

MINUTES OF THE SENATE EDUCATION COMMITTEE

The meeting was called to order by Chairman Jean Schodorf at 1:30 p.m. on January 18, 2006, in Room 123-S of the Capitol.

Committee members absent:

Committee staff present: Carolyn Rampey, Kansas Legislative Research Department
Kathie Sparks, Kansas Legislative Research Department
Theresa Kiernan, Revisor of Statutes
Shirley Higgins, Committee Secretary

Conferees appearing before the committee: Barbara Hinton, Legislative Post Auditor
Mark Tallman, Kansas Association of School Boards

Barbara Hinton, Legislative Post Auditor, discussed a table concerning the estimated cost of meeting future performance standards in 2006-07 dollars, which she distributed at the January 17 meeting. (Attachment 1) She clarified that, when Post Audit compiled the figures, all of the amounts were figured in 2006-07 dollars; therefore, the amounts on the chart did not include any inflation. She pointed out that the current formula includes an inflation adjuster, and a question arose as to why Post Audit did not include it since it is in current law. She explained, "We didn't put it on simply because we were showing everything in 2006-07 dollars. If we had used that inflation adjuster that's in the current law, to make it comparable on the top and bottom, you would have to put it in all the way across. We could, if you would like, try to put in some estimated inflation, but it would kind of have the same impact in terms of the differences." She went on to say, "Another point that I want to make clear – the differences down at the bottom – those end up being somewhat a cumulative increase. The cumulative difference, when you add all those together over the eight years, it's about \$8.3 billion total. That increase would be because of the increases in the standards. It would not be because of increases in inflation." She further clarified, "The other thing is, it's in today's enrollment. So clearly, if there were lower enrollments or higher enrollments of regular students or any of the special population students, over time, that would change. But we can't know that so we just put it in for the 2006-07. There are a lot of problems in some ways trying to go out that far and having it be incredibly meaningful, but we wanted to provide that information to you anyway."

Senator Lee expressed her concern about the following statement on page 30 of the complete Post Audit cost study analysis: "For districts that are exceeding outcomes, the approach will identify a level of spending that would be sufficient to allow them to meet outcomes." She commented that, "In effect, that means, all other things being equal, that they would be receiving less because their current budget allows them to exceed the outcomes."

Ms. Hinton responded, "One of the things that you had asked me to look at – you wanted to know whether there was a correlation between districts that exceed the standards, whether they lose funding under the outcomes-based approach. What we found in analyzing the data was that about 51 percent, so about half the districts that met or exceeded the standards, would receive less state funding under the outcomes-based approach. About 31 percent of those who didn't meet the standards would also be cut. And that essentially says, you get enough money, but you aren't doing it. One thing that I thought we could do is look at this based on enrollment too because clearly enrollment is one of the significant things you can see that it does cost more money if you're a small district."

Senator Apple requested that Legislative Post Audit compile what the total amount of state and local funding would be under the different cost study scenarios and how those amounts would compare to the current funding formula. Ms. Hinton pointed out that page 16 of the Executive Summary of the cost study analysis included related tables showing what potentially would happen with local property taxes if districts kept their LOB rate as they have in 2005-06.

Overview of Kansas K-12 education issues:

Mark Tallman, Kansas Association of School Boards (KASB), discussed several facts relating to the following key questions about Kansas schools (Attachment 2):

CONTINUATION SHEET

MINUTES OF THE Senate Education Committee at 1:30 p.m. on January 18, 2006, in Room 123-S of the Capitol.

- What student factors in Kansas have an impact on educational outcomes and costs?
- What outcomes do Kansas schools achieve?
- How much do Kansans pay for those outcomes?
- How does Kansas compare to the nation and other plains and contiguous states?
- How can the state support continuing improvement in education?

Mr. Tallman emphasized that, as the Legislature discusses the Post Audit cost analysis study and decides what costs should be put in, it is very important to view education as an investment. In his opinion, the state should recognize the need for more time for students and staff, support more flexibility in teacher compensation and contract negotiations, and support teacher and administrator compensation with incentives for performance. In addition, he suggested that the state not divert education funding for unproven strategies such as vouchers or independent charter schools. Commenting that it had been suggested that more school choice will lead to innovation, he called attention to a table showing how Kansas compares to ten “high choice” (charter school) states. (Attachment 3) He pointed out that, in most cases, Kansas has a higher performance now than what has been generated in the high choice states. Furthermore, he noted that the states that have the highest average combined NAEP scores for all students are the eleven states that have no charter school law at all.

For the Committee’s information, Mr. Tallman distributed copies of a KASB report entitled, “Different Rules—What Choice and Competition Mean for Public and Private Schools in Kansas,” which compares how public schools are regulated by the state, federal government, and state board of education with private schools. (Attachment 4) He noted that the report addresses the complete difference in the mission, operations, and requirements on these two sectors. He commented, “I think what most people in public education would say is, we’re not afraid of competition if it’s a level playing field. What we don’t want to do is create a system where we’re publically funding a highly regulated system that has to serve everyone and we’re also funding a system than can select the kids it wants to serve. It seems to us that’s fundamentally unfair.”

With regard to the statistics to which Mr. Tallman referred in his comparisons, Senator Vratil commented that none of the comparisons make sense if the same definitions were not used. He asked if all states and the National Center for Education Statistics use the same definition of “at-risk” as Kansas does. Mr. Tallman said that it was his understanding that the definitions were similar. He agreed to research the definitions and report back to the Committee.

Senator Schodorf noted that Dr. Art Hall, who testified before the Senate Commerce Committee on January 12, stated that a comparison of 1972 statistics on educational personnel with present day statistics showed that there has been a large increase in the number of employees; however, he did could not explain the increase. She informed the Committee that Kathie Sparks, Legislative Research Department, was in the process of preparing a memorandum on Dr. Hall’s testimony, which also included a summary of the new education mandates from 1972 forward.

Senator Schodorf called attention to the minutes of the January 10 meeting.

Senator Ostmeyer moved to approve the minutes of the January 10, 2006, meeting, seconded by Senator Goodwin. The motion carried.

The meeting was adjourned at 2:20 p.m.

The next meeting is scheduled for January 19, 2006.

**SENATE EDUCATION COMMITTEE
GUEST LIST**

DATE: Jan. 18, 2006

| NAME | REPRESENTING |
|------------------|-------------------------|
| TERRY FORSYTH | KNEA |
| Jim Edwards | KASB |
| Val DeFera | SQE |
| Pat Lehman | KFSA |
| Andrea Hartzell | KASB |
| Pat Thompson | KASB |
| Donna L. Johnson | KASB |
| Pat Hurley | PAT HURLEY & CO. |
| Dan Murray | Federico Consulting |
| SEAN MILLER | KASB |
| Vinda Delaney | American Heart Assoc. |
| RONALD RICHEY | ME |
| BILL REARDON | USD 500 |
| Angela Smith | Intern Senator Peterson |
| JOHN DOUGHERTY | ESU |
| Rob May | LBR |
| Ron Harbaugh | Topeka Public Schools |
| Gerald Henderson | USA |
| Diane Gjerstad | Wichita Schools |

