
Performance Agreements

Guidelines and Procedures

**Adopted by the Kansas Board of Regents
October, 2003**

(wording of conceptual amendment approved November, 2003)
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I. Preamble: Statutory Requirements

In 2002, the legislature established Performance Agreements for Kansas public postsecondary education. Relevant portions of the law are reproduced below. Bold text is used to highlight portions of the act that are particularly relevant for implementation of Performance Agreements.

K.S.A. 74-3202d

(d) Commencing on July 1, 2004, the **state board shall have authority to review and approve institutional improvement plans**, and, on the basis of each plan, shall develop and implement a performance agreement with each postsecondary educational institution. **Performance agreements shall incorporate the goals**, priorities, policies and mission objectives identified in the institutional improvement plans, **and the performance measures, which will be used to demonstrate compliance and progress.**

(e) Commencing on July 1, 2005, each postsecondary educational institution's receipt of new state funds shall be contingent on achieving compliance with its performance agreement. As used in this subsection, "new state funds" means that amount of state funds by which the amount received by a postsecondary educational institution for a fiscal year exceeds the amount received by that postsecondary educational institution for the preceding fiscal year. **The state board shall determine the amount of new state funds to be received by each postsecondary educational institution, taking into account the postsecondary educational institution's level of compliance with its performance agreement and the funds available for distribution.** Any new state funds received by a postsecondary educational institution pursuant to a performance agreement shall be deemed to be part of the state funds received in the preceding fiscal year for the purposes of determining new state funds for the postsecondary educational institution pursuant to a performance agreement for the ensuing fiscal year. If a postsecondary educational institution is not allocated any portion of new state funds in a fiscal year, the new state funds which the institution was eligible to be allocated by the state board in such fiscal year shall be deemed part of the state funds received by such institution in such fiscal year for the purpose of determining such institution's base budget and any new state funds for the ensuing fiscal year. The failure of a postsecondary educational institution to enter a performance agreement with the state board shall prevent that postsecondary educational institution from receiving any new state funds. Any funds designated by the legislature for a specific postsecondary educational institution or purpose shall be exempt from the provisions of this section.

II. Overview of Performance Agreements

K.S.A. 74-3202d brings "Performance-based Funding" to Kansas public postsecondary education in the form of Performance Agreements. As conceptualized by the Performance Agreements Task Force, the Performance Agreement Project will move forward on two levels simultaneously.

- **The Institutional Level:** Each institution shall negotiate a Performance Agreement with the Board; the degree of compliance with this agreement shall determine the proportion of new funding available to the institution. (See the Funding Statement in Appendix One.)
- **The System Level:** The Performance Agreement project will provide a means of monitoring the System of higher education in Kansas; a System report will communicate the "State of the System" to the Kansas Legislature.

The KBOR has adopted a set of goals to guide the Performance Agreement Project. These Regents' System Goals (see below) play a role in both levels of the Performance Agreement Project.

- **The Institutional Level:** As a part of its Performance Agreement, each institution shall propose (1) institutional goals that support the Regents' System Goals. (In addition, the institution may propose institutional goals that are unrelated to the Regents' System Goals.), (2) a set of "indicators" for measuring progress toward each institutional goal, (3) baseline values for each of the proposed indicators, and (4) target values for each of the proposed indicators. The amount of new funding awarded shall be determined by the amount of continuous directional improvement toward the institutional goals included in the Performance Agreement. See below for details.
- **The System Level:** Progress of the System as a whole will be evaluated using a set of "system indicators" for measuring progress toward the Regents' System Goals. A System Report will describe these system indicators for the Legislature and the general public. Performance of the System on these measures will be used to set priorities for the System and to evaluate the Performance Agreement Project as a whole and will NOT be used to make funding decisions for individual institutions.

Regents' System Goals

Until amended, Regents' System Goals A, B, C, and D below will be targeted.

Regents' System Goal A: Increase System Efficiency/Effectiveness/Seamlessness
Institutions will become more efficient, effective, and seamless, in part by initiating or strengthening collaborative efforts within and across sectors.

Regents' System Goal B: Improve Learner Outcomes

Institutions will improve learner outcomes. "Learner outcomes" is broadly defined to include graduation rates, retention rates, success rates, and other direct and indirect measures of student learning.

