

**State of Kansas**  
**Kansas Human Rights Commission**  
**Notice of Public Hearing on Proposed Administrative Regulations**

October 1, 2020

A public hearing will be conducted on December 11, 2020, at 11:00 a.m. in Suite 568-S of the Landon State Office Building, 900 S.W. Jackson, Topeka, Kansas, to consider the amendment and revocation of rules and regulations of the Kansas Human Rights Commission on a permanent basis. If a member of the public wants to participate remotely in the meeting they can call 1-785-414-8630 and then enter the conference ID number of 130 210 733, followed by the # sign at the time of the meeting; or request at least one day in advance to participate via video conference by contacting Ruth Glover at (785) 296-3206 (or TYY (785) 296-0245) or e-mail at [Ruth.Glover@ks.gov](mailto:Ruth.Glover@ks.gov). If the building is closed on that date, the hearing will only be by phone and video conference call.

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 Kansas Human Rights Commission, 900 S.W. Jackson, Suite 568-S, Topeka, KS 66612-1258 or by email to [Ruth.Glover@ks.gov](mailto:Ruth.Glover@ks.gov). All interested parties will be given a reasonable opportunity to present their views orally regarding the proposed amendments and revocations of the 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 Ruth Glover at (785) 296-3206 (or TYY (785) 296-0245) or by email to [Ruth.Glover@ks.gov](mailto:Ruth.Glover@ks.gov). The north entrance to the Landon State Office Building is accessible. Handicapped parking is located at the south end of the Landon State Office Building, across the street from the north entrance to the building, and on Ninth Street, just around the corner from the north entrance to the building.

Summaries of the proposed amendments and revocations and their economic impact follow. (Note: Statements indicating that a regulation is not anticipated or expect to have economic impact are intended to indicate that no economic impact on the Kansas Human Rights Commission, other state agencies, state employees, other governmental entities, or the general public has been identified.)

Copies of the proposed amendments and revocations of regulations and of the Economic Impact Statements can be located at [http://www.khrc.net/Proposed\\_Regulations/Proposals.pdf](http://www.khrc.net/Proposed_Regulations/Proposals.pdf). They can also be obtained from the Kansas Human Rights Commission, 900 S.W. Jackson, Suite 568-S, Topeka, KS 66612-1258 or by email to [Ruth.Glover@ks.gov](mailto:Ruth.Glover@ks.gov).

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SCOTT SCHWAB  
SECRETARY OF STATE

**Revocation of K.A.R. 21-40-10.** This is a proposed revocation of a regulation that conflicts with federal law and creates inconsistent procedures for the KHRC to follow. In this regulation, the KHRC directs itself to put complaints filed with the KHRC on a docket available to the public; regardless of whether they were determined to be valid or not. However, the KHRC also receives discrimination charges from the Equal Employment Opportunity Commission ["EEOC"]. Federal law directs the KHRC to maintain confidentiality of those EEOC complaints. This revocation would not affect the ability of a party to disclose their own complaint or response. The revocation is not anticipated to have any economic impact.

**Revocation of K.A.R. 21-41-1.** This proposal revokes a regulation that is unnecessary because it is self-directing and summarizes provisions of K.S.A. 44-1005 (a) and (b). No economic impact is anticipated.

**Amendment of K.A.R. 21-41-2.** This amendment clarifies that both a complaint and the response to it are to be written; and may be submitted on paper, or by email or facsimile. No economic impact is anticipated.

**Amendment of K.A.R. 21-41-3.** This proposal changes the heading to clarify that the regulation applies to complaints. It is not expected to have any economic impact.

**Revocation of K.A.R. 21-41-4.** This proposal revokes a regulation that is unnecessary and confusing: This regulation partially summarizes K.S.A. 44-1005(j); and is also confusing because a different, K.A.R. 21-40-12, directs the manner of computing time. The revocation is not expected to have any economic impact.

**Amendment of K.A.R. 21-41-6.** The proposed amendment clarifies that a complaint may be supplemented as well as amended; and that these procedures cannot be used to bring new claims that are time-barred. The amendment is not expected to have any economic impact.

**Amendment of K.A.R. 21-41-8.** This amendment clarifies when there are multiple respondents, the determinations on jurisdiction and probable cause are made separately as to each respondent; so that a lack of jurisdiction or finding of no probable cause may result in dismissal as to fewer than all of the respondents. It also explains the conditions under which a complaint will be dismissed due to administrative expedience. No economic impact is expected.

