

2021 Kansas Statutes

77-415. Definitions; citation of act; exclusions; effect of certain adjudications and orders; guidance documents. (a) K.S.A. 77-415 through 77-438, and amendments thereto, shall be known and may be cited as the rules and regulations filing act.

(b) (1) Unless otherwise provided by statute or constitutional provision, each rule and regulation issued or adopted by a state agency shall comply with the requirements of the rules and regulations filing act. Except as provided in this section, any standard, requirement or other policy of general application may be given binding legal effect only if it has complied with the requirements of the rules and regulations filing act.

(2) Notwithstanding the provisions of this section:

(A) An agency may bind parties, establish policies, and interpret statutes or regulations by order in an adjudication under the Kansas administrative procedure act or other procedures required by law, except that such order shall not be used as precedent in any subsequent adjudication against a person who was not a party to the original adjudication unless the order is:

(i) Designated by the agency as precedent;

(ii) not overruled by a court or later adjudication; and

(iii) disseminated to the public in one of the following ways:

(a) Inclusion in a publicly available index, maintained by the agency and published on its website, of all orders designated as precedent;

(b) publication by posting in full on an agency website in a format capable of being searched by key terms; or

(c) being made available to the public in such other manner as may be prescribed by the secretary of state.

(B) Any statement of agency policy may be treated as binding within the agency if such statement of policy is directed to:

(i) Agency personnel relating to the performance of their duties.

(ii) The internal management of or organization of the agency.

No such statement of agency policy listed in clauses (i) and (ii) of this subparagraph may be relied on to bind the general public.

(C) An agency may provide forms, the content or substantive requirements of which are prescribed by rule and regulation or statute, except that no such form may give rise to any legal right or duty or be treated as authority for any standard, requirement or policy reflected therein.

(D) An agency may provide guidance or information to the public, describing any agency policy or statutory or regulatory requirement except that no such guidance or information may give rise to any legal right or duty or be treated as authority for any standard, requirement or policy reflected therein.

(E) None of the following shall be subject to the rules and regulations filing act:

(i) Any policy relating to the curriculum of a public educational institution or to the administration, conduct, discipline, or graduation of students from such institution.

(ii) Any parking and traffic regulations of any state educational institution under the control and supervision of the state board of regents.

(iii) Any rule and regulation relating to the emergency or security procedures of a correctional institution, as defined in subsection (d) of K.S.A. 75-5202, and amendments thereto.

(iv) Any order issued by the secretary of corrections or any warden of a correctional institution under K.S.A. 75-5256, and amendments thereto.

(F) When a statute authorizing an agency to issue rules and regulations or take other action specifies the procedures for doing so, those procedures shall apply instead of the procedures in the rules and regulations filing act.

(c) As used in the rules and regulations filing act, and amendments thereto, unless the context clearly requires otherwise:

(1) "Board" means the state rules and regulations board established under the provisions of K.S.A. 77-423, and amendments thereto.

(2) "Environmental rule and regulation" means:

(A) A rule and regulation adopted by the secretary of agriculture, the secretary of health and environment or the state corporation commission, which has as a primary purpose the protection of the environment; or

(B) a rule and regulation adopted by the secretary of wildlife, parks and tourism concerning threatened or endangered species of wildlife as defined in K.S.A. 32-958, and amendments thereto.

(3) "Person" means an individual, firm, association, organization, partnership, business trust, corporation, company or any other legal or commercial entity.

(4) "Rule and regulation," "rule," and "regulation" means a standard, requirement or other policy of general application that has the force and effect of law, including amendments or revocations thereof, issued or adopted by a state agency to implement or interpret legislation.

(5) "Rulemaking" shall have the meaning ascribed to it in K.S.A. 77-602, and amendments thereto.

(6) "Small employer" means any person, firm, corporation, partnership or association that employs not more than 50 employees, the majority of whom are employed within this state.

(7) "State agency" means any officer, department, bureau, division, board, authority, agency, commission or institution of this state, except the judicial and legislative branches, which is authorized by law to promulgate rules and regulations concerning the administration, enforcement or interpretation of any law of this state.

History: L. 1965, ch. 506, § 1; L. 1977, ch. 321, § 1; L. 1978, ch. 120, § 24; L. 1978, ch. 386, § 1; L. 1980, ch. 303, § 1; L. 1981, ch. 364, § 1; L. 1981, ch. 157, § 3; L. 1981, ch. 365, § 1; L. 1982, ch. 385, § 2; L. 1982, ch. 386, § 1; L. 1982, ch. 142, § 26; L. 1983, ch. 307, § 1; L. 1989, ch. 282, § 1; L. 1991, ch. 276, § 1; L. 1995, ch. 171, § 1; L. 1996, ch. 43, § 4; L. 1997, ch. 160, § 42; L. 2008, ch. 25, § 1; L. 2010, ch. 95, § 1; L. 2011, ch. 14, § 1; L. 2012, ch. 47, § 122; L. 2013, ch. 2, § 1; July 1.