, to name a few. These are not services provided by SRS and will not be duplicated. They will be lost.

My plea is that you would not pass HB 2376 because it is a giant step backward in the progress that this state has made in advancing the health and safety of our children in "out of home" care.

Respectfully Submitted, House Local Government
Date: 2-25-2003
Attachment # 14

Nancy Jensen RN

**KANSAS
PUBLIC
HEALTH
ASSOCIATION, INC.**

KANSAS PUBLIC HEALTH ASSOCIATION, INC.

AFFILIATED WITH THE AMERICAN PUBLIC HEALTH ASSOCIATION

215 SE 8TH AVENUE

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WEB SITE: HTTP://KPHA.BLUESTEP.NET

To: House Committee on Local Government
From: Sally Finney, CAE, Executive Director
Re: House Bill 2376
Date: February 25, 2003

I am submitting this testimony on behalf of the members of the Kansas Public Health Association asking you to oppose HB 2376. While on its face, this legislation might appear to be benign, we believe it undermines a simple premise underlying the policy of childcare licensure and inspections - that all Kansas children placed in the care of others deserve to be in a safe, healthy environment.

The purpose of licensing and inspecting childcare facilities is to assure proper application of principles known to keep children safe while outside the care of their parents or guardians. Licensure and the inspections associated with it offer the public health system its only link to providers so they may understand and follow proven safety practices, everything from the proper labeling and storage of medications to prevent poisoning to the correct storage of food to stop the spread of disease.

Certainly, the organizations listed in HB 2376 are worthwhile. However, the possibility of their exemption from the state's childcare licensure provisions raises several important questions about the consequences of this legislation. Are there not other equally worthwhile entities who might merit exemption? Who will decide which organizations deserve exemption and which do not? If you grant exemption to these, how will you deny exemption to others?

Kansas' parents deserve to know that the public health system is able to assure the safety of their children to the best of its ability. The Kansas Public Health Association asks that you oppose HB 2376.

Thank you.

House Local Government
Date: 2-25-2003
Attachment # 15

Written Testimony Only

**Testimony of Abby Thorman, Ph.D.
Director, Mid-America Regional Council's Metropolitan Council on
Child Care**

Regarding House Bill 2376

**Submitted to the House Local Government Committee
February 25, 2003**

House Local Government
Date: 2-25-2003
Attachment # 16

Thank you, Chairman Vickrey, for the opportunity to provide this written testimony in opposition to HB 2376, which would exempt certain school-age programs from meeting the state's licensing requirements.

Requiring school-age programs to meet the state's licensing requirements helps to ensure that these programs are meeting basic health and safety requirements, which in turn helps to ensure that the children who are attending these programs are safe. These basic standards are needed to ensure the safety of ALL children, not just those whose programs are not exempt from licensure. Experience in other states has shown that unlicensed programs have a higher incidence of accidents, health concerns, and problems with unqualified staff; in some cases these staff have abused children. In communities where allegations of abuse or neglect of children have come from unlicensed programs, a common outcry was that the state failed to ensure the basic health and safety of children. Parents expect programs to be licensed, in a similar way that patrons at a restaurant would expect that a basic health inspection had been passed. Just as it would be inappropriate to exempt some restaurants from basic health and safety standards, it is equally mistaken to exempt some school age programs from licensing.

Just three years ago, the licensing requirements that applied to school-age program were based on those standards that applied to child care programs. Recognizing that it did not make sense to require school-age programs to meet the same standards required of programs serving a much younger population, KDHE undertook a thorough process to revise the licensing standards for school-age programs. This process included many opportunities for public comment and input, including input from those school-age programs impacted by the standards. This process resulted in a specific set of standards being developed to accommodate the unique needs of school-age programs.

It is critical that all school-age programs be required to meet the state's basic health and safety requirements through licensing. Allowing certain programs to be exempted only puts children in the state at risk. I urge you to oppose HB 2376.

I would be happy to answer any questions you may have. I can be reached at athorman@marc.org or 816-474-4240 (ext. 209)

16-2

Topic: HB 2376

Amend 65-501 to exempt the Boys and Girls Club, Salvation Army and any local unit of government from childcare licensing regulations.

Position: Opposed

Dear Sirs:

I oppose the proposed bill to exempt specified organizations from the KDHE Bureau of Childcare Licensing and Regulations requirements for school age children. I am a public health care professional, I was the hearing officer for the KDHE regulations, and I am the parent of two school-aged children.

The Bureau of Childcare Licensing and Regulations spent two years drafting regulations to protect the health and welfare of Kansas children without putting undue hardships on childcare providers. They worked with childcare providers, listened to the needs and economic realities of providing care to school-aged children and balanced that with the needs of children and the and expectations of their parents. The agency met specifically with the groups that are now seeking exemption in an attempt to accommodate special circumstances without compromising the safety and welfare of the children they all serve.

Many parents, especially those using the Boys and Girls Clubs, the salvation army, and local governments have limited options for the care of their children. The exemption would betray the trust of parents who send their children to the Boys and Girls Clubs, the salvation army, or to local Parks and Recreation programs for before school, after school and summer activities. Parents pay a fee, receive waivers or reduced fees to these programs but have the same expectations that parents of other after school programs have. Namely, they trust that their children will be taken care of safely and that there is recourse if that trust is betrayed. To deny children in these programs basic safety and health guarantees by granting an exemption is a deceitful at best and exploitive at worst.

The Bureau of Childcare Licensing and Regulations requires a \$20 fee for facilities that care for school aged children and require that the organization: 1) do a criminal and child abuse background check on staff members, 2) ensure that the facilities are safe, 3) assure hot and cold running water (for summer programs at local Parks only running water is required), 4) provide bathroom facilities, 5) can contact parents in the event of an emergency, 6) ensure that children at the facility or activity for more than 2 ½ hours have food and water, and 7) provide reasonable supervision of children so that when parents come to collect their children the children can be found. Which of these basic health and safety requirements do the Boys and Girls Club, salvation army, or local units care to be exempt from? Which of these would parents give up for their children?