**Amendment of K.A.R. 21-41-10.** This amendment clarifies when a complaint may be dismissed or suspended due to a civil or criminal lawsuit being filed on the same matter. No economic impact is expected.

**Revocation of K.A.R. 21-41-11.** This proposed revocation would eliminate an unnecessary regulation. Service of any complaint on each respondent is already required by statute, K.S.A. 44-1005(d). No economic impact is expected.

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**Proposed**

21-40-10. (Authorized by K.S.A. 1974 Supp. 44-1003, 44-1004; effective, E-74-14, Dec. 28, 1973; effective May 1, 1975; revoked P-\_\_\_\_\_.)

APPROVED

APR 28 2020

DIVISION OF THE BUDGET DEPT. OF ADMINISTRATION

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APR 29 2020

APPROVED

JUL 16 2020

ATTORNEY GENERAL

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Proposed

21-41-1. (Authorized by K.S.A. 1974 Supp. 44-1003, 44-1004; effective, E-74-14, Dec. 28,  
1973; effective May 1, 1975; revoked P-\_\_\_\_\_.)

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21-41-2. ~~Forms. Submission of complaints and responses. The Each complaint and each response to a complaint shall be submitted in hard copy, either typed or handwritten; in writing either on a form obtained at any of the offices of the commission or on any paper suitable for a by facsimile; or by electronic mail. Any complaint may be submitted on a form provided by the commission. complaint, the original being signed and verified before a notary public or other person duly authorized by law to take acknowledgments. Notarial service shall be furnished without charge by the commission. Every professional member of the commission's staff shall be a statewide notary public and as such may notarize any complaint. (Authorized by K.S.A. 1974 Supp. 44-1003, 44-1004, 44-1034, 44-1121; implementing K.S.A. 44-1004, K.S.A. 2019 Supp. 44-1005, K.S.A. 2019 Supp. 44-1019, K.S.A. 44-1033, K.S.A. 44-1115; effective, E-74-14, Dec. 28, 1973; effective May 1, 1975; amended P-\_\_\_\_\_.)~~

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21-41-3. Contents of complaints. A Each complaint shall contain the following:

- (a) The full name and address of the complainant;
- (b) the full name and address of the respondent;
- (c) the alleged unlawful employment practice or unlawful discriminatory practice and a statement of the nature thereof;
- (d) the date or dates of the alleged unlawful employment practice or unlawful discriminatory practice, and, if the alleged unlawful employment practice or unlawful discriminatory practice is of a continuing nature, the dates between which continuing acts of discrimination are alleged to have occurred; and
- (e) a statement as to any other action ~~instituted~~ filed or pending in any court or other forum based on the same grievance as is alleged in the complaint, together with a statement as to the status or disposition of ~~such~~ the other action. (Authorized by K.S.A. ~~1974 Supp. 44-1003, 44-1004, 44-1034, 44-1121; implementing K.S.A. 44-1004, K.S.A. 2019 Supp. 44-1005, K.S.A. 2019 Supp. 44-1019, K.S.A. 44-1033, K.S.A. 44-1115; effective, E-74-14, Dec. 28, 1973; effective May 1, 1975; amended P-~~\_\_\_\_\_.)

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Proposed

21-41-4. (Authorized by K.S.A. 1974 Supp. 44-1003, 44-1004; effective, E-74-14, Dec. 28,  
1973; effective May 1, 1975; revoked P-\_\_\_\_\_.)

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21-41-6. Amendment; supplementation. The commission or the complainant shall have the power reasonably and fairly to amend the complaint as a matter of right at any time before hearing thereon, and thereafter at the discretion of the presiding officer. The respondent and the complainant shall be notified of any such amendment in writing by the commission.

Any complaint or response may be amended or supplemented before a finding of probable cause or no probable cause has been issued. Amendments or supplements to a complaint shall be permitted to add or clarify allegations related to or arising from the initial complaint. An amendment or supplement to change or add a protected category different from that alleged in the initial complaint shall not be permitted, unless the amendment or supplement is made within the statutory time period for filing a new complaint. (Authorized by K.S.A. 1974 Supp. 44-1003, 44-1004, 44-1034, 44-1121; implementing K.S.A. 44-1004, K.S.A. 2019 Supp. 44-1005, K.S.A. 2019 Supp. 44-1019, K.S.A. 44-1033, K.S.A. 44-1115; effective, E-74-14, Dec. 28, 1973; effective May 1, 1975; amended P-\_\_\_\_\_.)