**SENATE EDUCATION COMMITTEE
GUEST LIST**

DATE: Jan. 18, 2006

| NAME | REPRESENTING |
|-----------------|------------------------|
| David R. Corbin | K DOR |
| Derek Hein | Hein Law Firm |
| Lucas Bell | Kearney and Associates |
| Kim Diederich | TLRE |
| Sharon Joseph | TLRE |
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**Estimated Cost of Meeting Future Performance Standards
(in 2006-07 dollars)**

| | STANDARDS | | | | | | | |
|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|------------------------|
| | 2006-07 | 2007-08 | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
| OUTCOMES-BASED | | | | | | | | |
| Foundation-Level | \$3,151,289,271 | \$3,349,417,195 | \$3,476,962,046 | \$3,604,506,896 | \$3,732,670,897 | \$3,860,215,747 | \$3,983,426,550 | \$4,108,494,802 |
| Supplement Aid | \$260,204,273 | \$276,741,646 | \$287,387,579 | \$298,033,513 | \$308,731,126 | \$319,377,059 | \$329,661,238 | \$340,100,454 |
| KPERS Contribution | \$198,711,460 | \$209,853,666 | \$217,200,749 | \$224,547,832 | \$231,930,580 | \$239,277,663 | \$246,375,088 | \$253,579,510 |
| Hold Harmless | \$9,351,874 | --- | --- | --- | --- | --- | --- | --- |
| TOTAL | \$3,619,556,878 | \$3,836,012,506 | \$3,981,550,373 | \$4,127,088,241 | \$4,273,332,603 | \$4,418,870,470 | \$4,559,462,876 | \$4,702,174,765 |
| BSAPP | \$4,659 | \$5,012 | \$5,239 | \$5,466 | \$5,695 | \$5,922 | \$6,142 | \$6,365 |
| CURRENT FORMULA | | | | | | | | |
| Foundation-Level | \$2,752,015,150 | \$2,752,015,150 | \$2,752,015,150 | \$2,752,015,150 | \$2,752,015,150 | \$2,752,015,150 | \$2,752,015,150 | \$2,752,015,150 |
| Supplement Aid | \$222,186,876 | \$222,186,876 | \$222,186,876 | \$222,186,876 | \$222,186,876 | \$222,186,876 | \$222,186,876 | \$222,186,876 |
| KPERS Contribution | \$175,389,495 | \$175,389,495 | \$175,389,495 | \$175,389,495 | \$175,389,495 | \$175,389,495 | \$175,389,495 | \$175,389,495 |
| Hold Harmless | --- | --- | --- | --- | --- | --- | --- | --- |
| TOTAL | \$3,149,591,521 | \$3,149,591,521 | \$3,149,591,521 | \$3,149,591,521 | \$3,149,591,521 | \$3,149,591,521 | \$3,149,591,521 | \$3,149,591,521 |
| DIFFERENCE | \$469,965,357 | \$686,420,985 | \$831,958,852 | \$977,496,720 | \$1,123,741,082 | \$1,269,278,949 | \$1,409,871,355 | \$1,552,583,244 |
| STANDARDS | 2006-07 | 2007-08 | 2008-09 | 2009-10 | 2010-11 | 2011-12 | 2012-13 | 2013-14 |
| Math | | | | | | | | |
| 4th Grade | 67% | 73% | 78% | 82% | 87% | 91% | 96% | 100% |
| 7th Grade | 67% | 73% | 78% | 82% | 87% | 91% | 96% | 100% |
| 10th Grade | 56% | 65% | 70% | 76% | 82% | 88% | 94% | 100% |
| Reading | | | | | | | | |
| 5th Grade | 70% | 76% | 80% | 84% | 88% | 92% | 96% | 100% |
| 8th Grade | 70% | 76% | 80% | 84% | 88% | 92% | 96% | 100% |
| 11th Grade | 65% | 72% | 77% | 81% | 86% | 91% | 95% | 100% |
| Graduation Rate | 75% | 75% | 75% | 75% | 75% | 75% | 75% | 75% |

Senate Education Committee
1-18-06
Attachment 1

Source: LPA cost study results.

Kansas Association of School Boards Overview of Kansas Education

January 2006

Mark Tallman
Assistant Executive Director/Advocacy

Key Questions

- What student factors in Kansas have an impact on educational outcomes and costs?
- What outcomes do Kansas schools achieve?
- How much do Kansans pay for those outcomes?
- How does Kansas compare to the nation and other Plains and contiguous states?
- How can the state support continuing improvement in education?

Senate Education Committee¹
1-18-06
Attachment 2

Why Education Matters

- Economic growth and productivity require higher skills.
- Higher skills are the key to international competitiveness.
- Academic failure is both an individual and social cost.
- Education is the key to the “American dream” - democracy and justice.

Fact One

Kansas is NOT a mostly white, middle class, rural state.

- Kansas has a higher percentage of “at-risk” students than most Plains and contiguous states.
- These students are usually more difficult – and expensive – bring to high standards.

Special Needs Students

As a percentage of students:

- Only Colorado and Oklahoma have more non-white students.
- Only Missouri and Oklahoma have more African American students.
- Only Colorado has more Hispanic students.
- Only Oklahoma and Missouri have more low-income students.

Percent of Students in Subgroups

Source: Standards and Poors "School Matters"

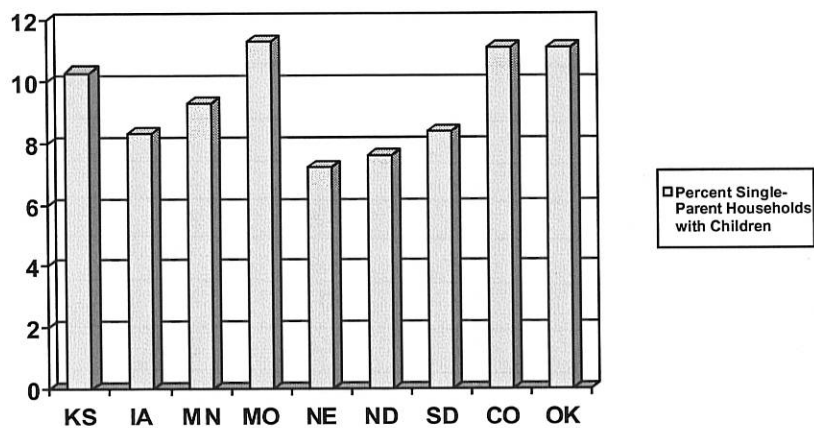
| | White | Black | Hispanic | Low Income | Special Needs Index (S&P) |
|-----------|-------|-------|----------|------------|---------------------------|
| Kansas | 75.3 | 8.7 | 10.8 | 37.4 | 28.0 |
| Iowa | 88.2 | 4.5 | 4.9 | 30.0 | 23.3 |
| Minnesota | 80.2 | 7.8 | 4.6 | 28.3 | 24.1 |
| Missouri | 77.7 | 18.0 | 2.6 | 38.0 | 27.8 |
| Nebraska | 79.5 | 7.2 | 10.1 | 33.9 | 27.7 |
| N. Dakota | 88.0 | 1.2 | 1.4 | 28.3 | 21.7 |
| S. Dakota | 85.0 | 1.5 | 1.8 | 31.5 | 24.3 |
| Colorado | 64.5 | 5.8 | 25.3 | 30.2 | 26.5 |
| Oklahoma | 61.5 | 10.9 | 7.6 | 53.0 | 37.1 |

Special Needs Students

- Standard and Poor's gives Kansas the highest "students with special needs index" of any Plains state – only Oklahoma has more in the region.
- Only Missouri, Oklahoma and Colorado have a higher percentage of single-parent households with children.