Regents' System Goal C: Improve Workforce Development

Institutions will improve career preparation, job placement, and lifelong learning activities to better reflect the current and emerging needs of the state.

Regents' System Goal D: Increase Targeted Participation/Access

Institutions will increase participation of under-served populations in postsecondary education and organized lifelong learning activities. "Participation" is broadly defined to include enrollment, retention, graduation, and similar measures.

Regents' System Goal E: Increase External Resources

Institutions will increase or leverage financial support from extramural sources for research, scholarship, or program development activities that more effectively enhance economic development within the state.

Regents' System Goal F: Improve Community/Civic Engagement

Institutions will improve civic/community engagement of postsecondary educational institutions and students to the benefit of Kansas' communities.

III. Performance Agreements on the Institutional Level

Each institutional Performance Agreement shall be comprised of a set of institutional goals, a set of institutional "indicators" for measuring progress toward the institutional goals, and baseline and target values for each indicator.

Institutional Goals

- A total of three to six institutional goals (too many institutional goals could diffuse the effort) shall be included in the Institutional Performance Agreement.
 - o Institutional goals shall support at least three Regents' System Goals.
 - At least one institutional goal shall support Regents' System Goal B (Improve Learner Outcomes).
 - Institutional goals shall support two additional Regents' System Goals selected from Regents' System Goals A, C, and D.
 - o Up to three institutional goals may be unrelated to the Regents' System Goals (with the understanding that these institutional goals shall not conflict with or detract from the Regents' System Goals).
- Institutional goals should be consistent with the institution's mission.
- All institutional goals shall be "stretch" goals.

Institutional Indicators

For each institutional goal, the institution shall propose no more than five specific measures of performance (institutional "indicators"). For each indicator, the institution shall also provide baseline values and targets for the next three years. Use of process outcomes as indicators is strongly discouraged; use of performance outcomes as indicators is strongly encouraged. At least half of the indicators supporting the learner outcomes goal shall be direct measures of learner outcomes.

Progress toward the institutional goals shall be defined as continuous directional improvement in the institutional indicators.

Establishing the Performance Agreement

The Institutional Performance Agreement shall be negotiated between the institution and the KBOR. Effective with performance agreements submitted in 2008 and thereafter, performance agreements shall cover three calendar years. Each institution shall submit the following:

- The Memorandum of Agreement (see Appendix Two) signed by the chief executive officer of the institution or by the chair of the institution's governing board
- The current version of the Performance Agreement Application and Reporting Form shall constitute the Institutional Improvement Plan.

The collection of these documents (the MOA and the Institutional Improvement Plan) shall constitute the Performance Agreement.

Board staff will conduct a preliminary review of the submission. Any questions about the appropriateness of a particular submission will be referred to the Academic Affairs Standing Committee. The Academic Affairs Standing Committee shall either recommend revision of the proposed Performance Agreement or recommend that the proposed Performance Agreement be forwarded to the Board for consideration as submitted.

Once the MOA has been signed by the KBOR chair, the institution should not change its performance agreement in any way until the MOA has expired. The following procedures shall apply in the rare case that an institution wishes to modify its three-year performance agreement prior to expiration of the MOA.

- A. Requests for changes to the performance agreement shall be submitted to staff by July 15th of the year preceding the effective change. Requests for changes shall be processed between July 15 and November 1.
- B. Requests for changes to the performance agreement shall be limited to changes in the indicators and shall include the following:
 1. The current indicator that is being replaced and an update on current performance data for the indicator.
 2. The proposed indicator, the baseline, and appropriate targets.
 3. A rationale for change, which shall include documentation of

- extreme circumstances beyond the institution's control that result in changes in direction for the institution.
- 4. A revised memorandum of agreement signed by the appropriate institutional representative.
- C. Changes to the performance agreement shall be approved by the Board Academic Affairs Standing Committee on behalf of the Board.

Evaluation of Compliance and Funding

Each year each institution shall report its compliance with the Performance Agreement using the current version of the Performance Agreement Application and Reporting Form. Staff will conduct a preliminary review and make recommendations to the Academic Affairs Standing Committee. The Academic Affairs Standing Committee shall make funding recommendations to the Board.

Funding shall be based upon levels of compliance with the Performance Agreement. In general, full funding is awarded if the institution demonstrates continuous directional improvement in the majority of goals.