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21-41-8. Dismissal before hearing. (a) Dismissal. ~~If the commission finds either on the face of the complaint or after investigation, with respect to any respondent that it lacks jurisdiction or that probable cause does not exist, the complaint shall be dismissed as to such respondent. A~~ complaint shall be dismissed against a respondent if the commission lacks jurisdiction over that respondent or if the investigating commissioner determines that there is no probable cause to credit the allegations of the complaint against that respondent.

(b) Administrative ~~expedience, convenience. If the commission finds that A complaint~~ shall be subject to dismissal on grounds of administrative expedience if at least one of the following conditions is met:

(1) The complainant fails to cooperate with investigation of the complaint.

(2) The complainant's objections to a proposed conciliation agreement are without substance, or that

(3) Noticing the complaint for hearing would be otherwise impracticable ~~undesirable, the commission may, at any time prior to a hearing, dismiss the complaint on grounds of administrative convenience.~~

(c) Service. ~~When a complaint is dismissed before hearing, the commission shall issue and cause to be served upon each party a copy of the order dismissing the complaint, and stating the grounds for such dismissal. (Authorized by K.S.A. 1974 Supp. 44-1003, 44-1004, 44-1034, 44-1121; implementing K.S.A. 44-1004, K.S.A. 2019 Supp. 44-1005, K.S.A. 2019 Supp. 44-1019, K.S.A. 44-1033, K.S.A. 44-1115; effective, E-74-14, Dec. 28, 1973; effective May 1, 1975; amended P-~~ \_\_\_\_\_.)

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21-41-10. Criminal and civil proceedings. ~~When a complainant institutes~~ If either criminal or civil proceedings are filed on a matter pending before the commission, ~~the commission may, in its own discretion, suspend or dismiss action on a~~ any complaint based on the same matter may be suspended or dismissed, to avoid duplication of effort. (Authorized by K.S.A. 1974 Supp. 44-1003, 44-1004, 44-1034, 44-1121; implementing K.S.A. 44-1004, K.S.A. 2019 Supp. 44-1005, K.S.A. 2019 Supp. 44-1019, K.S.A. 44-1033, K.S.A. 44-1115; effective, E-74-14, Dec. 28, 1973; effective May 1, 1975; amended P-\_\_\_\_\_.)

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**Proposed**

21-41-11. (Authorized by K.S.A. 1974 Supp. 44-1003, 44-1004; effective, E-74-14, Dec. 28,  
1973; effective May 1, 1975; revoked P-\_\_\_\_\_.)

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**APR 28 2020**

DIVISION OF THE BUDGET

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**JUL 16 2020**

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**SEP 18 2020**

**SCOTT SCHWAB  
SECRETARY OF STATE**

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

Kansas Human Rights Commission  
Agency

Deanne Watts Hay  
Agency Contact

785-224-8281  
Contact Phone Number

21-40-10  
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).**

This is a proposed **revocation** of a regulation that is self-directing and conflicts with federal law. It states that complaints filed with the Kansas Human Rights Commission ["KHRC"] must be placed on a docket available to the public. This is regardless of whether they were determined to be valid or not. It also creates unnecessary inconsistent practices in handling complaints filed directly with the KHRC and those received from the federal Equal Employment Opportunity Commission ["EEOC"], which federal law requires be kept confidential.

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

The approach taken by revocation of this regulation eliminates a conflict with the approach taken by the federal EEOC; and unifies the procedure used for all complaints filed with the KHRC.

**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;**

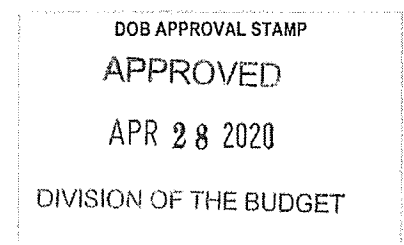
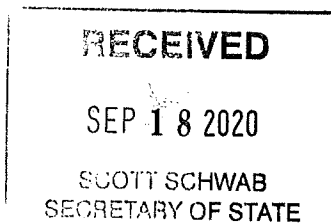
No effect on business activities and growth.

**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;**

No economic effect; no implementation or compliance costs.

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

None.



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

There is no cost; the benefit is to make KHRC procedures uniform.

**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;**

No measures are necessary as the revocation has no cost or impact on business or economic development.