Source: Standard and Poors "School Matters"

Single-Parent Households



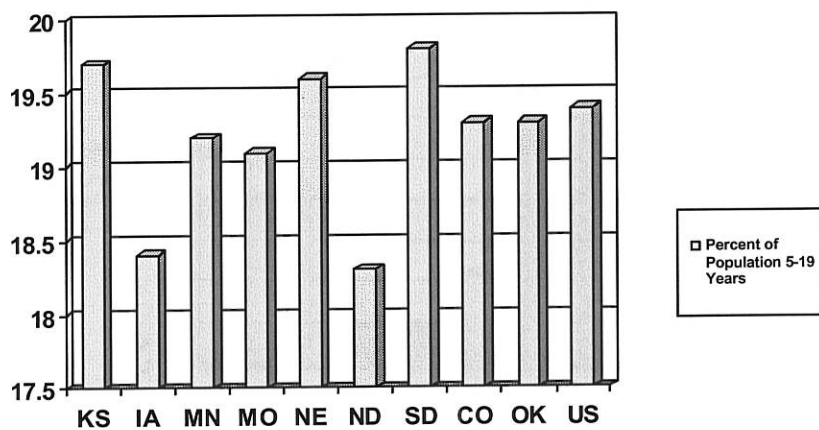
Fact Two

Kansas has a relatively high percentage of school-aged population (19.7%).

- Higher than national average (19.4%).
- Higher than all neighboring states (Nebraska closest with 19.6%).
- Only South Dakota is higher (19.8%).

Source: Standard and Poor's "School Matters"

School Age Population



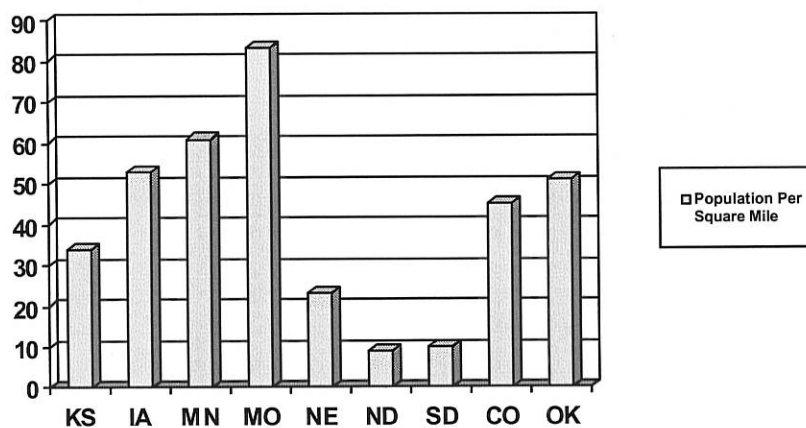
Fact Three

Kansas is neither a relatively urban nor extremely sparsely populated state.

- Five states have much more population density than Kansas.
- Nebraska and the Dakotas have much less population density.
- Therefore, Kansas faces both major urban AND rural education issues.

Source: Standard and Poors "School Matters"

Population Density



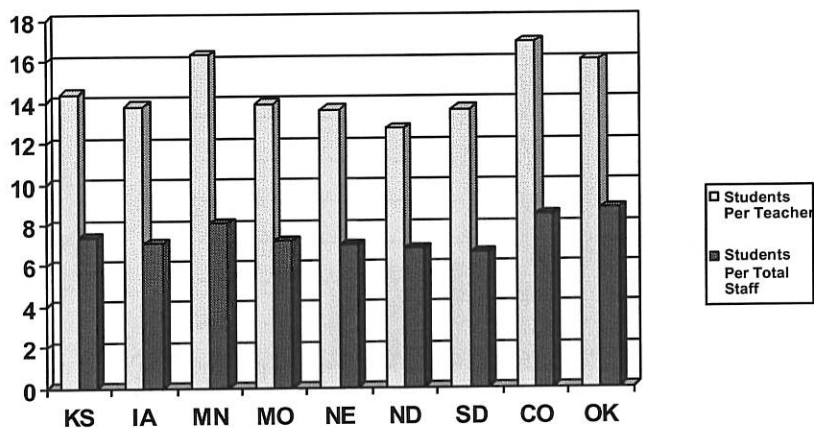
Fact Four

Kansas “pupil to teacher” and “pupil to total staff” ratios are similar to other states in the region.

- Only Minnesota, Colorado and Oklahoma have more students per teacher and per total staff.
- Iowa and Missouri, with higher population density than Kansas, have fewer students per position.

Source: Standard and Poor's "School Matters"

Teacher and Total Staff Ratio



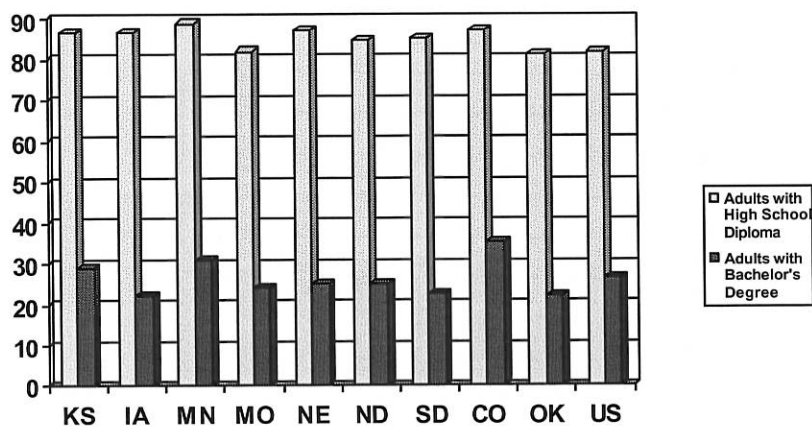
Fact Five

Kansas ranks very high in adult educational attainment, nationally and regionally.

- 86.6% of Kansans have a high school diploma (national average 81.7%).
- 29.2% have at least a bachelors degree (national average 26.6%.)
- Regionally, only Colorado and Minnesota do better.

Source: Standard and Poors "School Matters"

Adult Education Levels



Fact Six

On the 2005 NAEP tests for reading and math, Kansas outscored the nation for all students and major “at-risk” subgroups.

Regionally, Kansas outscored all states except:

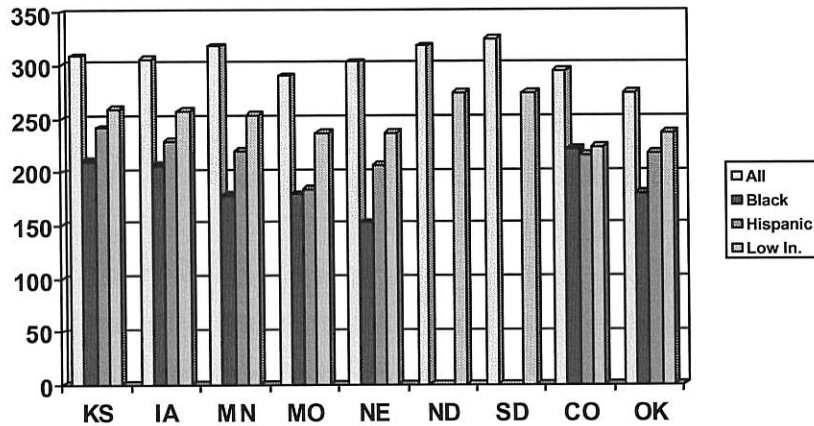
- Minnesota and the Dakotas for all students.
- Colorado for African Americans.
- The Dakotas for free lunch scores (with too few Black and Hispanic students to provide a score).
- Kansas Hispanics outscored all states in the region.