Continuous directional improvement shall be defined as follows:

- A. Improvement over the baseline during the first performance year (for a majority of indicators under a goal); AND
- B. Improvement from year to year (for a majority of indicators under a goal) in subsequent years.

Majority shall be defined as "more than 50%."

In cases in which the institution demonstrates continuous directional improvement in exactly 50% of goals, the Board Academic Affairs Standing Committee may consider the following factors in the funding recommendation:

- A. Number and quality of goals
- B. Number and quality of indicators
- C. Scope of the performance agreement and the amount of institutional effort involved
- D. Any extenuating circumstances not under the control of the institution

Levels of compliance with the performance agreement shall be defined as follows:

Compliance Level 2: The institution has shown continuous directional improvement in the majority of the institutional goals that support Regents' System Goals AND the majority of the institutional goals that are unrelated to Regents' System Goals. The highest level of performance funding is warranted.

Compliance Level 1: The institution has made a good faith effort to meet both institutional goals that support Regents' System Goals AND institutional goals that are unrelated to Regents' System Goals. This effort has resulted in continuous directional improvement in less than the majority of the institutional goals that support Regents'

System Goals OR less than the majority of the institutional goals that are unrelated to Regents' System Goals. IN ADDITION, the institution recognizes the concerns and issues AND has specific plans for improving future performance. Performance funding is warranted.

Compliance Level 0: The institution has failed to make a good faith effort. The effort to meet both institutional goals that support Regents' System Goals AND institutional goals that are unrelated to Regents' System goals has been unsatisfactory. Performance funding is not warranted.

The following illustrates how the institutions' portion of new state funds will be allocated:

- Level 2 – 100% of new funding available to the institution. The Board has determined that the institution's performance report demonstrates that continuous directional improvement in a majority of goals has been achieved in a manner consistent with the indicators and targets the Board approved.
- Level 1 – 80% or 60% of new funding available to the institution. The Board has determined that the institution's performance report:
 - (1) demonstrates that continuous directional improvement in fewer than a majority of goals has been achieved in a manner consistent with the indicators and targets the Board approved, and
 - (2) includes specific plans for improving performance.Institutions that fall into this performance category shall be awarded either one of two levels of funding. Generally, institutions found to have performed at this level will be awarded 80% of the new funding for which they are eligible. However, institutions for which the following applies will be awarded 60% of the new funding for which they are eligible.
 - A. The performance report was confusing and/or difficult to understand, but not to the extent to warrant compliance level 0; and
 - B. Continuous directional improvement was demonstrated in no more than one goal.
- Level 0 – no new funding (but funding shall be added to the base for the next fiscal year, as stipulated by K.S.A. 74-3202d(e)). The Board has determined that one of the following applies. The institution either:
 1. Lacked an approved performance agreement;
 2. Failed to make continuous directional improvement in the majority of goals and failed to provide reasonable explanation or plans for improvement;
 3. Submitted a performance report that was not understandable; or
 4. Failed to submit a performance report.

The Board will review this funding schedule each year. Consistent failure to show a good faith effort shall negatively impact funding. (See also the Funding Statement in Appendix One.)

IV. Performance Agreements on the System Level

A set of "System Indicators" will monitor statewide progress toward Regents' System Goals A through D. Selection of these System Indicators is extremely important. Ideal System Indicators would have the following characteristics:

- Meaningful for all sectors and institutions
- Easily understood by the general public
- Appropriate for the goal being measured

These System Indicators will be incorporated into a System Report designed to present the Kansas Public Postsecondary Educational System to the legislature and the general public. This System Report will be relatively brief and will incorporate effective marketing techniques. For example, particularly noteworthy projects and/or achievements might be highlighted. A limited number of testimonials from students and/or parents might also be included.

V. The Future

Each year of implementation of Performance Agreements, the Board will evaluate the strengths and weaknesses of the Performance Agreement Project. Goals, guidelines and procedures are subject to modification by the Board.

