

INTERAGENCY AGREEMENT

This Interagency Agreement (Agreement) is between:

- Kansas Rehabilitation Services (KRS), the designated state Vocational Rehabilitation (VR) program located in the Kansas Department for Children and Families; and
- _____, a public institution of higher education (Institution) in the State of Kansas.

SECTION A: OVERVIEW OF KRS

The mission of KRS is to assist individuals with disabilities to prepare for and engage in gainful employment, consistent with their strengths, resources, priorities, concerns, abilities, capabilities, interests and informed choice. Depending on the requirements to achieve the employment goal, a variety of services may be provided. These services include, but are not limited to:

- Vocational assessment to help identify skills, abilities, interests and job goals.
- Vocational counseling and guidance
- Physical and mental restoration

SECTION B: OVERVIEW OF INSTITUTIONS OF HIGHER EDUCATION (IHES)

The mission of Kansas Institutions of Higher Education (IHES), such as the Institution, is to provide educational opportunities for all students enrolled. IHES provide reasonable accommodations to eligible students who have disabilities covered by Section 504 of the federal Rehabilitation Act, 29 U.S.C. 5 794, and the Americans with Disabilities Act (ADA), 42 U.S.C. 5 12101, et seq., to assure their equal access to such opportunities.

SECTION C: PURPOSE OF THIS AGREEMENT

Pursuant to requirements established in the 1998 Amendments to the Rehabilitation Act (as contained in the Workforce Investment Act of 1998), 29 U.S.C. 5 721, KRS and IHES, including the Institution, must enter into interagency agreements or use other mechanisms for interagency coordination to delineate their respective responsibilities to individuals with disabilities who are both clients of the VR program and students enrolled in higher education. This Agreement is intended to:

- Address each of the parties' financial responsibilities.
- Establish conditions, terms and procedures for reimbursement of the parties.

- Create a method for resolving disputes.
- Establish procedures to coordinate the timely delivery of auxiliary aids and services.

SECTION D: RESPONSIBILITIES TO PROVIDE AND FUND AUXILIARY AIDS AND SERVICES

- 1) Funding for auxiliary aids and services will be a shared responsibility of KRS and the Institution when:
 - a) The student has been admitted to the Institution and has enrolled in courses.
 - b) The Institution has determined the auxiliary aids and services to be reasonable accommodations for which the student is eligible according to the Institution's legal obligations under the Rehabilitation Act and the ADA; and
 - c) The eligible student is also a VR customer who, through informed choice, has included such aids or services on his or her Individual Plan for Employment (IPE).

- 2) The KRS share of the costs of auxiliary aids and services that meet the criteria established in section D (1) will be the lesser of:
 - a) 25% of the actual cost; or
 - b) For those aids and services that have a KRS published fee schedule rate, 40% of the maximum KRS published fee schedule rate; provided however, that in the event of a reduction in the KRS published fee schedule rate to a rate below that which was in effect on November 13, 2007, the maximum KRS published fee schedule rate in effect on November 13, 2007, will be used for purposes of calculating payment.

The Institution's share of the cost of these auxiliary aids and services will be the remainder.

- 3) The term "auxiliary aids and services" may include:
 - a) Qualified interpreters, note takers, transcription services, written materials, telephone handset amplifiers, assistive listening devices, assistive listening systems, telephones compatible with hearing aids, closed caption decoders, open and closed captioning, telecommunications devices for deaf persons (TDD's), videotext displays, or other effective methods of making aurally delivered materials available to individuals with hearing impairments.
 - b) Qualified readers, taped texts, audio recordings, Brailled materials, large print materials, or other effective methods of making visually delivered materials available to individuals with visual impairments.
 - c) Acquisition or modification of equipment or devices; and
 - d) Other similar services and actions.
(28 CFR Part 35.104)

- 4) Services that are personal in nature are not the responsibility of the Institution. These services include, but are not limited to, personal care, individually prescribed devices, readers or tutors for personal use or study (as distinguished from readers used in the academic setting), or other devices or services of a personal nature. Such services may be provided by KRS if needed by the individual student, if part of an IPE, and if consistent with KRS policies.
- 5) Students with disabilities shall neither be required by the Institution to apply for VR services nor to include auxiliary aids and services on their IPEs, although the Institution may counsel the student about the benefits of applying for VR services and recommend such application.
- 6) Nothing within this Agreement shall be construed to obligate the Institution to provide auxiliary aids and services to clients of KRS that exceed the Institution's legal obligations to provide reasonable accommodations to any student with disabilities.
- 7) Nothing within this Agreement shall be construed to obligate KRS to provide services to students who are not VR clients, to provide services to VR clients that are not within the available scope of VR services and state policies governing the delivery of those services, or to provide any service not included on a client's IPE.
- 8) This Agreement shall not prohibit KRS from separately contracting with the Institution to provide support services for its clients other than those required by law or this Agreement. Costs for these other services shall be individually negotiated.