Combined 2005 NAEP Scores

+ means higher score than Kansas

| | All | Black | Hispanic | Low Income |
|-----------|------|-------|----------|------------|
| Kansas | 309 | 210 | 241 | 259 |
| Iowa | 306 | 207 | 229 | 257 |
| Minnesota | 318+ | 178 | 220 | 253 |
| Missouri | 290 | 179 | 184 | 236 |
| Nebraska | 303 | 153 | 206 | 236 |
| N. Dakota | 318+ | N.A. | N.A. | 280+ |
| S. Dakota | 325+ | N.A. | N.A. | 274+ |
| Colorado | 295 | 222+ | 216 | 223 |
| Oklahoma | 274 | 180 | 218 | 236 |
| U.S. | 280 | 193 | 216 | 221 |

Combined 2005 NAEP Scores

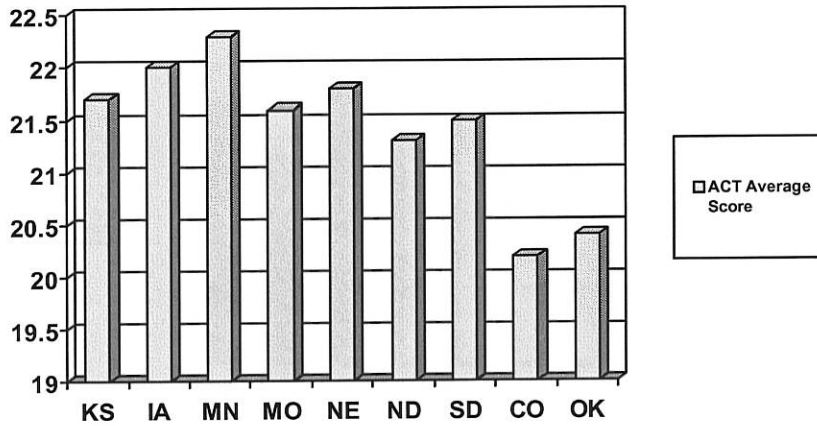


Fact Seven

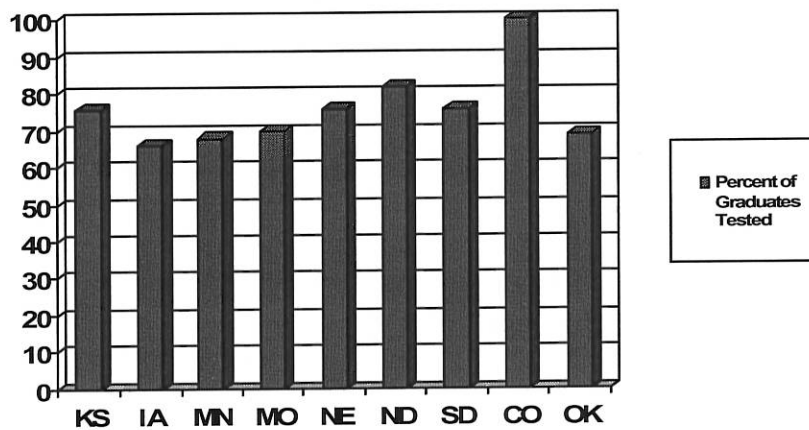
Kansas exceeds most states in college preparation tests.

- Only Iowa and Minnesota had higher average ACT test scores in 2005.
- Only North Dakota and Colorado had a higher percent of graduates take the ACT.
- Only Colorado and Minnesota had a higher percent of students receive a high score on EITHER the ACT or SAT.

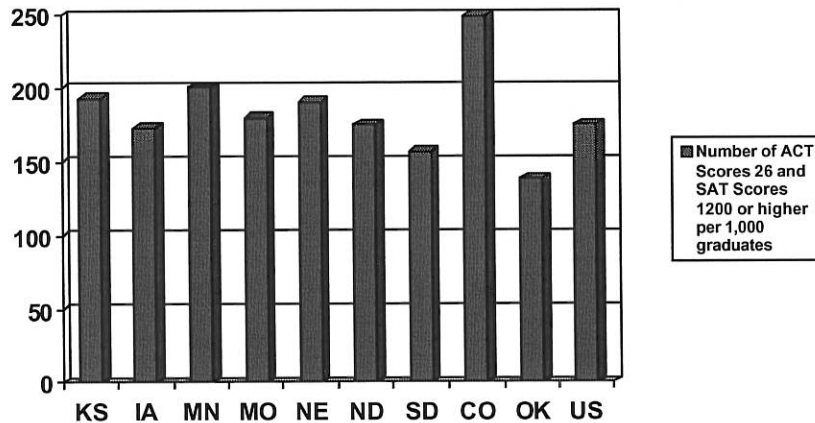
Average Composite ACT Score



Percent of Graduates Taking ACT



High ACT and SAT Scores



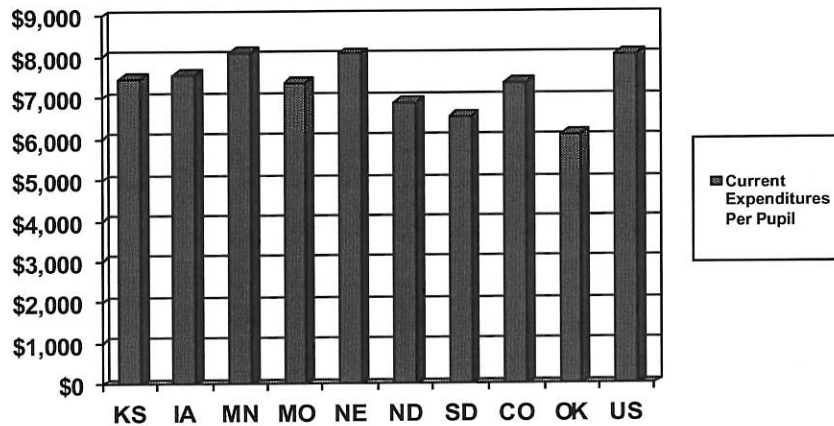
Fact Eight

Kansas spent nearly \$500 less per pupil than the national average (2002-03).

- Nebraska and Minnesota spent significantly more per pupil than Kansas.
- Iowa, Missouri and Colorado spent about the same.
- Only the Dakotas and Oklahoma spent significantly less.

Source: National Center for Education Statistics

Spending Per Pupil, 2002-03



Fact Nine

Spending per pupil matters in student achievement, but so do other factors.

- Minnesota spends most; has the highest NAEP scores for all students and among the best college preparation results.
- The Dakotas are low spenders and get high results – but have very few “at-risk” students.
- Nebraska, Iowa, and Colorado are “average” in spending and at-risk students; rank next in results.
- Oklahoma has the most at-risk students; spends the least; has lowest results.

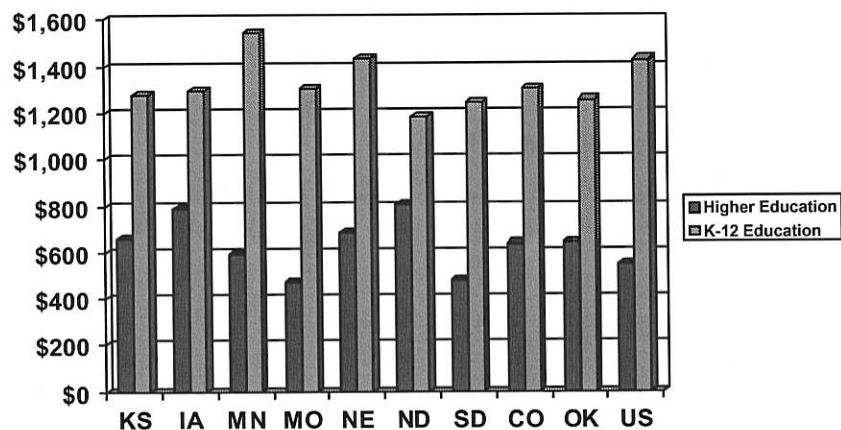
Fact 10

Kansas *per capita* spending on all education is in line with states in the region and the nation.

- Compared to the nation, Kansas spends about:
 - \$200 less per capita on K-12 education.
 - \$100 more on higher education.
- In the region, only the Dakotas and Oklahoma spent less per capita on K-12 education.
- Every state in the region except Missouri and Oklahoma spent more on higher education than the national average.