**F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.**

\$0

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

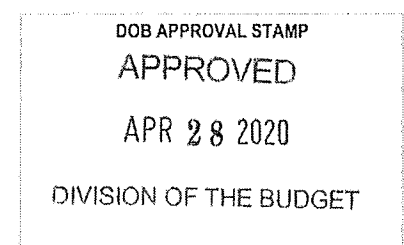
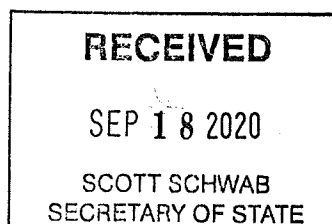
This revocation changes internal procedures of the KHRC, to streamline and unify with federal EEOC requirements.

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.**

Not applicable.

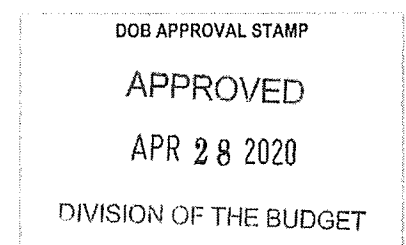
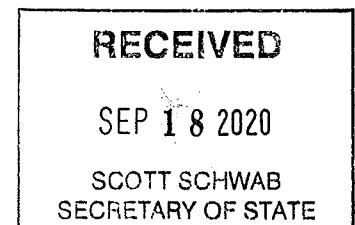


- H. Describe how the agency consulted and solicited information from businesses, associations, local governments, state agencies, or institutions and members of the public that may be affected by the proposed rule(s) and regulation(s).

This revocation has no effect on any of the above, as the regulation was self-directing of the KHRC. It did not actually regulate or have any economic impact on any of the above.

- 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).

Not applicable.





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

Kansas Human Rights Commission  
Agency

Deanne Watts Hay  
Agency Contact

785-224-8281  
Contact Phone Number

21-41-1 through -4; 21-41-6; 21-41-8; 21-41-10 through -11.  
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).**

These are regulations about the procedures of the Kansas Human Rights Commission ["KHRC"] in processing complaints. The revocations eliminate unnecessary regulations that are self-directing or duplicate statutes. The amendments clarify the language of existing procedures: i.e., eliminating self-directing verbiage; and to indicate responses, as well as complaints, must be in writing and circumstances in which they may be amended.

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

The federal Equal Employment Opportunity Commission ["EEOC"] has similar procedural regulations. See, e.g., 29 C.F.R. § 1601.12, describing what must be included in a written charge and amendments permitted; and 29 C.F.R. § 1601.18, regarding circumstances under which a charge will be dismissed.

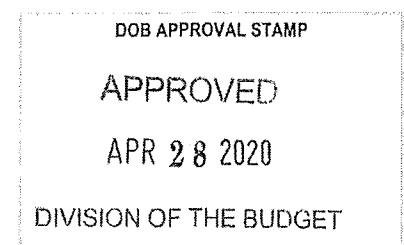
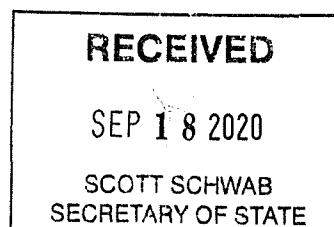
**III. Agency analysis specifically addressing following:**

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

No effect on business activities and 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;**

No economic effect; no implementation or compliance costs.



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

None.

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

There is no cost; the benefit is to make KHRC procedures more clearly stated.

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;

No measures are necessary as the regulation revocations and amendments have no cost or impact on business or economic development.

F. An estimate, expressed as a total dollar figure, of the total annual implementation and compliance costs that are reasonably expected to be incurred by or passed along to business, local governments, or members of the public.

\$0

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

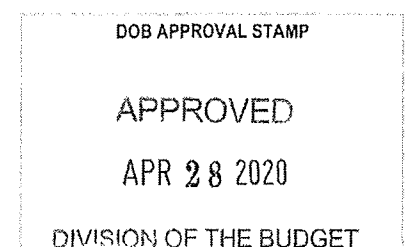
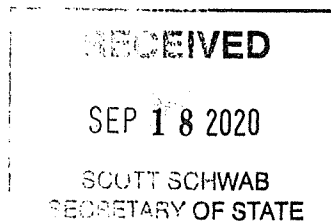
YES ☐ NO ☒

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

These changes eliminate unnecessary regulations that are self-directing or duplicate statutes, and amend the language of existing procedures to provide more clarity.

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.

Not applicable.

- 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).

These procedural revocations and amendments to existing regulations should have no effect on any of the above; but simply serve to clarify existing procedures that are already applicable. They do not have any economic impact on any of the above.

- 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).

Not applicable.