The groups that are being considered for exemption have indicated that they have national standards that meet or exceed those of KDHE. I would certainly hope that any organization that has children at the center of their being require basic necessities for children in their care. However, I have seen no evidence to suggest that there is oversight by the national groups or accountability to the parents or the children in the care of

House Local Government
Date: 2-25-2003
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Kansas affiliates. I feel very comfortable knowing that the Bureau of Childcare Licensing and Regulations has the safety and welfare of Kansas children, as their primary focus and is accountable to Kansans.

The groups asking for exemption may call themselves something other than school age child care facilities, but caring for school aged children while their parents are working or attending classes are what these groups do. They may call themselves a club or a special program, but the belief of those parents using their services is that they provide care for their school aged children. There is a higher level of expectation than of leaving a child at a local pool, the local shopping mall, or home alone. Even with negligible financial outlay, Kansas parents expect and presume that there is at least minimal state regulation of organizations and facilities that care for their children. You would be derelict in your duties if you fail to meet those elemental expectations of parents for their most precious children.

Thank you for your consideration of this matter. Please feel free to contact me if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Gail R. Hansen". The signature is written in black ink and is positioned to the right of the word "Sincerely,".

Gail R. Hansen
1112 Jana Drive
Lawrence, KS 66049
785-865-3588 (home)
785-296-1127 (office)
petermh@msn.com

17-2

**Testimony of Lisa Muntz
Vice President, YMCA of Greater Kansas City**

Regarding House Bill 2376

**Submitted to the House Local Government Committee
February 25, 2003**

House Local Government
Date: 2-25-2003
Attachment # 18

Thank you, Chairman Vickrey, for the opportunity to provide written testimony in opposition to HB 2376, which would exempt specific school-age programs from meeting basic state licensing requirements.

The YMCA of Greater Kansas City has been in operation for over 140 years and is the largest licensed provider of school age programs in the Kansas City area. We operate 80 elementary school-based sites located in the following six Kansas school districts: Blue Valley, Bonner Springs, DeSoto, Gardner, Olathe, and Shawnee Mission. Through our licensed before and after school programs we primarily serve children ages six through nine. Although we are part of a large national organization we believe it is important for local agencies to monitor basic health and safety codes. National organizations do not have the means or authority to monitor local agencies.

Nearly two years ago the Kansas Department of Health and Environment began gathering input from school age providers to create standards specific to school age programs. The YMCA of Greater Kansas City and the agencies seeking exemption were given the opportunity for input. In response to provider input, KDHE sought to develop regulations that were obtainable without sacrificing minimal health and safety standards. The YMCA believes these regulations are achievable for any agency operating during the non-school hours.

It would be a disservice to the children and families of Kansas to begin exempting certain programs from licensing. These agencies are responsible for assuring children are safe while out of the supervision of their parent or guardian. The YMCA also serves low-income children, and we believe that all children should be provided a baseline of protection from injury, disease, and developmental impairment.

In conclusion, we support whole-heartedly the importance of licensing to ensure that Kansas children are kept safe and healthy

I urge you to oppose HB 2376. I would be happy to answer any questions you may have. I can be reached at lisa-muntz@ymca-kc.org or 816.354.8591 ext. 298.

18-2



K A N S A S

RODERICK L. BREMBY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF HEALTH AND ENVIRONMENT

**Testimony on HB 2376
to House Committee on Local Government**

**Presented by
Jim Murphy, Office of the Secretary
Department of Health and Environment
February 25, 2003**

Chairperson Vickrey and members of the House Committee on Local Government, I am pleased to appear before you today to discuss HB 2376.

The department licenses and registers approximately 11,500 programs with a capacity to serve 138,000 infant, toddler, preschool and school age children at anyone time. Of these, 303 are licensed after-school and summer programs with a licensed capacity to serve approximately 16,920 school age children.

The department recently adopted school age program regulations following a two-year process involving public input from across the state to write appropriate regulations for school age programs. The department received recommendations from parents, state agencies, school districts, Safe Kids Coalition, PTAs, mental health and juvenile justice providers, providers of school age programs, including representatives from faith-based organizations, recreation and park organizations, Boys and Girls Clubs and YMCAs.

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House Local Government
Date: 2-25-2003
Attachment # 19

These groups took an active and involved role in writing regulations from the beginning and throughout the process. Regulations were written in such a way that programs that served the same age children for similar extended lengths of time meet the same requirements for licensure. The department made changes to the proposed regulations to accommodate the recommendations expressed at the hearing.

The department addressed fiscal and program concerns by lowering the annual licensing fee from a maximum of \$75.00 per licensed site to a flat \$20.00 per licensed site, decreasing the qualification and training requirements for staff, changed staff supervision requirements, removed the requirement for nutritional meals and snacks, modified the requirements for providing services for children with special needs, simplified the record keeping requirements, added a definition for "high risk sports or recreational activities," removed the requirement for accident and liability insurance and changed the requirements related to maintenance of public swimming pools on the premises of a school age program.

The regulations permit organizations affiliated with national organizations to use their national standards in place of some of the regulations concerning licensed capacity, some building requirements and staff qualifications. The regulations specifically exclude from licensure programs that clearly operate on a limited term basis. The summer playground programs that operate each day all summer long and in which elementary age children attend most of the day are the programs that are subject to licensure under the school age program regulations.

I thank you for the opportunity to appear before the Committee and will stand for questions the committee may have on this topic.

19-2