Source: NEA Rankings and Estimates, 2004-05

Per Capita Spending on Education



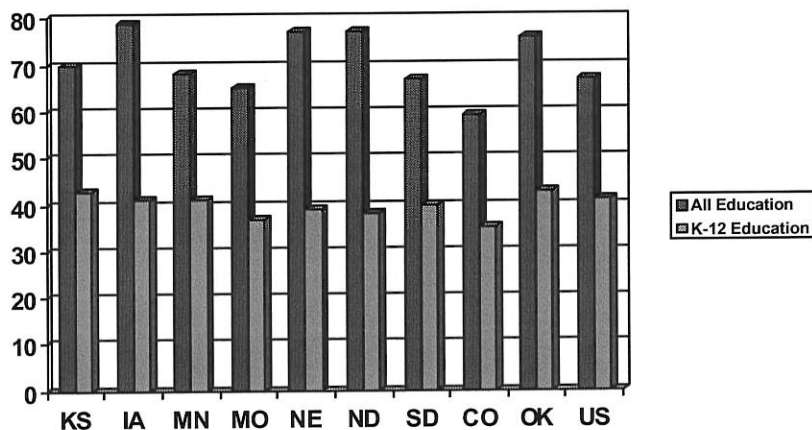
Fact Eleven

Kansas spent more *per \$1,000 of personal income* on both all education and K-12 education than the national average.

- In the region, Iowa, Nebraska, North Dakota and Oklahoma spent more than Kansas on all education.
- Kansas spent the most per \$1,000 on K-12 education.

Source: NEA Rankings and Estimates, 2004-05

Education Spending Per \$1,000 of Personal Income in 2002



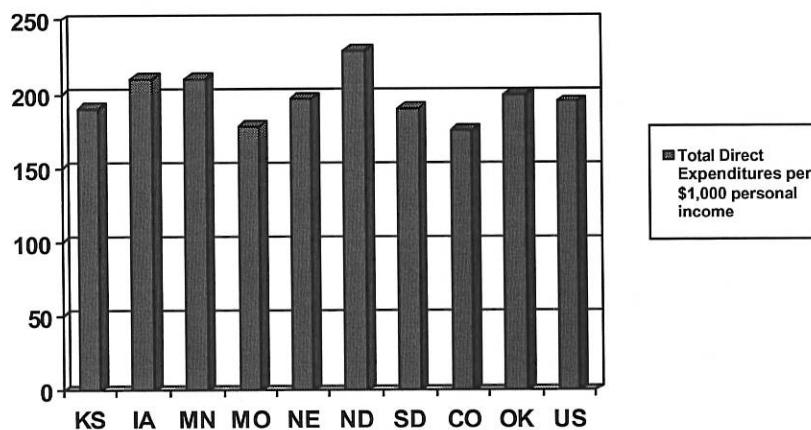
Fact Twelve

Kansas education spending has not made Kansas a “high tax” state.

- Total state and local spending in Kansas per \$1,000 of personal income is below the national average.
- In the region, Iowa, Minnesota, Nebraska, North Dakota and Oklahoma spend more per \$1,000 of personal income.

Source: NEA Rankings and Estimates, 2004-05

Total State and Local Spending Per \$1,000 of Personal Income in 2002



Are Kansans getting value for the dollars spent on public education?

- Kansas has a higher percentage of “at-risk” students than most states in the region.
- Kansas spending per pupil is below the national average and similar to states in the region.
- Kansas educational spending per capita and taxpayer income is similar to states in the region.
- Kansas educational outcomes are consistently among the best in the region and better than the national average.

What do we know about funding and Kansas education performance?

- State assessments show five years of steady improvement.
- Increased at-risk, special education and bilingual funding (federal, state and local) has narrowed the achievement gap.
- Despite conflicting national studies, Post Audit report shows clear relationship between spending and performance in Kansas (nearly one-to-one ratio).

What should the state do to keep education improvement on track?

- Continue what is working: target more funding at students with the greatest need.
- Don't penalize success by reducing funding for districts that exceed current outcomes or input standards.
- Don't impose arbitrary new state standards (like "65% for instruction") that ignore local circumstances.

What should the state do to keep education improvement on track?

- Don't divert education funding for unproven strategies such as vouchers or "independent" charter schools.
- When the system is improving, offer more flexibility and incentives for innovation and efficiencies, not restrictions and penalties.
- Encourage much more professional development and information-sharing.

What should the state do to keep education improvement on track?

- Recognize and support the need for more time for students and staff.
- Support more flexibility in teacher compensation, contract negotiations and teacher credentials.
- Support increased teacher and administrator compensation, especially with incentives for performance.

Expanded school choice doesn't improve student performance

KASB Issue Paper – December 6, 2005

New Kansas Education Commissioner Bob Corkins has made expanding school choice and competition his top priority, saying that private school vouchers and more public charter schools would improve education in the state.

However, the states with the highest percentage of students in charter schools, as well as those which provide state funding for private school vouchers, generally performed well below Kansas on national reading and math tests.

Student performance can be compared by examining results from the 2005 National Assessment of Education Progress. NAEP reports the percent of public school students who score basic or above in reading and math at grades four and eight. For each state, a NAEP test total can be determined by adding the percent at that level in each of the four tests. A "perfect score" would be 400.

| Table 1 | | | | | | |
|---|--|--|----------------------------|-----------------------------------|------------------------|--------------------------------------|
| How Kansas Compares to "High Choice" States | | | | | | |
| | Charter School Enrollment as Percent of Total Public School Enrollment | 2005 National Assessment of Education Progress Number is the combined percent of students scoring Basic and Above for Reading and Math, Grades Four and Eight (Maximum score 400) | | | | Current Expenditures per Pupil, 2003 |
| | | (1) All Students | (2) Low Income Students | (3) Students with Disabilities | Average of Columns 1-3 | |
| Kansas | 0.3% | 309 | 259 | 175 | 248 | \$7,454 |
| Ten "High Choice" States: | | | | | | |
| Delaware | 5.3% | 309 | 253 | 183 | 248 | \$9,693 |
| Ohio | 3.3% | 305 | 237 | 184 | 242 | \$8,632 |
| Wisconsin | 3.0% | 304 | 229 | 163 | 232 | \$9,004 |
| Colorado | 4.6% | 295 | 223 | 148 | 222 | \$7,384 |
| Michigan | 4.4% | 283 | 211 | 169 | 221 | \$8,781 |
| Florida | 3.0% | 278 | 233 | 176 | 229 | \$6,439 |
| Alaska | 3.3% | 274 | 206 | 143 | 208 | \$9,870 |
| Arizona | 5.4% | 251 | 193 | 120 | 188 | \$6,282 |
| Hawaii | 2.8% | 240 | 185 | 72 | 166 | \$8,100 |
| California | 2.8% | 238 | 215 | 104 | 175 | \$7,552 |
| "High Choice" State Average | | 278 | 215 | 175 | 227 | |

Kansas has consistently scored among the top-performing states. For 2005, Kansas tied for 10th place with a score for all students tested of 309.

Ten states have at least 2.8 percent of total public school enrollment in charter schools. Three of those states (Wisconsin, Ohio and Florida) also have some form of state-funded voucher for students attending private schools. Among the 10 "high choice" states, one (Delaware) tied with Kansas, with all others scoring lower. The average score of the high choice states was 278, which was 31 points LOWER than Kansas.

