

State of Kansas
Office of the Attorney General

Notice of Public Hearing on Proposed Administrative Regulations
KAR 16-18-1, KAR 16-18-2, and KAR 16-18-3

April 18, 2019

A public hearing will be conducted on June 21, 2019 at 9:00 a.m. to 9:30 p.m. in 4th Floor Conference Room of the Office of the Attorney General in Memorial Hall, 120 SW 10th Avenue, Topeka, Kansas to consider the adoption of proposed permanent rules and regulations, KAR 16-18-1, KAR 16-18-2, and KAR 16-18-3, of the Legal Opinions and Government Counsel division, Office of the Attorney General.

This 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to the Legal Opinions and Government Counsel division, Office of the Kansas Attorney General, 120 SW 10th Ave., 2nd Floor, Topeka, Kansas 66612 or by email to Athena.Andaya@ag.ks.gov. All interested parties will be given a reasonable opportunity to present their views orally regarding the adoption of the proposed regulations during the public hearing. In order to provide all parties an opportunity to present their views, it may be necessary to request that each participant limit any oral presentation to five minutes.

Any individual with a disability may request an accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statements in an accessible format. Requests for accommodation to participate in the hearing should be made at least five working days in advance of the hearing by contacting Athena Andaya at (785) 368-8401 (or TYY 1-800-766-3777). The public entrance to Memorial Hall is accessible. Handicapped parking is located in front of Memorial Hall.

Summaries of the proposed regulations and their economic impact follow. (Note: Statements indicating that a regulation is “not anticipated to have any economic impact” are intended to indicate that no economic impact on the Office of the Attorney General, other state agencies, state employees, or the general public has been identified.)

Copies of the proposed regulations and the Economic Impact Statement for the proposed regulations can be viewed at the following website: www.ag.ks.gov/regulation-hearings.

K.A.R. 16-18-1 provides definitions of terms used in the new Article 18 regulations. This regulation is not anticipated to have any economic impact on the Office of the Attorney General.

K.A.R. 16-18-2 establishes the Elder and Dependent Adult Abuse Prevention Council (Council) and provides for the selection of the members of the council by the attorney general. The Council replaces the Senior Consumer Protection Advisory Council and focuses the Council on its statutory

RECEIVED

APR 10 2019

SCOTT SCHWAB
SECRETARY OF STATE

duties. Further, the regulation requires the council to meet at least quarterly and to maintain minutes of its meetings.

K.A.R. 16-18-3 requires the council to advise and make recommendations to the ANE unit and the attorney general to assist the ANE unit with the statutory duty of the ANE unit pursuant to K.S.A. 2018 Supp. 75-723, and amendments thereto. The council would comply with the Kansas Open Meetings Act and the Kansas Open Records Act. Further, the council would have the authority to request legal counsel and any other staff for its support from the attorney general. Finally, the council would be required to submit an annual report to the attorney general on its work, recommendations and anticipated activities.

RECEIVED

APR 10 2019

**SCOTT SCHWAB
SECRETARY OF STATE**

Article 18. Elder and Dependent Adult Abuse Prevention Council

16-18-1. Definitions. Each of the following terms, as used in this article of the attorney general’s regulations, shall have the meaning specified in this regulation:

(a) “ANE unit” means the abuse, neglect, and exploitation of persons unit created in the office of the attorney general pursuant to K.S.A. 75-723, and amendments thereto.

(b) “Chairperson” means the person from the ANE unit who serves as the council’s chairperson.

(c) “Council” means the elder and dependent adult abuse prevention council, which shall advise and may make recommendations to the ANE unit and the attorney general.

(d) “Multidisciplinary team” and “MDT” mean a group of individuals who have background, education, or experience in one or more disciplines or fields of study in preventing, detecting, and investigating abuse, neglect, or exploitation of elder or dependent adults.

(Authorized by and implementing K.S.A. 2018 Supp. 75-723; effective P-_____.)

APPROVED

APR 09 2019

DIVISION OF THE BUDGET

APPROVED

APR 10 2019

DEPT. OF ADMINISTRATION

APPROVED

APR 10 2019

ATTORNEY GENERAL

RECEIVED

APR 10 2019

**SCOTT SCHWAB
SECRETARY OF STATE**

16-18-2. Membership; meetings. (a) The elder and dependent adult abuse prevention council is hereby established by this regulation. The council shall consist of the following members appointed by the attorney general:

- (1) A representative from the ANE unit, who shall serve as the chairperson;
- (2) a representative from the medicaid fraud and abuse division of the attorney general's office;
- (3) a representative from the consumer protection division of the attorney general's office;
- (4) a representative of the attorney general, who shall serve as the prevention and education outreach coordinator;
- (5) a representative of the attorney general, who shall serve as the MDT and elder or dependent adult victim coordinator;
- (6) a representative from the Kansas department for aging and disability services (KDADS), who shall be appointed in consultation with and agreement of the secretary of KDADS;
- (7) a representative from the Kansas department for children and families (DCF), who shall be appointed in consultation with and agreement of the secretary of DCF;
- (8) a representative from the Kansas department of health and environment (KDHE), who shall be appointed in consultation with and agreement of the secretary of KDHE;
- (9) a representative of the governor, who shall be appointed in consultation with and agreement of the governor;
- (10) a prosecutor from a district attorney's office, who shall be appointed in consultation with the Kansas county and district attorneys association;

