

MODEL POLICY ON RACIAL AND OTHER BIASED-BASED POLICING FOR KANSAS LAW ENFORCEMENT AGENCIES

IMPLEMENTATION INSTRUCTIONS

BACKGROUND

KSA 22-4610 subsection (c), as amended by Section 3 of Chapter 94 of the 2011 Kansas Session Laws requires every Kansas law enforcement agency to have a Racial or Biased-Based Policing Policy and contains specific requirements the policy must contain. This model policy was prepared by the Office of the Attorney General to assist Kansas law enforcement agencies to comply with the statutory requirement. It is designed to apply to all members of the agency; sworn and non-sworn, including volunteers. This model policy is intended to not only address the needs of your agency employees and volunteers but also to provide understanding by the members of your community.

The applicable state statutes on racial and other biased-based policing can be found in Chapter 94 of the 2011 Kansas Session Laws. Be certain you are referencing the most recent amendments and additions to these statutes as you refine your agency's policy.

IMPLEMENTATION STRATEGY

Policy implementation is important and this policy requires more than just inserting your agency name. Aspects of this policy will need adjusting for local options and other agency policies. But most importantly the adoption of this policy should serve as an opportunity for dialog with community leaders to address local racial and other biased-based policing concerns and prevention strategies. A proper implementation strategy will be based on the level of citizen concern and will serve as a catalyst for open communication between the law enforcement agency and the community it serves. Such communication will serve to minimize unfounded complaints and diminish misunderstanding leading to a citizen's misperception of being subjected to racial or other biased-based policing.

Likewise, the development of your policy should include your employees and volunteers. Utilizing this strategy will create a sense of ownership and increase understanding of the issue. It will also aid in their understanding of the policy and the ultimate goals of the policy content.

We recommend working with community leaders or with your community advisory board, if you have one, as you finalize your agency's policy. If you implement a comprehensive plan as provided in Section 5 of Chapter 94 of the 2011 Kansas Session Laws, your agency policy must be part of that process.

POLICY CONTENT

There are two provisions in this model policy required by statute to be included in every agency's racial and other biased-based policing policy exactly as presented. These are: 1) the definition of racial and other biased-based policing in section II.D. and 2) the provisions of section II.G.

The remainder of the document includes two types of provisions: Those that must be addressed in every policy but the exact wording is up to the agency and those not required by statute but are reflections of best practice and provide clarity to the policy.

Agencies using this model policy should insert their agency name in the places **highlighted in blue**. This model policy should be amended to clearly include but not duplicate any related policies of your agency. However, care must be taken to not remove elements or wording specifically required by statute. Comments **highlighted in yellow** are meant to draw your attention to some of the issues you should give thought to when finalizing your agency's policy. **Those comments should be deleted and not included in your policy document.**

The attached Table A shows what sections are mandatory language, what sections are mandatory content with language of your choosing, what sections are not required by statute, and what sections are optional. The attached Table B contains a listing of statutory requirements and the location where those are addressed in the Model Policy

Sections VIII, IX, and X cover optional items provided in the statutes. Each should be deleted if your agency does not engage in the option.

A community advisory board (Section VIII) and data collection (Section IX) is a matter that may be required by a city's governing body for a city agency or by the sheriff for a sheriff's office. The lack of a decision by a city governing body does not preclude a city agency head from having a community advisory board or to collect data.

A training advisory body (Section X) is not required by the statute and is an option the agency head may implement. However, if a training advisory body is implemented in your agency the provisions of X.A. and X.B. are required.

Questions may be referred to the Office of the Attorney General at (785)296-2215 or by e-mail to **rob主p@ag.ks.gov**.

Racial and Other Biased-Based Policing Model Policy

Table A
Cross Reference by Model Policy Section Number

Policy Section	Statute Reference	Topic Required	Exact Wording Required	Comment
I.A.	22-4610(a) 22-4610(c)(1)	Yes	No	
I.B.	N/A	No	No	These sections clarify the obligation of law enforcement to preserve citizens rights.
I.C.	N/A	No	No	
I.D.	N/A	No	No	
I.E.	N/A	No	No	These sections clarify the balance required to achieve the public safety goals of law enforcement and protecting citizen rights.
I.F.	N/A	No	No	
II.A.	21-5102	No	No	Assures officers and citizens understand the statutory definition of "crime."
II.B.	22-4606(e)	No	No	Wording is from KSA 22-4606(e) and 22-4609
II.C.	N/A	No	No	Based on definition taught by KLETC
II.D.	22-4610(a) and 22-4606(d)	Yes	Yes	Must be exactly as worded in KSA 22-4606(d)
II.E.	N/A	No	No	Based on definition taught by KLETC
II.F.	N/A	No	No	Based on definition taught by KLETC
II.G.	22-4610 (c)(1)	Yes	Yes	As required by statute as determined by the Attorney General
III.A.	22-4610(a) 22-4610(c)(1)	Yes	No	
III.B.	N/A	No	No	
III.C.	22-4610(c)(4) 22-4610(c)(5)	Yes	No	Must include your discipline by either adding it directly into this section, or by reference to your discipline policy.
IV.A.	N/A	No	No	These sections add best practices for accountability.
IV.B.	N/A	No	No	
IV.C.	N/A	No	No	
IV.D.	N/A	No	No	
V.A.	22-4610(c)(2)(A)	Yes	No	Wording from statute
V.B.	22-4610(d)(2)(F) 74-5607a	No	No	Explains how the provisions of KSA 22-4610(d)(2)(F) are accomplished. Utilizes wording from KSA 74-5607a.
VI.A.	22-4610(c)(6) 22-4611(a)	Yes	No	
VI.B.	22-4610(c)(7)	Yes	No	Must reflect your agency's complaint procedure.
VI.C.	N/A	No	No	Best practices.
VI.D.	N/A	No	No	
VII.A.1.	22-4610(c)(6)	Yes	No	Wording from statute.
VII.A.2.	N/A	No	No	