The Commissioner proposed targeting vouchers to low income and disabled students because these groups are the focus of the constitutional challenge to the Kansas school finance system. However, “high choice” states also fall below Kansas in serving these groups. The combined NAEP scores for Kansas students eligible for free or reduced lunch was 259. Every single “high choice” state had a lower score for low income students. The average of these states was 215, or 44 points LOWER than Kansas.

For students with disabilities, three “high choice” states had a higher NAEP score than Kansas (Delaware, Ohio and Florida by a single point), but the average of all 10 states was 146, or 29 points LOWER than Kansas.

This data also reinforces another fact: higher spending per pupil on public education usually (but not always) makes a positive difference. The “high choice” states with the best overall performance (Delaware, Ohio and Wisconsin) each spent between \$1,000 and \$2,000 per pupil more than Kansas. In other words, the “high choice” states that came closest to the level of student achievement in Kansas spent considerably more money per pupil.

Overall, a higher percent of students in charter schools as opposed to traditional public schools actually seems to correspond to LOWER student performance. As noted above, the average combined NAEP score for the 10 “high choice” states was 278. The average score for the 12 states with charter school enrollment between 1.0 and 2.8 percent was 290. The average score for states with less than 1 percent charter enrollment was 285. The highest average score was for the eleven states with NO charter school enrollment: 295.

| | Percent of Public School Enrollment in Charter Schools | | | |
|---|--|---------------------|---------------------|--------------------|
| | 2.8 Percent or more | 1.0 to 2.7% Percent | Less than 1 Percent | No charter schools |
| Number of States | 10 | 12 | 17 | 11 |
| Average Combined 2005 NAEP score (All students) | 278 | 290 | 285 | 295 |

These national test results refute the notion that expanding school choice improves public education. It is easy to understand why: public schools must educate every child under a host of state and federal mandates. “Choice” really means allowing certain schools to educate a small number of students under “different rules” – or no rules at all. If “choice” schools are allowed to choose the students they want, public schools are responsible for educating the students “choice” schools do not want. If “choice” schools are required to operate the same as public schools, student results are no different.

Sources:

- National Assessment of Education Progress: “Mathematics 2005” and “Reading 2005”
- National Charter School Research Project; Indicator Reports; Number of Students
- Nation Center for Education Statistics: Current Expenditures for Pupil 2002-03

DIFFERENT RULES
WHAT CHOICE AND COMPETITION MEAN FOR
PUBLIC AND PRIVATE SCHOOLS IN KANSAS

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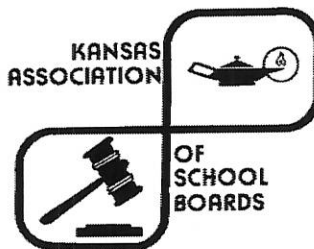
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INTRODUCTION

“Choice” and “competition” sound as American as apple pie. For over the past 15 years, there have been calls for more parental choice and competition in elementary and secondary education. But competition is only fair and effective when the competitors are working under the same rules.

The purpose of this publication is to help policy-makers and the public understand two very important facts. First, public schools were established to provide education for all children, regardless of needs or ability, while private schools can be selective in the children they serve. It is the private school, not the parent, which really has the “choice.” Second, public schools are perhaps the single most regulated public service in the United States, while private schools are almost completely independent of public regulations.

In November 2005, the new Commissioner of Education proposed that the State Board of Education endorse these expanded school choice proposals as part of the Board’s legislative agenda. One proposal would provide public funding for vouchers or “state scholarships” which would give parents of children who attend private schools a public subsidy to help pay for tuition. Another would allow independent “charter schools” to operate free from many laws and regulations governing traditional public schools, outside of the authority of elected local school boards.

These proposals raise a number of questions:

- Will schools under any expanded choice plan be required to accept all children, regardless of needs or ability? If not, is it appropriate to use tax dollars to support educational programs that can exclude the children of those taxpayers?
- Will private or charter schools under expanded choice be required to meet the entire curriculum, student service and staff requirements imposed on public schools? If not, how will public schools be able to adopt innovative new practices under the spur of “competition?”
- Will private or charter schools have to comply with the same assessment, parental notification and public accountability requirements, such as internet-based reporting, open meetings and open records? If not, how can families make informed choices? How can the public know what education dollars are being spent?
- Will public schools be exempted from rules and regulations in order to compete with private schools? If not, how can public schools change their operation? If market forces can be trusted to meet the needs and desires of parents, why should public schools continue to be regulated more than private schools? If public charter schools are exempted from regulations, why not other public schools?

For every “school choice” proposal presented to the Kansas Legislature in the past 15 years, the answer to the first questions in each group above has been “no.” That raises another question: is school choice really about competition, or is it about allowing some students to move to private schools, while making public schools the “choice of last resort” for students that selective private schools do not want? That concern has led the Kansas Association of School Boards to oppose proposals that purport to offer choice and competition, but really mean something very different.

The following pages give detailed examples of the different requirements imposed on public schools, both by state law (K.S.A.=Kansas Statutes Annotated) or regulations of the Kansas State Board of Education (K.A.R.=Kansas Administrative Regulations).

Who are Public and Private Schools Required to Serve?

PUBLIC SCHOOLS must provide a free education to any school-aged child who resides in the district, and may suspend or expel students only in specific cases for limited periods of time.

Admission of Children

Public school boards must accept for enrollment any child who has attained the age of eligibility and who lives with parents or "person acting as parent" who are residents of the district. "Person acting as parent" is very broadly defined. *K.S.A. 72-1046*

Free Public Schools

Public school boards must establish a system of free public schools for all children residing in the district. *Kansas Constitution, Art. 6*

Age of Admission

Public school boards may not admit into kindergarten students younger than the age of eligibility (five years old before September 1). *K.S.A. 72-1107*

Reasons for Exclusion from School

Public school boards may exclude students from school only for reasons stated in statute. These reasons are limited to serious disciplinary violations. Students may not be excluded for poor academic performance or lack of attendance. *K.S.A. 72-8901*

Length of Exclusion

Public school boards may not exclude students beyond limits set by state law. Students may be given a short term suspension for a maximum of 10 days; an extended suspension for a maximum of 90 days; and an expulsion for a maximum of 186 days. *K.S.A. 72-8902*

Disciplinary Due Process

Public school boards must provide due process hearings before students may be suspended or expelled. State and federal laws place limitations on disciplining special education students. *K.S.A. 72-8901 et seq.*

PRIVATE SCHOOLS are free to accept or reject children as they choose, impose any cost or conditions they wish, and exclude children for any reason, as long as no civil rights laws are violated.

Admission of Children

Private schools are not required to accept any children. They may adopt whatever admissions criteria they wish, subject only to federal and state civil rights laws.

Free Public Schools

Private schools may charge tuition, and have no legal obligation to serve any area or group of children.

Age of Admission

Private schools may admit children of any age.

Reasons for Exclusion from School

Private schools may exclude students from schools for any reason that does not violate civil rights law, including academic performance, attendance or failure to abide by the rules. They have the flexibility to set admissions criteria and terminate education opportunities at any time.

Length of Exclusion

Private schools may exclude students for any behavior for any length of time, including permanent expulsion.

Disciplinary Due Process

Private schools are not required to provide a due process disciplinary hearing before excluding students.

What are Public and Private Schools Required to do?

1. Instruction and General Education Curriculum

PUBLIC SCHOOLS must offer specific courses and programs at grade levels and students ages, and provide a minimum school term, as required by state laws.