SECTION E: COORDINATION OF SERVICES

- 1) Both parties agree to:
 - a) Continue to fulfill their missions related to individuals with disabilities as outlined in Sections A and B of this Agreement.
 - b) Maintain confidentiality of all information provided by either Party to the other. Further disclosure of such information may not be made without the written permission of the student/customer, except as otherwise required by law.
 - c) Coordinate with the student (once VR status has been verified) to identify the nature and scope of auxiliary aids and services necessary to provide equal access to the academic setting for the student, consistent with the Institution's legal obligation.
 - d) Prorate costs among students if more than one student is using the same service at the same time. (Example: Two students who use sign language interpreting are

attending the same class. The cost of the interpreting services shall be prorated between the two students.)

- e) If notified by the student, notify the other party if the student withdraws from a class or Institution in order for the parties to take reasonable measures to attempt to reduce or discontinue the previously authorized services and expenditures for that student.
 - f) Maintain their own requirements regarding eligibility, documentation of disability, and provision of services or auxiliary aids and services, pursuant to the Rehabilitation Act, the Americans with Disabilities Act, and the Kansas Act Against Discrimination.
- 2) The Institution agrees to:
- a) Secure a written release from the student allowing for the Institution and KRS to verify VR status, share pertinent information and coordinate services.
 - b) Provide for or arrange for, and pay the service provider for the services identified in Section E- I -C.
 - c) Send an itemized plan for services which will serve as the request for the KRS prior authorization to begin services.
 - d) Send an invoice for the KRS share of the services actually provided at least once a semester or term.
- 3) KRS agrees to:
- a) Provide relevant assessment and other necessary information to the Institution in order to document the client's disability and need for auxiliary aids and services with the written permission of the student/customer.
 - b) Consult with the Institution to determine what reasonable accommodations would be appropriate for the student in the academic setting.
 - c) Encourage the client to take appropriate numbers of courses to remain qualified for VR services.
 - d) Provide a prior written authorization to the Institution for the KRS share of the services identified in Section E- 1 -C. The KRS share of the costs of auxiliary aids and services that meet the criteria established in section D(l) will be the lesser of 25% of the actual cost; or, for those aids or services having a KRS published fee schedule rate, 40% of the maximum KRS published fee schedule rate. In the event of a reduction in the KRS published fee schedule rate to a rate below that which was in effect on November 13, 2007, the maximum KRS published fee schedule rate in effect on November 13,2007 will be used for purposes of calculating payment.

The institution's share of the cost of these auxiliary aids and services will be the

remainder. KRS will not pay for services that are not part of an individual's IPE or for which a prior authorization was not issued.

- e) Make timely payments based on receipt of invoices from the Institution.
- f) Provide technical assistance to help identify appropriate auxiliary aids or services, or service providers, at the request of the client or the Institution.

SECTION F: CONDITIONS, TERMS AND PROCEDURES OF REIMBURSEMENT OF KRS

If KRS believes the Institution has not met its statutory obligations, KRS shall notify the Institution that it believes there is such an obligation. KRS shall provide or pay for its client's auxiliary aids and services to assure the client's access to the academic setting as is established in the client's IPE. KRS will address the issue with the Institution through the dispute resolution process described in Section G below. If it is mutually determined by KRS and the Institution that the auxiliary aids and services provided were within the Institution's legal obligations, KRS will invoice the Institution for its share of such services. The Institution will provide timely reimbursement to KRS for its share of the costs incurred.

SECTION G: DISPUTE RESOLUTION

Services and accommodations shall continue to be provided by the Parties pending dispute resolution. It is the intent of both Parties that disputes be resolved at the lowest level of administration as possible.

Level 1: Should a dispute arise, the KRS Counselor or an Institution representative who works with students with disabilities will identify the accommodation in question and notify the other Party of its position. The KRS Counselor and the Institution representative are encouraged to resolve the dispute within 15 days or less, using this Agreement as the primary authority.

Level 2: Disputes not resolved in 15 days at Level 1 will be referred to the KRS Regional Program Administrator and the Dean of Students or the appropriate person at the Institution delegated authority by the Institution's CEO, who will have 15 days to reach a resolution or pass the issue to Level 3.

Level 3: Disputes not resolved at Level 2, will be referred to the Director of KRS and the Chief Executive Officer of the Institution for resolution within 30 days.