APPROVED
APR 10 2019

APPROVED
APR 10 2019

APPROVED
APR 10 2019

RECEIVED
APR 10 2019
SCOTT SCHWAB
SECRETARY OF STATE

(11) a county attorney, who shall be appointed in consultation with the Kansas county and district attorneys association;

(12) a law enforcement officer or police officer certified by the Kansas commission on peace officers' standards and training, who shall be appointed in consultation with the Kansas sheriffs' association, the Kansas association of chiefs of police, or the Kansas peace officers association;

(13) a representative from the medical services industry who is experienced in matters involving elder or dependent adult abuse;

(14) a representative from the financial services industry who is experienced in matters involving elder or dependent adult abuse;

(15) two representatives from advocacy organizations who are experienced in the prevention of elder or dependent adult abuse; and

(16) other individuals as deemed necessary by the attorney general to serve on the council.

(b) The council shall meet at least quarterly upon call of the chairperson and shall maintain minutes of each meeting. (Authorized by and implementing K.S.A. 2018 Supp. 75-723; effective P-_____.)

APPROVED
APR 09 2019

DIVISION OF THE BUDGET

APPROVED
APR 10 2019

DEPT. OF ADMINISTRATION

APPROVED
APR 10 2019

ATTORNEY GENERAL

RECEIVED
APR 10 2019
SCOTT SCHWAB
SECRETARY OF STATE

16-18-3. Duties. (a) The council shall advise and may make recommendations to the ANE unit and the attorney general to assist the ANE unit with the statutory duty of the ANE unit pursuant to K.S.A. 2018 Supp. 75-723, and amendments thereto.

(b) To fulfill its duties, the council may perform the following:

(1) Take testimony or gather and receive information;

(2) establish subcommittees or working groups on particular topics, which may be composed exclusively of members of the council or may, at the discretion of the chairperson, include persons who are not members of the council;

(3) assist in developing local or regional MDTs to prevent, detect, and investigate abuse, neglect, or exploitation of elder or dependent adults;

(4) coordinate and engage in prevention activities for education, outreach, and awareness, including the development of a publicly available clearinghouse of information on elder or dependent adult abuse prevention; and

(5) undertake any other tasks as may be requested by the attorney general.

(c) The council shall comply with the Kansas open meetings act and the Kansas open records act.

(d) The council shall have the authority to request legal counsel and any other staff for its support from the attorney general.

(e) The council shall submit to the ANE unit and the attorney general an annual report on the council's work, recommendations, and anticipated activities. (Authorized by and implementing K.S.A. 2018 Supp. 75-723; effective P-_____.)

APPROVED

APR 10 2019

DIVISION OF THE BUDGET

APPROVED

APR 10 2019

DEPT. OF ADMINISTRATION

APPROVED

APR 10 2019

ATTORNEY GENERAL

RECEIVED

APR 10 2019

**SCOTT SCHWAB
SECRETARY OF STATE**

RECEIVED

APR 10 2019

SCOTT SCHWAB
SECRETARY OF STATE

Proposed

**Kansas Administrative Regulations
Economic Impact Statement
For the Kansas Division of the Budget**

Office of the Attorney General

Agency

Athena Andaya, Deputy Attorney General 368-8401

Agency Contact

Contact Phone Number

16-18-1, 16-18-2, and 16-18-3

K.A.R. Number(s)

Submit a hard copy of the proposed rule(s) and regulation(s) and any external documents that the proposed rule(s) and regulation(s) would adopt, along with the following to:

Division of the Budget
900 SW Jackson, Room 504-N
Topeka, KS 66612

I. Brief description of the proposed rule(s) and regulation(s).

The Abuse, Neglect, and Exploitation (ANE) unit was established within the Office of the Attorney General (OAG) by statutory mandate in 2006. On July 1, 2016, the Legislature amended K.S.A. 75-723 to allow the OAG to assist in the investigation, prosecution, and prevention of cases involving abuse, neglect, and exploitation of vulnerable adults. The OAG is authorized to adopt rules and regulations as deemed appropriate for the administration of these duties. These regulations are new regulations to allow the ANE unit and the attorney general to administer the duties imposed by statute.

K.A.R. 16-18-1 provides definitions of terms used in the new Article 18 regulations.

K.A.R. 16-18-2 establishes the Elder and Dependent Adult Abuse Prevention Council and provides for the selection of the members of the council by the attorney general. Further, the regulation requires the council to meet at least quarterly and to maintain minutes of its meetings.