Grades and Units of Instruction

Public school boards must offer grades kindergarten through 12 in each district, and must offer at least 30 units of instruction in each high school (or contract with another high school to provide these units). *K.S.A. 72-8212*

Minimum School Term

Public schools must offer a minimum school term of 186 days or 1,116 hours.
K.S.A. 72-1106

Elementary Curriculum

Public elementary schools must teach reading, writing, arithmetic, geography, spelling, English grammar and composition, history of the United States and Kansas, civil government and the duties of citizenship, health and hygiene, and other subjects required the State Board of Education: computer literacy, fine arts, physical education and science.
K.S.A. 72-1101, K.A.R. 91-31-32(c)(9)

Secondary Curriculum

Public high schools must offer courses required by the State Board of Education for graduation, plus the requirements of qualified admission to state universities and the school scholarship program, which include the following units: four years of English/language arts, three years of history/government (including U.S. government), three years of science, four years of math, one year of physical education, and six years of electives, which must include computer technology and foreign language.
K.S.A. 72-116, 72-6810 et seq., 72-1103, 72-1117 and K.A.R. 91-31-35(a)

PRIVATE SCHOOLS have much more flexibility in determining how to organize instructional programs and must meet fewer state requirements.

Grades and Units of Instruction

Private schools may be organized with any numbers of grades. Only half as many students attend private high schools as elementary schools. Private high schools are not required to offer a minimum number of instructional units.

Minimum School Term

Private schools are required to offer instruction for a period of time "substantially equivalent" to the term of the school district in which the private school is located. For non-accredited schools, this requirement is not monitored and is practically unenforceable.

Elementary Curriculum

Only private schools that choose to seek accreditation must meet these same standards.

Secondary Curriculum

Only private high schools that choose to seek accreditation must meet these same standards.

What are Public and Private Schools Required to do?

2. Special Education and Other Special Needs Programs

PUBLIC SCHOOLS must provide programs for special needs students, including special education for any child in the district who meets the definition of one or more of thirteen special education categories, regardless of cost.

Special Education Services

Public school districts provide special education services for all exceptional children in the district. The scope of these services is defined by the State Board of Education. These services must be provided even if the federal or state government does not provide funding. Local boards may contract for providing these services, but these contracts must be approved by the Commissioner of Education.

K.S.A. 72-966

Special Education Procedures

Public schools must follow specific procedures for identification, placement and determining the scope of services for students. These procedures include the right to a full quasi-judicial hearing. Schools cannot significantly change the services or placement of special education students without the parent's written permission, or pursuing a due process hearing.

K.S.A. 72-973 et seq.

Bilingual Education

Public schools are required to provide bilingual education under Title IV of the federal Civil Rights Act. *K.S.A. 72-9501 et seq.*

Programs for At-Risk Students

Public schools are required to provide special services for students at-risk of failing to master basic skills or dropping out of schools.

K.S.A. 72-7534, 72-6407, 72-6414

Vocational Education

Public schools provide vocational education under the provisions of the federal Carl D. Perkins Vocational and Technical Education Act. *K.S.A. 72-4408 and, 72-4411*

PRIVATE SCHOOLS are not required to provide these services. If private school students qualify for special education services, the public school district - not the private school - must provide them.

Special Education Services

Private schools are not required to provide special education services. However, public schools are required to provide these services to students attending private schools, at the public school district's expense. *K.S.A. 72-5393*

Special Education Procedures

Private schools that choose to provide special education services are not required to follow these procedures, or go through due process hearings to determine identification, placement or scope of services for special education.

Bilingual Education

Private schools are not required to provide bilingual education programs.

Programs for At-Risk Students

Private schools are not required to provide special services to at-risk students, or to accept or continue to enroll students who have not mastered academic requirements.

Vocational Education

Private schools are not required to offer vocational education programs.

What are Public and Private Schools Required to do?

3. Instructional Support and Assessment

PUBLIC SCHOOLS must provide programs to assist and evaluate teachers, assess instruction and student achievement and provide information to parents and the public.

Library and Media Services

Public schools are required to provide library services for both elementary and secondary schools. *K.A.R. 91-31-32*

Professional Development Program

Public school boards must provide a staff development program for certificated employees, approved by the State Board, and include formal training on state standards and assessments. *K.S.A. 72-9604, K.A.R. 91-31-32*

Evaluation of Personnel

Public school boards must adopt personnel evaluation procedures. Every certified employee must be evaluated by the 60th day of each semester in the first two years; and by Feb. 15 of the third and fourth years; and at least once every three years thereafter. Public schools must negotiate with the teacher's representative and agree upon evaluation procedures. *K.S.A. 72-9001 et seq.*

Staff Certification

Public school boards may not pay any employee who does not have a valid professional certificate. For accreditation, 100% of teachers in core academic areas and 95% of all other teachers must be fully certified. Schools must notify parents if their students do not have a fully certified teacher. *K.S.A. 72-1390, K.A.R. 91-31-32*

District Testing Program

Public schools must receive an annual report on the district testing program, which must include both state and local assessments. Each school must demonstrate that a prescribed percentage of students are performing proficiently on state tests in reading and math and reach 100% proficiency by 2012. At least 95% of students must take the assessments. State assessments must be reported to the public and are available at the State Education Department Web site. *K.S.A. 72-8231, K.A.R. 91-31-32*

PRIVATE SCHOOLS are not required to provide such services, and are not required to provide public accountability.

Library and Media Services

Private schools are not required to provide library services.

Professional Development Program

Private schools are not required to provide professional development programs.

Evaluation of Personnel

Private schools are also required to follow this statute. However, for non-accredited private schools, there are no sanctions and little practical ability to enforce it.

Staff Certification

Private schools are not required by state law to employ certificated teachers. Private schools which choose to be accredited must employ appropriately certified teachers. They are not required to notify parents about teacher qualifications.

District Testing Program

There are no similar requirements for private schools. Private schools are not required to test, meet NCLB proficiency requirements, or make student performance information available to the public. Only accredited private schools are required to participate in state assessments.

What are Public and Private Schools Required to do?

4. Student Support Services

PUBLIC SCHOOLS are required to offer many health and social services to students.

Hearing Tests

The board of each school district must provide hearing tests for all students they enroll, and upon request, provide such tests for students in accredited nonpublic schools who live in the district. *K.S.A. 72-1205*

Dental Inspections

Public school boards are required to offer free dental inspection annually for all children. *K.S.A. 72-5201 et seq.*

Vision Screening

Public school boards are required to offer free vision screening at least every two years to every pupil in public schools. *K.S.A. 72-5204 et seq.*

Health Assessments

School boards must notify parents or guardians of all known pupils in the district about required health tests and inoculations, and keep records of compliance. *K.S.A. 72-5208 et seq.*

Services to Private School Students

Upon request, public schools must provide special education services to private school students on an equal basis with students attending public schools in the district. If not provided at the private schools, the public school must pay the cost of transporting private school students to the services. *K.S.A. 72-5393*

Attendance and Graduation

Public schools are required to report students who are not in compliance with the compulsory attendance law. For accreditation, they must have an attendance rate and a graduation rate equal to or higher than the prescribed by the State Board. *K.A.R. 91-31-32*

PRIVATE SCHOOLS are not required to offer many of these services, and in some cases, public schools must provide them to private school students.

Hearing Tests

Private schools are not required to provide hearing tests, and private school students may receive such tests at the expense of the public school.

Dental Inspections

Private schools are not required to provide dental inspections.

Vision Screening

Private schools are also required to provide vision screening.

Health Assessments

Private schools are also required to notify parents about required health tests and inoculations.

Services to Private School Students

Private schools are not required to provide these services because the public schools are required to do so.

Attendance and Graduation

Only private schools seeking accreditation must comply with attendance and graduation rate requirements established by the state.

What are Public and Private Schools Required to do?

5. Textbooks, Transportation and Food Service

PUBLIC SCHOOLS are required to provide free textbooks, transportation and meals to qualifying students.