Level 4: Should a dispute persist, the Parties may pursue legal remedies available under Federal and State law.

SECTION H: EFFECTIVE DATES AND DURATION

This Agreement becomes effective on the date of the last signature below and shall extend for a period of three years at which time it will automatically renew for subsequent three-year periods unless one of the parties provides written notice requesting renegotiation no later than 90 days prior to the end of the initial term or any subsequent renewal term. In the event that such notice is provided, the current agreement will remain in effect during a good faith renegotiation period not to exceed 12 months after the end of the initial or renewal term. Advance written notice requesting renegotiation will be sent to:

Institution: CEO of the Institution, With a copy to: Chief Legal Counsel of the Board of Regents

KRS: The Director of Kansas Rehabilitation Services, With a copy to: Chief Legal Counsel of the Kansas Department for Children and Families

This Agreement may be modified only through a written agreement of both Parties.

SECTION I: THIRD PARTY BENEFICIARIES

This contract shall not be construed as providing an enforceable right to any third party.

SECTION J: CONTRACTUAL PROVISIONS ATTACHMENT

The provisions found in Contractual Provisions Attachment (form DA- 146a, Rev. 1-0 I) which is attached hereto, are hereby incorporated in this Agreement and made a part thereof. If any provision of the contractual Provision Attachment conflicts with any provision of the Agreement, the Attachment shall control.

SECTION K: SIGNATURES

KANSAS DEPARTMENT FOR CHILDREN AND FAMILIES REPRESENTATIVE

_____ Daniel Decker

_____ Date

Director, Kansas Rehabilitation Services

INSTITUTION REPRESENTATIVE

Signature _____ Date _____

Printed Name _____

Title _____

Institution _____

CONTRACTUAL PROVISIONS ATTACHMENT

Important: This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 07-19), which is attached hereto, are hereby incorporated in this contract and made a part thereof.

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the ___ day of _____, 20__.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated. Any terms that conflict or could be interpreted to conflict with this attachment are nullified.
2. **Kansas Law and Venue:** This contract shall be subject to, governed by, and construed according to the laws of the State of Kansas, and jurisdiction and venue of any suit in connection with this contract shall reside only in courts located in the State of Kansas.
3. **Termination Due to Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least thirty (30) days prior to the end of its current fiscal year and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to ninety (90) days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of the State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** No provision of this contract will be given effect that attempts to require the State of Kansas or its agencies to defend, hold harmless, or indemnify any contractor or third party for any acts or omissions. The liability of the State of Kansas is defined under the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.*).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001, *et seq.*) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111, *et seq.*) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101, *et seq.*) (ADA), and Kansas Executive Order No. 19-02, and to not discriminate against any person because of race, color, gender, sexual orientation, gender identity or expression, religion, national origin, ancestry, age, military or veteran status, disability status, marital or family status, genetic information, or political affiliation that is unrelated to the person's ability to reasonably perform the duties of a particular job or position; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to

comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) Contractor agrees to comply with all applicable state and federal anti-discrimination laws and regulations; (g) Contractor agrees all hiring must be on the basis of individual merit and qualifications, and discrimination or harassment of persons for the reasons stated above is prohibited; and (h) if it is determined that the contractor has violated the provisions of any portion of this paragraph, such violation shall constitute a breach of contract and the contract may be canceled, terminated, or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.

6. **Acceptance of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration. Damages. Warranties:** Notwithstanding any language to the contrary, no interpretation of this contract shall find that the State or its agencies have agreed to binding arbitration, or the payment of damages or penalties. Further, the State of Kansas and its agencies do not agree to pay attorney fees, costs, or late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect that attempts to exclude, modify, disclaim or otherwise attempt to limit any damages available to the State of Kansas or its agencies at law, including but not limited to, the implied warranties of merchantability and fitness for a particular purpose.
 - a. **Representative's Authority to Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility for Taxes:** The State of Kansas and its agencies shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas and its agencies shall not be required to purchase any insurance against loss or damage to property or any other subject matter relating to this contract, nor shall this contract require them to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101, *et seq.*), the contractor shall bear the risk of any loss or damage to any property in which the contractor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101, *et seq.*
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."
13. **Campaign Contributions / Lobbying:** Funds provided through a grant award or contract shall not be given or received in exchange for the making of a campaign contribution. No part of the funds provided through this contract shall be used to influence or attempt to influence an officer or employee of any State of Kansas agency or a member of the Legislature regarding any pending legislation or the awarding, extension, continuation, renewal, amendment or modification of any government contract, grant, loan, or cooperative agreement.