K.A.R. 16-18-3 requires the council to advise and make recommendations to the ANE unit and the attorney general to prevent, detect and investigate abuse, neglect or exploitation of adults who are seniors, dependent, or otherwise vulnerable to abuse, neglect or exploitation. The council would be subject to the Kansas Open Meetings Act and the Kansas Open Records Act. Further, council may be assigned legal counsel or other support staff as determined by the attorney general. Finally, the council would be required to submit an annual report to the attorney general on its work, recommendations and anticipated activities.

With the adoption of the above regulations, the roles and responsibilities of the Senior Consumer Protection Advisory Council that was established by the attorney general's office in 2008 will be transferred to the Elder and Dependent Adult Abuse Prevention Council and the Senior Consumer Protection Advisory Council will be disbanded.

II. Statement by the agency if the rule(s) and regulation(s) is mandated by the federal government and a statement if approach chosen to address the policy issue is different from that utilized by agencies of contiguous states or the federal government. (If the approach is

DOB APPROVAL STAMP

APPROVED

APR 03 2019

DIVISION OF THE BUDGET

different, then include a statement of why the Kansas rule and regulation proposed is different)

The regulations are not mandated by the federal government. The OAG was not able to find agencies of contiguous states that utilize an advisory council. The federal government has an Advisory Board on Elder Abuse, Neglect, and Exploitation to create short- and long-term multidisciplinary strategic plans for the development of the field of elder justice and to make recommendations to the Elder Justice Coordinating Council. See 42 U.S. Code § 1397k-1.

III. Agency analysis specifically addressing following:

A. The extent to which the rule(s) and regulation(s) will enhance or restrict business activities and growth;

The OAG is not aware of a basis to conclude that these regulations will meaningfully enhance or restrict business activities or growth.

B. The economic effect, including a detailed quantification of implementation and compliance costs, on the specific businesses, sectors, public utility ratepayers, individuals, and local governments that would be affected by the proposed rule and regulation and on the state economy as a whole;

The proposed regulations provide for the creation of an advisory council whose duty it is to provide advice and recommendations to the ANE unit and the attorney general. None of the members are paid compensation, expenses, or other costs for their voluntary participation on the advisory council. Therefore, the economic effect is limited to the effect on the individual member.

C. Businesses that would be directly affected by the proposed rule and regulation;

The OAG is not aware of a basis to conclude that these regulations will directly affect businesses.

D. Benefits of the proposed rule(s) and regulation(s) compared to the costs;

The benefits of creating an advisory council with stakeholders in the investigation, prosecution, and prevention of cases involving abuse, neglect, and exploitation of vulnerable adults include collaborative and comprehensive discussions and solutions. The costs of creating this council is borne by the members.

E. Measures taken by the agency to minimize the cost and impact of the proposed rule(s) and regulation(s) on business and economic development within the State of Kansas, local government, and individuals;

The OAG contends that this regulation does not have costs or impact on business or economic development within the State of Kansas. The OAG is not authorized by law to pay compensation, expenses or other costs of the members of this advisory council. As a way to minimize such costs to the members, the OAG is seeking alternative methods of meeting, such as videoconferencing.

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are

RECEIVED
APR 10 2019
SCOTT SCHWAB
SECRETARY OF STATE

DOB APPROVAL STAMP
APPROVED
APR 03 2019
COMMISSION OF THE BUDGET

reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$0

Do the above total implementation and compliance costs exceed \$3.0 million over any two-year period?

YES NO

Give a detailed statement of the data and methodology used in estimating the above cost estimate.

The cost was estimated by a layperson as the OAG does not employ an economist.

Prior to the submission or resubmission of the proposed rule(s) and regulation(s), did the agency hold a public hearing if the total implementation and compliance costs exceed \$3.0 million over any two-year period to find that the estimated costs have been accurately determined and are necessary for achieving legislative intent? If applicable, document when the public hearing was held, those in attendance, and any pertinent information from the hearing.

YES NO

- G. If the proposed rule(s) and regulation(s) increases or decreases revenues of cities, counties or school districts, or imposes functions or responsibilities on cities, counties or school districts that will increase expenditures or fiscal liability, describe how the state agency consulted with the League of Kansas Municipalities, Kansas Association of Counties, and/or the Kansas Association of School Boards.

The OAG does not have a basis to believe this new regulation will impact the revenue of cities, counties, or school districts.

- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

Because the OAG does not believe the regulation affects anyone but the members of the advisory council, the agency did not consult or solicit information from businesses, associations, local governments, state agencies, or institutions and members of the public.

- I. For environmental rule(s) and regulation(s) describe the costs that would likely accrue if the proposed rule(s) and regulation(s) are not adopted, as well as the persons would bear the costs and would be affected by the failure to adopt the rule(s) and regulation(s).

This is not an environmental regulation.

RECEIVED
 APR 10 2019
 SCOTT SCHWAB
 SECRETARY OF STATE

DOB APPROVAL STAMP
 APPROVED
 APR 03 2019
 DIVISION OF THE BUDGET