Free Textbooks

Public school boards must provide free textbooks to children who cannot afford to rent or purchase them. *K.S.A. 72-4107*

Free Transportation

Public school boards must provide or furnish transportation for students living more than two and a half miles from school. *K.S.A. 72-8302*

Transportation of Private School Students

Public school boards must allow students attending accredited nonpublic schools to ride on the same bus routes as provided for public school students.
K.S.A. 72-8306

Use of Buses

The use of public school buses for purposes other than transporting students is limited by the state. *K.S.A. 72-8316*

Food Service

Public schools must enter into agreements with the State Board to provide meals under federal acts relating to food service. *K.S.A. 72-5113*

Breakfast Programs

Public school boards must offer breakfast programs in any buildings in which 35% or more of the students are eligible for free lunch, and in every other building that is not granted a waiver by the Kansas State Board of Education.
K.S.A. 72-5125

PRIVATE SCHOOLS are not required to provide free textbooks or transportation.

Free Textbooks

Private schools are not required to provide free textbooks to any children.

Free Transportation

Private schools are not required to provide transportation for any children.

Transportation of Private School Students

Transportation for private school children on public school bus routes is provided at the expense of the public school district.

Use of Buses

If private schools own school buses, they may use them for any legal purpose, but are not required to do so.

Food Service

Private schools are not required to participate in food service programs.

Breakfast Programs

Private schools are not required to offer breakfast programs.

What are Public and Private Schools Required to do?

6. Employee Rights and Teacher Tenure

PUBLIC SCHOOLS are required to follow special laws concerning their employees. These laws have a significant impact on the ability of boards to remove tenured teachers.

Continuing Contracts

Kansas law automatically renews the contracts of certified teachers and administrators each year unless the board of education acts and the employee is given written notice by May 1. *K.S.A. 72-5411 and 72-5437*

Supplemental Teacher Contracts

Public school boards must provide supplemental contracts for duties not part of the "primary contract," such as coaching, supervision, activity sponsorship, committee meetings, etc. Teachers cannot be required to accept supplemental contracts. *K.S.A. 72-5412a*

Teacher Tenure (Due Process)

Public school boards must comply with the Kansas Due Process Procedures Act. Teachers receive tenure after three years in the district, or two years if they previously received tenure in another district. If a board intends to remove a tenured teacher, it must give written reasons. The teacher has a statutory right to a due process hearing, where each party has the right to counsel and to call and cross-examine witnesses. The board must pay all costs of the hearing officer, of witnesses and of a court reporter, and its own attorney fees. The hearing officer may reverse the board's decision to terminate the teacher even if that decision is found to be reasonable and supported by the evidence. The board may appeal to the court system but the scope of appeal is limited.
K.S.A. 72-5436 et seq.

Administrator Nonrenewal

If a public school board non-renews a district administrator who has completed two years in the district, the administrator other than the superintendent may request a meeting with the board in executive session. The board must give reasons for the nonrenewal, and the administrator may respond to those reasons.
K.S.A. 72-5451 et seq.

PRIVATE SCHOOL teachers and staff are "employees at will." They do not have the special rights granted by Kansas law to tenured teachers.

Continuing Contracts

Private school teachers are "employed at will." There are no state laws governing private school employment contracts.

Supplemental Teacher Contracts

Private schools may assign any extra duties including supplemental duties to teachers as part of the primary contract or condition of employment.

Teacher Tenure (Due Process)

Private schools are not required to follow the Teacher Due Process Act and can hire and terminate staff without adhering to any statutory procedures.

Administrator Nonrenewal

There are no legal requirements for non-renewal of private school administrators.

What are Public and Private Schools Required to do?

7. Collective Bargaining

PUBLIC SCHOOL districts are required to collectively bargain with teacher unions over salaries and other terms of employment.

Professional Negotiations

Public school boards must comply with the Professional Negotiations Act. This act requires boards to bargain with “professional employee organizations” over specified “terms and conditions of professional employment.” The board must also bargain over certain privileges granted to the professional employee organizations. *K.S.A. 72-5413 et seq.*

Teacher Bargaining Units

Public school boards must bargain with an “exclusive representative” if chosen by a majority of teachers and other professional (but not administrative) employees. *K.S.A. 72-5414 et seq.*

Impasse and Fact-Finding Procedures

If the board and teachers’ association fail to reach agreement by June 1, the board must participate in mediation. If a mediator appointed by the Secretary of Human Resources cannot bring the parties to an agreement, both sides must prepare memoranda on issues at impasse. If the parties cannot reach agreement following mediation, the board must participate in a fact-finding process. The parties must meet at least once to consider the recommendations. The board may then offer unilateral contracts to employees, but not until the entire process has been completed. *K.S.A. 72-5426 et seq.*

Prohibited Practices

Public school boards (and teachers associations) are forbidden from engaging in a number of specific “prohibited practices.” If the board is charged with such a practice, it must respond to the charge at a hearing conducted by the Kansas Department of Human Resources, which can result in sanctions against the board. *K.S.A. 72-5430*

PRIVATE SCHOOLS are not required to bargain under the Professional Negotiations Act.

Professional Negotiations

Private schools are not required to comply with the Professional Negotiations Act. Private schools would only be required to collectively bargain under private sector labor laws.

Teacher Bargaining Units

Private schools are not required to recognize or bargain with professional employees under state law.

Impasse and Fact-Finding Procedures

Private schools may determine terms and conditions of employment without participating in negotiations, impasse or fact-finding.

Prohibited Practices

Private schools cannot be charged with prohibited practices under the Professional Negotiations Act.

What are Public and Private Schools Required to do?

8. Governance Authority

PUBLIC SCHOOL governing authority and operations are controlled by state law, which also requires specific administrative procedures and structures.

Board Meetings and Authority

School boards must meet at least monthly in regular session, and take all action in public meetings that are subject to the Kansas Open Meetings Act. *K.S.A. 72-8205, 75-4317*

Board Officers and Administrators

Public school boards must appoint a superintendent, clerk and treasurer. State law limits the length of contracts for district administrators. *K.S.A. 72-8202b*

Site Councils

Public schools are required to have a site council to provide “advice and counsel” to the board of education. *K.S.A. 72-6439*

Student Privacy

Public school boards must adopt policies to protect the privacy of pupil records. *K.S.A. 72-6214*

School Finance Limitations

Expenditures by public school districts are limited and audited by the school finance act. *K.S.A. 72-6407 et seq.*

Bidding Requirements

Public schools must take bids for expenditures greater than \$20,000 for construction and purchase of materials, and award the bids to the “lowest responsible bidder.” *K.S.A. 72-6760*

General Obligation Bonds

Public school boards must receive voter approval before issuing general obligation bonds. *K.S.A. 72-6761*

Public and Financial Records

Public school boards are subject to the Kansas Open Records Act. Boards must maintain various financial records for prescribed numbers of years. *K.S.A. 45-215 et seq., 72-5369*

PRIVATE SCHOOLS are independent of state controls.

Board Meetings and Authority

The governing entities of private schools are not required to conduct regular meetings, and are not subject to the Kansas Open Meetings Act.

Board Officers and Administrators

Private schools are not required to operate under any particular structure and are not limited in administrative appointments.

Site Councils

Private schools are not required to have site councils.

Student Privacy

State law does not require private schools to adopt student privacy policies unless they receive federal funds.

School Finance

Private schools may expend whatever funds they are able to raise through tuition, gifts, church support or other sources.

Bidding Requirements

Private schools are not required to take bids for any purchases.

General Obligation Bonds

Private schools may borrow in the private capital markets without public approval.

Public and Financial Records

Private schools are not subject to the open records act, and must only maintain records that are required for other private organizations.