

28-53



Kansas Administrative Regulations
Kansas Department of Health and Environment

Notice to Reader

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Where possible KDHE will append changed regulations to the appropriate article. Once again, the lack of any attachments should not be construed as meaning there are no revisions.

Nothing contained herein should be construed as legal advice by KDHE. If you are not an attorney, you should secure competent counsel to interpret the regulations and advise you.

Office of Public Information
Kansas Department of Health & Environment

Notes

The *Kansas Register* notes the following changes:

(E) payment of a candidate's filing fees.

It is the opinion of the Kansas Governmental Ethics Commission that donations and disbursements made to the KSDC for the purpose of purchasing or constructing a party office building and not for the purpose of influencing any Kansas state or local election are permissible and do not fall under the definition of contributions. Thus, there would be no limitations under K.S.A. 25-4142 *et seq.*

The proposed expenses are, however, more troubling. The Commission opines that the lease payments of satellite offices, office furniture, maintenance and cleaning would fall outside the purpose of influencing state or local elections and would be not be limited by K.S.A. 25-4142 *et seq.* However, it would be more difficult to assess how office supplies, copier/fax lease payments and maintenance, telephone, internet and cable equipment and services, and computer equipment would be used. It appears more likely that these expenditures could drift in the direction of use for the purpose of influencing state or local elections.

In summary, the receipt of funds for the purpose of purchasing or constructing a party office building as well as the lease payments of satellite offices, office furniture, maintenance and cleaning which fall outside the purpose of influencing state or local elections would not be subject to the limitations in K.S.A. 25-4142 *et seq.* Contributions received for anticipated expenditures for office supplies, copier/fax lease payments and maintenance, telephone, internet and cable equipment and services, and computer equipment, would fall under the limits set forth in K.S.A. 25-4153 if used for the express purpose of nominating, electing or defeating a clearly identified candidate for a state or local office.

Opinion No. 2009-04

Written February 18, 2009, to Tony A. Scott, J.D., C.P.A., Executive Director, Kansas Society of Certified Public Accountants, Topeka.

This opinion is in response to your letter of January 12, 2009 in which you request an opinion from the Kansas Governmental Ethics Commission concerning the interpretation of K.S.A. 25-4153a. Specifically, you ask the Commission to define the word "accept" as it is used in K.S.A. 25-4153a (b). We note at the outset that the Commission's jurisdiction is limited to the application of K.S.A. 25-4142 *et seq.* and whether some other statutory system, common law theory or agency rule or regulation applies to your inquiry is not covered by this opinion.

Factual Statement:

We understand that you request this opinion as the Executive Director of the Kansas Society of Certified Public Accountants and that your organization issued contributions to persons statutorily defined as "legislator" and/or "State officer elect." Those contributions were mailed by your organization on December 31, 2008 but were not received by the recipients until January 2, 2009.

Question:

Based on the above facts, you ask for the Commission's opinion as to whether the contributions mailed on the

31st of December 2008 and received by the "legislator" and/or "State officer elect" on the 2nd of January 2009 can be legally accepted by the recipients.

K.S.A. 25-4153a (b) states, in relevant part, that "[n]o legislator, officer, candidate or committee . . . shall accept . . . any contribution as defined by K.S.A. 25-4143, and amendments thereto, from any registered lobbyist, political committee or person, other than an individual, during such period of time described in subsection (a). That period of time referred to in the aforementioned statute is 'after January 1 of each year and prior to adjournment sine die of the regular session of the legislature or at any other time in which the legislature is in session.'" You specifically ask the Commission to define "accept" as used in the statute.

Opinion:

According to Webster's Dictionary, "accept" is defined as "to receive willingly." Further, Webster's dictionary defines "receive" as "to come in possession of." Under these definitions, the donations mailed by your organization were not in the recipients' possession until January 2, 2009, which is after the January 1st deadline.

It is the opinion of the Kansas Governmental Ethics Commission that if a donation is received by a legislator and/or State officer elect after the statutory deadline of January 1st, such person would be in violation of K.S.A. 25-4153a if the donation is accepted.

Sabrina K. Standifer
Chairwoman

Doc. No. 036737

State of Kansas

Department of Health and Environment

Permanent Administrative Regulations

Article 53.—CHARITABLE HEALTH CARE PROVIDERS

28-53-1. Definitions. (a) "Agreement" means a written understanding between the secretary and a "charitable health care provider," as defined in K.S.A. 75-6102 and amendments thereto, regarding the rendering of professional services to a medically indigent person.

(b) "Department" means the Kansas department of health and environment.

(c) "Federally qualified health center" means one of the following:

(1) An entity that meets the requirements for federal funding in 42 USC 1396d(1)(2)(B) and has been designated as a "federally qualified health center" by the federal government; or

(2) an entity that, based on the recommendation of the federal health resources and services administration, is deemed to meet the requirements of the federal grant program and has been designated a "federally qualified health center look-alike" by the federal government but does not receive the federal grant funding specified in 42 USC 1396d(1)(2)(B).