Policy Section	Statute Reference	Topic Required	Exact Wording Required	Comment
VII.B.	22-4610(b)	Yes	No	Wording conveys exact requirements of statute.
VII.C.	22-4610(d)(1)	No	No	This is not required to be in your policy but the statute requires your agency to do this.
VIII.A.	22-4610(c)(3)(A)	Only if agency uses community advisory board	No	This section should be removed from the policy if your agency does not use a community advisory board. If your agency does use a community advisory board, your agency must comply with the contents. However, the statute does not require this to be in your policy.
VIII.B.	22-4610(c)(3)(A)		No	
VIII.C.	22-4610(c)(3)(B)		No	
IX.A.	2011 Session Law 94 (SB 93) New Section 6 subsection (c)	Only if agency uses data collection	No	This section should be removed from the policy if your agency does not use data collection. If your agency does use data collection, your policy must include the topics of all paragraphs.
IX.B.			No	
IX.C.			No	
IX.D.			No	
IX.E.			No	
IX.F.			No	
IX.G.			22-4610(b)	
X.A.	22-4610(c)(2)(B)	Only if agency uses training advisory board	No	This section should be removed from the policy if your agency does not use a training advisory board. If your agency does use a training advisory board, your policy must include the topics of all paragraphs.
X.B.	22-4610(c)(2)(B)		No	

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Table B
Statutory Policy Requirements and Location

Statute reference	Statute requirement	Relative policy section(s)
K.S.A. 22-4610§(a)	All law enforcement agencies in this state shall adopt a detailed, written policy to preempt racial or other biased-based policing	I.A. III.A.
K.S.A. 22-4610§(a)	policy shall include the definition of racial or other biased-based policing found in K.S.A. 22-4606, and amendments thereto.	II.D.
K.S.A. 22-4610§(b)	The policies and data collection procedures shall be available for public inspection during normal business hours.	Policy - VII.B. Data collection - IX.G.
K.S.A. 22-4610§(c)(1)	A detailed written policy that prohibits racial or other biased-based policing.	I.A. and III.A.
K.S.A. 22-4610§(c)(1)	A detailed written policy that clearly defines acts constituting racial or other biased-based policing using language that has been recommended by the attorney general.	II.G.
K.S.A. 22-4610§(c)(2)(A) Also K.S.A. 22-4610(d)(2)(F)	require annual racial or other biased-based policing training which shall include, but not be limited to, training relevant to racial or other biased-based policing. Distance learning training technology shall be allowed for racial or other biased-based policing training.	V.A. and B.
K.S.A. 22-4610§(c)(2)(B)	Law enforcement agencies may appoint an advisory body of not less than five persons composed of representatives of law enforcement, community leaders and educational leaders to recommend and review appropriate training curricula.	X. Optional-To be deleted if not applicable to agency.
K.S.A. 22-4610§(c)(3)(A)	For law enforcement agencies of cities or counties that have exercised the option to establish community advisory boards pursuant to section 6, and amendments thereto, use of such community advisory boards which include participants who reflect the racial and ethnic community, to advise and assist in policy development, education and community outreach and communications related to racial or other biased-based policing by law enforcement officers and agencies.	VIII.A. and B. Optional-To be deleted if not applicable to agency.
K.S.A. 22-4610§(c)(3)(B)	Community advisory boards shall receive training on fair and impartial policing and comprehensive plans for law enforcement agencies.	VIII.C. Optional-To be deleted if not applicable to agency.
K.S.A. 22-4610§(c)(4)	Policies for discipline of law enforcement officers who engage in racial or other biased-based policing.	III.C.

Statute reference	Statute requirement	Relative policy section(s)
K.S.A. 22-4610§(c)(5)	if the investigation of a complaint of racial or other biased-based policing reveals the officer was in direct violation of the law enforcement agency's written policies regarding racial or other biased-based policing, the employing law enforcement agency shall take appropriate action consistent with applicable laws, rules and regulations, resolutions, ordinances or policies, including demerits, suspension or removal of the officer from the agency.	III.C.
K.S.A. 22-4610§(c)(6) Also K.S.A. 22-4611(a)	Provisions for community outreach and communications efforts to inform the public of the individual's right to file complaints regarding racial or other biased-based policing with the law enforcement agency or office of the attorney general, which outreach and communications to the community shall include ongoing efforts to notify the public of the law enforcement agency's complaint process.	VI.A. VII.A.1.(a) through (c) VII.A.(d)
K.S.A. 22-4610§(c)(7)	Procedures for individuals to file complaints of racial or other biased-based policing with the agency, which, if appropriate, may provide for use of current procedures for addressing such complaints.	VI.B.
K.S.A. 22-4610§(d)(1)	Each law enforcement agency shall compile an annual report <i>for the period of July 1 to June 30</i> and shall submit the report on or before <i>July 31</i> to the office of the attorney general for review. Annual reports filed pursuant to this subsection shall be open public records and shall be posted on the official website of the attorney general.	VII.C.