Appendix One: Funding Statement

PERFORMANCE FUNDING FOR KANSAS PUBLIC POSTSECONDARY EDUCATIONAL INSTITUTIONS Pursuant to K.S.A. 74-3202d

Pursuant to K.S.A. 74-3202d, commencing July 1, 2005 (Fiscal Year 2006), each public postsecondary educational institution's receipt of new state funds shall be contingent upon achieving compliance with its performance agreement, as determined by the Kansas Board of Regents. This provision will apply to all new state funds received by (1) state universities for operating grant increases; (2) community colleges for operating grant increases; (3) technical schools and colleges for postsecondary aid increases; (4) Washburn university for operating grant increase; and (5) any postsecondary institution for other state funding increases, such as capital outlay aid for technical schools and colleges, or technology grant funding for community colleges and Washburn University. This provision will also apply to any new state funds received by any postsecondary institution under the original 1999 Senate Bill 345 provisions for 2% performance grant funding, codified in K.S.A. 71-260, 72-4480, 72-6503 and 76-771 which continue in force.

Pursuant to K.S.A. 74-3202d, the Board of Regents will determine the amount of new state funds to be received by each institution, taking into account the institution's level of compliance with its performance agreement and the funds available for distribution. New state funds will equal the amounts of additional state funding appropriated for the fiscal year in excess of state funding appropriated for the previous fiscal year. Commencing with FY 2006, the Board will determine the amount of new state funds each institution is eligible to receive if the institution is determined to be in full compliance with its performance agreement. If the Board determines that an institution is not in full compliance with its performance agreement, the Board may allocate to the institution none or a portion of the new state funds for which the institution would otherwise be eligible. Any portion not allocated to an institution in the fiscal year shall not be reallocated to any other institution. Any portion not allocated to an institution will be deemed to be part of the institution's base budget for the purpose of determining the following fiscal year's allocation. This provision precludes an institution from permanently losing state funding due to noncompliance with its performance agreement. The intended effect of this provision is that such loss of funds would be only for one fiscal year.

Pursuant to K.S.A. 74-3202d, the implementation of performance funding in FY 2006 is to be preceded by execution of a performance agreement between the Board and each institution, commencing on July 1, 2004 (FY 2005). The failure of an institution to enter such performance agreement with the Board prevents the institution from receiving any new state funds.

Pursuant to K.S.A. 74-3202d, any funds designated by the Legislature for a specific institution or purpose shall be exempted from these provisions related to performance funding.

Kansas Board of Regents
April 29, 2003
Revised November 15, 2006

Appendix Two: Memorandum of Agreement

PERFORMANCE AGREEMENT

THIS PERFORMANCE AGREEMENT, by and between THE BOARD OF REGENTS OF THE STATE OF KANSAS (hereinafter the Board), Suite 520, 1000 S.W. Jackson, Topeka, Kansas 66612-1368, U.S.A. and

(hereinafter the institution).

WITNESSETH:

WHEREAS, the Board is authorized to enter into reciprocal agreements regarding institutional performance/improvement; and

WHEREAS, the parties hereto are mutually desirous of entering into such an agreement with relation to institutional performance/improvement; and

WHEREAS, the parties agree that it is to their mutual benefit and interest to set forth the terms of their understanding and agreement in writing;

NOW THEREFORE, in consideration of the above premises and the individual and mutual promises of the parties hereinafter set forth, and for other good and valuable consideration it is hereby agreed by and between the parties hereto:

1. That the term of this agreement shall begin on the ____ day of _____, 200__, and terminate on the ____ day of _____, 200__.
2. That the institution shall pursue the institutional goals and implement the institutional indicators described in the attached document "Performance Agreement Application and Reporting Form".
3. That the Board approved the "Performance Agreement Application and Reporting Form" referenced in Paragraph 2.
4. That the Board shall determine the level of the institution's compliance with the terms of the institutional Performance Agreement.
5. That the Board will determine the amount of new state funds to be received by the institution, taking into paragraph 4 and the funds available for distribution.
6. That the institution, if governed by the Board, shall follow all coordination and governance policies established by the Board; that the institution, if coordinated by the Board, shall follow all coordination policies established by the Board.

7. Any notices or other communications required or permitted to be given or delivered hereunder shall be in writing and shall be sufficiently given if delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, to the parties at their addresses first appearing above, or at such other addresses as either party may from time to time designate to the other in writing, and such notice or other communication shall be deemed to be given as of the date it was personally delivered or deposited in the mail, as the case may be.

Institutional Signature

Date

Title

Kansas Board of Regents Chairperson

Date