(d) "Indigent health care clinic" has the meaning specified in K.S.A. 75-6102, and amendments thereto.

(e) "Local health department" has the meaning specified in K.S.A. 65-241, and amendments thereto.

(f) (1) "Point of entry" means an entity that performs the following:

(A) Determines whether an individual meets the criteria for a medically indigent person;

(B) refers any medically indigent person to a charitable health care provider;

(C) has submitted a completed application to the department on forms prescribed by the department; and

(D) agrees to maintain records and submit an annual activity report as prescribed by the secretary.

(2) This term may include either of the following:

(A) An entity meeting the definition of "federally qualified health center" or "federally qualified health center look-alike"; or

(B) an entity meeting the definition of "charitable health care provider" in K.S.A. 75-6102, and amendments thereto.

(g) "Secretary" means the secretary of the Kansas department of health and environment. (Authorized by and implementing K.S.A. 75-6120; effective April 1, 1991; amended July 13, 1992; amended March 20, 2009.)

28-53-2. Agreement. (a) Each person or entity applying for an agreement shall submit a completed application to the department on forms prescribed by the department.

(b) An agreement may be terminated by the secretary or the charitable health care provider with 30 days of prior written notice to the department. Failure of the charitable health care provider to maintain the required licensure shall constitute concurrent cancellation of the agreement. (Authorized by and implementing K.S.A. 75-6120; effective April 1, 1991; amended July 13, 1992; amended March 20, 2009.)

28-53-3. Eligibility criteria for a medically indigent person. An individual shall qualify as a medically indigent person if a point of entry determines that the individual meets either of the following requirements:

(a) Is determined to be a member of a family unit earning at or below 200% of the current federal poverty level and is not indemnified against costs arising from medical and dental care by a policy of accident and sickness insurance, an employee health benefits plan, or any similar coverage; or

(b) is eligible for publicly funded health care programs administered by the Kansas health policy authority or the department or is qualified for Indian health services. (Authorized by and implementing K.S.A. 75-6120; effective April 1, 1991; amended March 20, 2009.)

28-53-4. Records and reports. (a) Each charitable health care provider shall ensure that each point of entry through which the charitable health care provider delivers care meets the following requirements:

(1) Maintains the completed forms prescribed by the department; and

(2) submits a completed annual activity report to the department on a form prescribed by the department.

(b) Failure of the charitable health care provider or the point of entry to comply with this regulation shall be grounds for termination of the agreement with the charitable health care provider. (Authorized by and implementing K.S.A. 75-6120; effective April 1, 1991; amended March 20, 2009.)

28-53-5. Referrals. Each referral of professional services shall be documented in the records of the point of entry. (Authorized by and implementing K.S.A. 75-6120; effective April 1, 1991; amended March 20, 2009.)

Roderick L. Bremby
Secretary of Health
and Environment

Doc. No. 036745

State of Kansas

Department of Agriculture Division of Water Resources

Permanent Administrative Regulations

Article 3.—APPROPRIATION RIGHTS

5-3-4a. Hearing before issuance of an order. (a) A hearing may be held pursuant to K.A.R. 5-14-3a by the chief engineer, or a person designated by the chief engineer, before the chief engineer issues an order if one of the following conditions is met:

(1) The chief engineer finds it to be in the public interest to hold a hearing.

(2) A hearing has been requested by a person who shows to the satisfaction of the chief engineer that approval of the application could cause impairment of senior water rights or permits.

(3) The chief engineer desires public input on the matter.

(b) The hearing shall be electronically recorded by the chief engineer.

(c) If all of the parties agree, an informal conference instead of a hearing may be held by the chief engineer pursuant to K.A.R. 5-14-3a. (Authorized by K.S.A. 82a-706a; implementing K.S.A. 82a-706a, K.S.A. 2008 Supp. 82a-708b, 82a-711, and 82a-737; effective May 1, 1980; amended May 31, 1994; amended March 20, 2009.)

Article 14.—ENFORCEMENT AND APPEALS

5-14-3. Orders. (a) An order subject to review pursuant to K.S.A. 82a-1901, and amendments thereto, shall be issued by the chief engineer in each of the following matters:

(1) The approval or dismissal of an application to change the place of use, the point of diversion, the use made of water, or any combination of these, filed pursuant to K.S.A. 82a-708b and amendments thereto;

(2) the approval or dismissal of an application to appropriate water for beneficial use filed pursuant to K.S.A. 82a-711 and amendments thereto;

(3) the declaration of abandonment and termination of a water right pursuant to K.S.A. 82a-718 and amendments thereto; and

(continued)